

Chapter 295.  
***Motor Vehicles (Third Party Insurance) Act 1974.***

Certified on: / /20 .



INDEPENDENT STATE OF PAPUA NEW GUINEA.



Chapter 295.

***Motor Vehicles (Third Party Insurance) Act 1974.***

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INDEPENDENT STATE OF PAPUA NEW GUINEA.



AN ACT

entitled

*Motor Vehicles (Third Party Insurance) Act 1974,*

Being an Act—

- (a)<sup>1</sup> [*Repealed.*]
- (b) to establish a Premium-Fixing Advisory Committee; and
- (c) to require that owners and drivers of motor vehicles be insured against liability in respect of the death of or bodily injury to persons caused by or arising out of the use of motor vehicles,

and for related purposes.

**PART I. – PRELIMINARY.**

**1. INTERPRETATION.**

In this Act, unless the contrary intention appears—

“**accident insurance business**” means the business of undertaking liability under policies of insurance in respect of the happening of personal accidents (whether fatal or not), disease or sickness, or of any class of personal accidents, disease or sickness;

“**annual pool account**” means an account established under Section 45;

“**the Commissioner**” means the Insurance Commissioner appointed under Section 5(1) of the *Insurance Act 1995*;

“**the Committee**” means the Premium-Fixing Advisory Committee established by Section 26;

“**driver**” includes the rider of a motor cycle and a person for the time being in charge of a motor vehicle;

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<sup>1</sup> Paragraph (a) of the Long title repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997*, s2.

<sup>2</sup>**“fiscal year”**, in relation to the successor company and to the annual pool account, means a period of 12 months commencing on 1 January and ending on 31 December;

**“the Fund”** means the Motor Vehicles Insurance Fund established under Section 32;

**“insurance business”** means the business of undertaking liability by way of insurance, including liability to pay damages or compensation contingent on the happening of a specified event, and includes any business incidental to insurance business, but does not include—

- (a) life insurance business; or
- (b) accident insurance business undertaken solely in connection with life insurance business; or
- (c) pecuniary loss insurance business carried on solely in the course of carrying on banking business, and for the purposes of that business, by a bank within the meaning of the *Banks and Financial Institutions Act 2000*;

**“insured motor vehicle”** means a motor vehicle in relation to which there is in existence at all material times a third-party insurance cover;

<sup>3</sup>**“motor vehicle”** means a motor car, motor carriage, motor cycle, motor truck, motor omnibus, motor tractor or other vehicle propelled wholly or partly by a volatile spirit or by steam, gas, oil or electricity, or by means other than human or animal power, and includes a trailer, but does not include a vehicle used on a railway or tramway;

<sup>4</sup>**“Motor Vehicles Insurance Ltd”** means the company of that name (or any changed name) under the Companies Act 1997 with company registration number 1-29221 or any amalgamated company resulting from an amalgamation of the company with one or more companies under the Companies Act 1997;

**“owner”**, in relation to a motor vehicle means—

- (a) where a trader’s plate is placed on the vehicle under Part VI. of the *Motor Traffic Regulation 1967*—the person, firm or company to whom or to which the plate was issued; and
- (b) subject to Paragraph (c), where the vehicle is registered—the person registered as the owner of the vehicle; and
- (c) where a vehicle referred to in Paragraph (b) is sold or otherwise disposed of by the person registered as the owner of the vehicle,

<sup>2</sup> Section 1 (definition of “fiscal year”) amended by No. 47 of 1977, Schedule 1; amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>3</sup> Section 1 (definition of “licensed insurer”) repealed by *Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act 1996*, (No. 48 of 1996), s9; Section 1 (definition of “the Trust”) repealed by implication by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>4</sup> Section 1 (definition of “Motor Vehicles Insurance Ltd”) inserted by No 50 of 2000 s 1(a).



and he has given notice in accordance with Section 23(2) of the *Motor Traffic Regulation 1967*—the purchaser; and

- (d) where the vehicle is not registered—the person who is entitled to the immediate possession of the vehicle, whether solely or jointly or in common with some other person;

**“pecuniary loss insurance business”** means the business of undertaking liability by way or insurance against—

- (a) risks of loss to the persons insured arising from the insolvency of their debtors or from the failure (otherwise than through insolvency) of their debtors to pay their debts when due; or
- (b) risks of loss to the persons insured arising from their having to perform contracts of guarantee; or
- (c) risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them; or
- (d) risks of loss to the persons insured attributable to their incurring unforeseen expenses;

<sup>5</sup>**“premium”** means the amount received by the successor company or an agent of the successor company as consideration for the undertaking of a liability in the nature of insurance business in the country, whether—

- (a) the contract of insurance is entered into; or
- (b)<sup>6</sup> the certificate of insurance is issued; or
- (c) the premium is paid or received,

in the country or elsewhere;

**“public street”** means a street, road, lane, thoroughfare, footpath, bridge or place that is open to the public, or to which the public has or is permitted to have access, whether on payment of a fee or otherwise;

**“registered”** means registered under the *Motor Traffic Act 1950*;

**“the regulations”** means any regulations made under this Act;

<sup>7</sup>**“successor company”** means—

- (a) in Part XII, the successor company nominated under Section 65; and
- (b) elsewhere in this Act (other than this definition)—

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<sup>5</sup> Section 1 (definition of “premium”) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>6</sup> Section 1 (definition of “premium” paragraph (b)) amended by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s1.

<sup>7</sup> Section 1 (definition of “successor company”) inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2; repealed and replaced by No 50 of 2000 s 1(b).

- (i) for the period from 14 January to 31 December 1998 inclusive, the successor company nominated under Section 65; and
- (ii) on and from 1 January 1999, Motor Vehicles Insurance Ltd or such other company as may be nominated under Section 72;

**“the Superintendent”** means the Superintendent of Motor Traffic appointed by the *Motor Traffic Act*;

**“third-party insurance cover”**<sup>8</sup> means an insurance cover issued by the successor company or an agent of the successor company under this Act;

**“this Act”** includes the regulations;

**“uninsured motor vehicle”** means a motor vehicle (including a trailer) that is not an insured motor vehicle, but does not include a motor vehicle that is—

- (a) the property of the State or of any authority of the Government; or
- (b)<sup>9</sup> [*Repealed.*]
- (c) in respect of which persons are exempted by or under this Act from the provisions of Section 48.

## 2. APPLICATION.

(1) For the purposes of this Act, a motor vehicle in relation to which a permit under Section 11 of the *Motor Traffic Act 1950* has been granted and is in force shall be deemed to be registered under that Act, when it is driven or drawn in accordance with that section and the permit.

(2) This Act does not apply to or in relation to a vehicle referred to in Subsection (1) when it is driven or drawn otherwise than in accordance with Section 11 of the *Motor Traffic Act 1950* or the permit granted under that section in relation to it.

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<sup>8</sup> Section 1 (definition of “third-party insurance cover”) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>9</sup> Section 1 (definition of “uninsured motor vehicle” paragraph (b)) repealed by No. 29 of 1978, s. 1.

**PART II.**<sup>10</sup> – . . . . .

**3 - 19**<sup>11</sup>. [*Repealed.*]

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<sup>10</sup> Part II repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

<sup>11</sup> Part II repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 3 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 4 amended by No. 29 of 1978, s. 2; Section 4 repealed and replaced by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s2; Section 4 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 5 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s3; Section 6 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 7 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 8 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 9 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 10 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 11 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 12 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 13 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 14 replaced by No. 29 of 1978, s. 5; Section 14(1A) inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s4; Section 14 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 15 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 16 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 17 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 18 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 19 repealed and replaced by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s5; Section 19 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

**PART III.**<sup>12</sup> – . . . . .

**20 - 23**<sup>13</sup>. [*Repealed.*]

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<sup>12</sup> Part III repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

<sup>13</sup> Part III repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 20 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 21 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 22 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 23 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

**PART IV.**<sup>14</sup> – . . . . .

**24 - 25**<sup>15</sup>. [*Repealed.*]

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<sup>14</sup> Part IV repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

<sup>15</sup> Part IV repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 24 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2; Section 25 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 27 of 1997), s2.

**PART V. – PREMIUM-FIXING ADVISORY COMMITTEE.****26. APPOINTMENT, ETC., OF PREMIUM-FIXING ADVISORY COMMITTEE.**

(1) For the purposes of this Part, a body by the name of the “Premium-Fixing Advisory Committee” is established.

(2) The Committee shall consist of—

(a) the Commissioner; and

(b)<sup>16</sup> two other persons appointed by the Minister, by notice in the National Gazette, on the nomination of the successor company; and

(c)<sup>17</sup> two other persons appointed by the Minister, by notice in the National Gazette, of whom one shall be appointed on the nomination of the successor company.

(3) The Minister shall, by notice in the National Gazette, appoint one of the members of the Committee to be the Chairman of the Committee.

**27. MEETINGS OF COMMITTEE.**

(1) Meetings of the Committee shall be held annually and at such other times and places as are directed by the Minister.

(2) At a meeting of the Committee—

(a) two members are a quorum; and

(b) the Chairman, or in his absence a person elected by the members present from their own number, shall preside; and

(c) all questions shall be decided by a majority of votes of the members present and voting; and

(d) the person presiding has a deliberative and, in the event of an equality of votes on a matter, also a casting vote.

(3) The Committee shall cause minutes of its meetings to be kept.

(4) Subject to this Part, the procedures of the Committee are as determined by the Committee.

**28. POWERS OF INSPECTION.**

(1) For the purposes of the performance of its functions under this Part, the Committee or a person authorized by the Committee may—

(a) require any person to produce or make available to the Committee or authorized person any books, documents, records or information in the

<sup>16</sup> Section 26(2)(b) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No 28 of 1997), s2. Paragraph (b) repealed and replaced by No 50 of 2000 s 2.

<sup>17</sup> Section 26(2)(c) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No 28 of 1997), s2.

possession of or under the control of the person relating to third-party insurance; and

(b) take copies of or extracts from any such books, documents or records.

(2) A person who—

(a) when required to do so under Subsection (1), refuses or fails, without reasonable excuse (proof of which is on him), to produce or make available any books, documents, records or information; or

(b) hinders or obstructs the Committee or an authorized person in the exercise of its or his powers or the performance of its or his functions under this Act,

is guilty of an offence.

Penalty: A fine not exceeding K100.00.

Default penalty: A fine not exceeding K10.00.

## **29. STATISTICAL AND OTHER RETURNS.**

(1)<sup>18</sup> <sup>19</sup>The Committee may require a participating licensed insurer or the successor company to provide it with such statistics, statistical returns and other returns as, in the opinion of the Chairman of the Committee, are necessary for the purpose of the performance of its functions under this Part.

(2)<sup>20</sup> <sup>21</sup>A participating licensed insurer or the successor company, as the case may be, who, when required to do so under Subsection (1), refuses or fails, without reasonable excuse (proof of which is on him or it), to provide the statistics or returns is guilty of an offence.

Penalty: A fine not exceeding K200.00.

Default penalty: A fine not exceeding K20.00.

## **30. REPORT OF COMMITTEE TO MINISTER.**

The Committee shall, at least once in each year and at such other times as are directed by the Minister, report to the Minister—

(a) on the levels of premiums charged for third-party insurance; and

(b) on such other matters connected with third-party insurance as it thinks fit or as are directed by the Minister.

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<sup>18</sup> Section 29(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>19</sup> Section 29(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>20</sup> Section 29(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>21</sup> Section 29(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**31. LEVEL OF PREMIUMS, ETC.**

<sup>22</sup>(1) The minister may, by notice in the National Gazette, fix the levels of premiums and the classification of motor vehicles in respect of the issue of third-party insurance cover, generally or in relation to a class or classes of motor vehicles.

(2) The Minister shall redetermine and fix the levels of premium for third-party insurance cover in accordance with Subsection (1) whenever he receives a report from the Committee and, in any event, at least once a year.

(3) Notwithstanding Subsections (1) and (2), the level of premiums for third-party insurance cover for motor vehicles in each class shall increase by not less than the following percentages:—

- (a) for cover issued during the financial year commencing on 1 January 2001, by 25% of the premiums in force at 31 December 2000; and
- (b) for cover issued during the financial year commencing on 1 January 2002, by 25% of the premiums in force at 31 December 2001.

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<sup>22</sup> Section 31 repealed and replaced by No 50 of 2000 s 3.



**PART VI. – THE MOTOR VEHICLES INSURANCE FUND.**

**32. ESTABLISHMENT OF THE FUND.**

(1) A Fund to be known as the “Motor Vehicles Insurance Fund” shall be established.

(2) There shall be paid into the Fund such moneys as are specified by this or any other Act

(3)<sup>23 24</sup>The Fund shall be administered by the successor company.

(4) Whether or not he has paid any amount into the Fund, no person is entitled to any part of the Fund, and no person is entitled to receive any payment or benefit from the Fund except in accordance with this Part.

**33<sup>25</sup>. [REPEALED.]**

**34. PAYMENTS INTO THE FUND.**

There shall be paid into the Fund–

(a) all moneys appropriated by Act for the purpose; and

(b)<sup>26</sup> all moneys received as contributions or insurance premiums by the successor company; and

(c)<sup>27</sup> any other moneys received by the successor company for the purposes of this Act.

**35. PAYMENTS OUT OF THE FUND.**

There shall be paid out of the Fund–

(a)<sup>28</sup> all moneys that the successor company is entitled or required to pay in payment or discharge of expenses, obligations and liabilities of the successor company arising under this Act; and

(b)<sup>29</sup> all moneys required for the payment of remuneration or allowances payable to a director, the General Manager or an officer or employee of the successor company; and

(c) any other costs of administering the Fund.

(d)<sup>30</sup> annual dividends to the State of an amount determined by the Board and paid annually.

<sup>23</sup> Section 32(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>24</sup> Section 32(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>25</sup> Section 33 added by No. 29 of 1978, s. 4; repealed by *Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act 1996*, (No. 48 of 1996), s10.

<sup>26</sup> Section 34(b) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>27</sup> Section 34(c) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>28</sup> Section 35(a) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>29</sup> Section 35(b) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**36. REMISSION OF AMOUNTS TO THE SUCCESSOR COMPANY.**

<sup>31</sup>An agent of the successor company shall, on the last day of each month or at such other times as are agreed on between the successor company and the agent, remit to the successor company all amounts collected by it on behalf of the successor company.

**37. INVESTMENT OF MONEY STANDING TO THE CREDIT OF THE FUND.**

Money standing to the credit of the Fund may be invested—

- (a) in any securities or class of securities approved by the Minister for the purpose; or
- (b) on deposit with a licensed bank; or
- (c)<sup>32</sup> in any manner authorized by Section 57 of the *Public Finances (Management) Act 1995*.

**38 - 39<sup>33</sup>. [REPEALED.]**

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<sup>30</sup> Section 35(d) added by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s6.

<sup>31</sup> Section 36 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>32</sup> Section 37(c) added by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s7.

<sup>33</sup> Section 36 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**PART VII. – FINANCE, ETC.****40<sup>34</sup>. [REPEALED.]****41. BANK ACCOUNTS.**

(1)<sup>35 36</sup>The successor company shall–

- (a) open and maintain an account or accounts with a licensed bank; and
- (b) maintain at all times at least one such account.

(2)<sup>37 38</sup>The successor company shall pay all its money into an account referred to in Subsection (1).

**42. ADVANCES.**

(1)<sup>39 40</sup>The successor company may accept an offer by the Departmental Head to advance such money as are from time to time lawfully available for the purposes of the successor company on such terms as are agreed on between the successor company and the Departmental Head.

(2)<sup>41 42</sup>The successor company shall repay, in accordance with the terms on which an advance under Subsection (1) is made, such portion of the advance as is repayable.

**43. PRIVATE TREATY LOANS.**

(1)<sup>43 44</sup>The successor company may, with the consent of the Minister, borrow, for the purposes of the successor company, money from a person on such terms as are agreed on between the successor company and that person.

(2)<sup>45 46</sup>The successor company shall repay a loan made under Subsection (1) in accordance with the terms on which it is made.

**44. ACCOUNTS AND RECORDS.**

<sup>47</sup>The successor company shall–

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<sup>34</sup> Section 40 repealed by *Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act 1996* (No. 48 of 1996), s13.

<sup>35</sup> Section 41(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>36</sup> Section 41(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>37</sup> Section 41(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>38</sup> Section 41(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>39</sup> Section 42(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>40</sup> Section 42(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>41</sup> Section 42(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>42</sup> Section 42(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>43</sup> Section 43(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>44</sup> Section 43(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>45</sup> Section 43(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>46</sup> Section 43(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

- (a)<sup>48</sup> cause to be kept proper accounts and records of its transactions and affairs to recognized international standards; and
- (b) do all things necessary to ensure that—
  - (i) all payments out of its money are properly authorized and correctly made; and
  - (ii) adequate control is maintained over its assets and other assets in its custody, and over the incurring of liabilities by it.

**45<sup>49</sup>. [REPEALED.]****46. AUDIT.**

(1)<sup>50</sup> <sup>51</sup>The successor company shall arrange for an inspection and audit of the accounts and records of the successor company by a qualified company auditor at least once in each year.

(2)<sup>52</sup> <sup>53</sup>Sections 199 to 202 inclusive of the *Companies Act 1997*, with the necessary modifications, applies to the successor company and the auditor of the successor company.

**47<sup>54</sup>. [REPEALED.]**


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<sup>47</sup> Section 44 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>48</sup> Section 44(a) amended by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s8.

<sup>49</sup> Section 45 repealed by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s9.

<sup>50</sup> Section 46(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>51</sup> Section 46(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>52</sup> Section 46(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>53</sup> Section 46(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>54</sup> Section 47 repealed by *Motor Vehicles Insurance (PNG) Trust (Administrative Arrangements) Act 1996*, (No. 48 of 1996), s14.

**PART VIII. – THIRD-PARTY INSURANCE COVER.**

**48. INSURANCE BY OWNERS OF MOTOR VEHICLES.**

(1)<sup>55</sup> <sup>56</sup>Subject to this Act, the owner of a motor vehicle must at all times during the registration and renewal of registration of the motor vehicle indemnify himself and keep himself indemnified with the successor company against the sums specified in Section 49(2)(a) for which he or his estate may become liable by way of damages for the death of or bodily injury to a person caused by, or arising out of the use of, the motor vehicle.

Penalty: A fine not exceeding K200.00.

(2) The third-party insurance cover shall not be revoked during the period of registration of the insured motor vehicle unless the registration or renewal of registration, as the case may be, is sooner cancelled or surrendered.

**49. MANNER OF EFFECTING THIRD-PARTY INSURANCE.**

(1) In order to comply with the requirements of this Act, a third-party insurance cover shall–

(a)<sup>57</sup> in the area of the Central Traffic Registry–be issued by the successor company to the owner of a motor vehicle on the owner lodging with the Superintendent–

- (i) an application for registration or re-registration, as the case may be; and
- (ii) the appropriate amount of insurance premium in respect of the motor vehicle; and

(b)<sup>58</sup> in any other area–be issued by the successor company to the owner of a motor vehicle on the owner obtaining from an agent of the successor company a certificate in a form approved by the successor company stating that the appropriate amount of insurance premium in respect of the motor vehicle has been paid.

(2) A third-party insurance cover issued under Subsection (1)–

(a) where it is issued in relation to a particular motor vehicle, insures the owner of the motor vehicle and any other person who at any time drives the motor vehicle, whether with or without the authority of the owner, jointly and each of them severally against all liability incurred by the owner and the other person jointly or by either of them severally in respect of the death of or bodily injury to a person caused by, or arising out of the use of, the motor vehicle, to an amount not exceeding–

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<sup>55</sup> Section 48(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>56</sup> Section 48(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>57</sup> Section 49(1)(a) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>58</sup> Section 49(1)(b) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

- (i) K150,000.00 in respect of the death of or bodily injury to any one person in any one case; and
  - (ii) K750,000.00 in the case of any one accident or series of accidents arising out of the one event; and
- (b) becomes effective on the date of registration or re-registration, as the case may be, of the motor vehicle in respect of which it is issued; and
- (c) continues in force—
- (i)<sup>59</sup> where the registration is renewed within 15 days after the expiry of the preceding period of registration—until the date of renewal; and
  - (ii)<sup>60</sup> in any other case—until 15 days after the date on which the registration expires.

#### **50. PAYMENT OF THIRD-PARTY PREMIUMS.**

The Superintendent shall not register or re-register a motor vehicle unless—

- (a) in the case of a motor vehicle situated in the area of the Central Traffic Registry—he has received the amount of third-party insurance premium payable in respect of the motor vehicle; and
- (b) in any other case—he has received a certificate issued under Section 49(1)(b) in respect of the motor vehicle.

#### **51. EXCIUSION OF CERTAIN LIABILITIES.**

A third-party insurance cover issued under this Act does not extend to insure the owner or driver of the motor vehicle against—

- (a) a liability to pay compensation, under a law in relation to workers' compensation, to a worker employed by him; or
- (b) a liability incurred by him under an agreement, unless the liability is one that would have arisen in the absence of the agreement.

#### **52. CHANGE OF OWNERSHIP.**

A third-party insurance cover enures in favour of the owner for the time being and the driver of the vehicle, notwithstanding any change in the ownership of the vehicle.

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<sup>59</sup> Section 49(2)(b)(i) amended by No 50 of 2000 s 4(a).

<sup>60</sup> Section 49(2)(b)(ii) amended by No 50 of 2000 s 4(b).

**53. DUTIES OF OWNER AND DRIVER.**

(1) Where the death of or bodily injury to a person is caused by, or arises out of the use of, a motor vehicle in respect of which a third-party insurance cover is in force—

- (a)<sup>61</sup> the owner must, as soon as practicable after the occurrence that resulted in the death or injury, or if he was not then driving the motor vehicle as soon as practicable after he became aware of the occurrence, give a written notification of the occurrence, with particulars as to the date, nature and circumstances, to the successor company; and
- (b) if, at the time of the occurrence, the driver of the motor vehicle was not the owner of the motor vehicle, the driver must as soon as practicable give a written notification—
  - (i) to the owner of the motor vehicle; or
  - (ii)<sup>62</sup> to the successor company,
    - of the occurrence, with particulars as to the date, nature and circumstances; and
- (c)<sup>63</sup> the owner and the driver, or either of them, must give such information, in addition to the information referred to in Paragraphs (a) and (b), and take such steps, as the successor company reasonably requires, whether or not a claim has been made in respect of the death or bodily injury; and
- (d)<sup>64</sup> the owner or the driver must not, without the written consent of the successor company, make an offer, promise, payment or settlement, or an admission of liability, in respect of the death or bodily injury; and
- (e)<sup>65</sup> the owner or the driver must immediately give to the successor company a written notification of every notice of intention to make a claim given to him, and of every claim made or action brought against him, in respect of the death or bodily injury; and
- (f)<sup>66</sup> where the owner becomes aware that notice of intention to make a claim has been given to, or a claim has been made or an action brought against, the driver in respect of the death or bodily injury, he must immediately give to the successor company a written notification of the notice or claim; and

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<sup>61</sup> Section 53(1)(a) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>62</sup> Section 53(1)(b)(ii) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>63</sup> Section 53(1)(c) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>64</sup> Section 53(1)(d) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>65</sup> Section 53(1)(e) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>66</sup> Section 53(1)(f) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

- (g)<sup>67</sup> the owner or the driver must not, without the written consent of the successor company, enter on, or incur expense in relation to, litigation in respect of any liability against which he is insured under the third-party insurance cover.

Penalty: A fine not exceeding K100.00.

(2) It is a sufficient compliance with a requirement of Subsection (1) as to the giving of a notification by the owner or the driver if the notification is given by a person on his behalf.

(3) A notification given under this section is not subject to discovery and is not admissible in evidence in any proceedings (whether or not for an offence against this or any other Act) except proceedings for failure to comply with this section.

(4) This section does not apply where—

- (a) the person suffering the death or bodily injury was the owner of the motor vehicle; and
- (b) the motor vehicle was at the time of the occurrence being driven by the owner.

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<sup>67</sup> Section 53(1)(g) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.



**PART IX. – CLAIMS AND ACTIONS FOR DAMAGES.****54. CLAIMS FOR DAMAGES.**

(1)<sup>68</sup> <sup>69</sup>Subject to Subsection (2), any claim for damages in respect of the death of or bodily injury to any person caused by, or arising out of the use of—

- (a) a motor vehicle insured under this Act; or
- (b) an uninsured motor vehicle in a public street; or
- (c) a motor vehicle on a public street where the identity of the motor vehicle cannot after due inquiry and search be established,

shall be made against the successor company and not against the owner or driver of the motor vehicle and, subject to Subsection (5), any proceedings to enforce any such claim for damages shall be taken against the successor company and not against the owner or driver of the motor vehicle.

(2) Subsection (1) does not apply to a claim for damages made under the *Motor Vehicles (Third Party Insurance) (Basis Protection Compensation) Act 1974*.

(3) A claim under Subsection (1)(a) or (b) may be made, and any proceedings to enforce such a claim may be taken, notwithstanding that the owner or driver of the motor vehicle—

- (a) is dead; or
- (b) cannot be found; or
- (c) is the spouse of the person whose death, or to whom bodily injury, has been caused.

(4) The inquiry and search under Subsection (1)(c) for the purpose of establishing the identity of the motor vehicle may be proved orally or by the affidavit of the person who made the inquiry and search.

(5)<sup>70</sup> <sup>71</sup>Where an award of damages is made by a court in respect of a claim under Subsection (1) that exceeds the amount of liability of the successor company specified in Section 49(2)(a), the court shall, at the time when it makes the award, determine against whom (if anyone) the excess shall be awarded, and an award under this subsection operates as a judgement against that person for all purposes.

(6)<sup>72</sup> <sup>73</sup>No action to enforce any claim under this section lies against the successor company unless notice of intention to make a claim is given by the claimant to the successor company within a period of six months after the occurrence out of which the claim arose, or within such further period as—

- (a) the Commissioner; or

<sup>68</sup> Section 54(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>69</sup> Section 54(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>70</sup> Section 54(5) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>71</sup> Section 54(5) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>72</sup> Section 54(6) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>73</sup> Section 54(6) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

(b) the court before which the action is instituted,  
on sufficient cause being shown, allows.

(7) For the purposes of this Act, if the owner of a motor vehicle or his estate becomes liable, by way of damages, in respect of a motor vehicle for the death of or bodily injury to a person who is a worker within the meaning of any law relating to workers compensation, compensation under that law in respect of which a person is entitled to be indemnified by the owner or his estate is damages.

## **55. REPRESENTATION OF OWNER AND DRIVER IN ACTION FOR COMPENSATION.**

<sup>74</sup>Where a claim for damages under Section 54(1) is made against the successor company, a copy of the claim shall, where possible, be served on the owner, and where the owner is not the driver also on the driver, and the owner and driver may be represented on the hearing of the claim as though they were parties to the action.

## **56. REIMBURSEMENT OF THE SUCCESSOR COMPANY.**

<sup>75</sup>Where in relation to a claim under Section 54(1)(c) the successor company properly pays any amount in satisfaction of the claim made or judgement recovered against it and the amount of any costs and expenses properly incurred by it in relation to the claim, the Departmental Head shall, out of money lawfully available for the purpose, pay to the successor company such proportion of the amount as the Minister fixes.

## **57. RECOVERY BY THE SUCCESSOR COMPANY IN CERTAIN CASES.**

<sup>76</sup>(1)<sup>77</sup> <sup>78</sup>Subject to Subsection (2), the successor company may recover—

- (a)<sup>79</sup> any amount properly paid by the successor company in satisfaction of a claim under Section 54(1)(b) or (c) or, judgement recovered against it under such a claim; and
- (b) the amount of any costs and expenses properly incurred by it in relation to any such claim or to the proceedings in which judgement was obtained,

as a debt from the person who, at the time of the occurrence out of which the claim arose or in respect of which the judgement was obtained, was the owner of the motor vehicle, or, where at the time of the occurrence some other person was driving the vehicle, from the owner and the driver jointly or from either of them severally.

<sup>74</sup> Section 55 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>75</sup> Section 56 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>76</sup> Section 57: headnote amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>77</sup> Section 57(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>78</sup> Section 57(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>79</sup> Section 57(1)(a) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

- (2) It is a sufficient defence in any proceedings under this section—
- (a) against the owner (whether severally or jointly with the driver)—if he establishes to the satisfaction of the court before which the action is instituted that, at the time of the occurrence, some other person was driving the motor vehicle without his authority; or
  - (b) against the driver of an uninsured motor vehicle (whether severally or jointly with the owner)—if he establishes to the satisfaction of the court before which the action is instituted that, at the time of the occurrence—
    - (i) he was driving the motor vehicle with the authority of the owner or had reasonable grounds for believing, and did in fact believe, that he had such authority; and
    - (ii) he had reasonable grounds for believing, and did in fact believe, that the motor vehicle was an insured motor vehicle.

(3)<sup>80 81</sup>Any amount properly paid by the successor company in satisfaction of a claim under Section 54(1)(a) or a judgement recovered against it under such a claim, and the amount of any costs and expenses properly incurred by it in relation to any such claim or to the proceedings in which judgement was obtained, may, where the driver of the vehicle in relation to which the claim was made or the judgement recovered has been convicted of an offence under Section 40 of the *Motor Traffic Act 1950* relating to the incident from which the claim arose, be recovered by the successor company as a debt from the driver of the vehicle.

(4)<sup>82 83</sup>Any amount recovered by the successor company under Section 57(1) shall be paid by the successor company, in proportions determined by the Minister, to the State and the Fund.

(5)<sup>84 85</sup>In making a determination under Subsection (4), the Minister shall have regard, as far as practicable, to the respective proportions of the amount provided by the State and the successor company.

## **58. SETTLEMENT, ETC., BY SUCCESSOR COMPANY.**

<sup>86</sup>(1)<sup>87 88</sup>The successor company—

- (a) may undertake the settlement of a claim against it or any other person under this Act; and

<sup>80</sup> Section 57(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>81</sup> Section 57(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>82</sup> Section 57(4) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>83</sup> Section 57(4) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>84</sup> Section 57(5) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>85</sup> Section 57(5) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>86</sup> Section 58: headnote amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>87</sup> Section 58(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>88</sup> Section 58(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

- (b) shall indemnify a person insured under this Act against all costs and expenses incidental to proceedings under this Act to the relevant amount specified in Section 49(2)(a).

(2)<sup>89 90</sup>The person referred to in Subsection (1) shall sign all such warrants and authorities as the successor company requires for the purpose of enabling it to have the defence or conduct of any proceedings referred to in that subsection and, in default of his so doing, the court in which the proceedings are taken or had may order that they be signed by the successor company on his behalf.

(3)<sup>91 92</sup>Nothing said or done by or on behalf of the successor company in connection with the settlement of any such claim or the defence or conduct of any such proceedings shall be regarded as an admission of liability in respect of, or in any way prejudices, any other claim, action or proceedings arising out of the same occurrence.

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<sup>89</sup> Section 58(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>90</sup> Section 58(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>91</sup> Section 58(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>92</sup> Section 58(3) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**PART X. – OFFENCES.**

**59. USE OF UNINSURED VEHICLE.**

(1) Subject to this section, a person who uses, or causes or permits any other person to use, an uninsured motor vehicle is guilty of an offence.

Penalty: A fine not exceeding K500.00 or imprisonment for a term not exceeding 12 months, or both.

(2) It is a defence to a charge of an offence against Subsection (1) if the defendant proves to the satisfaction of the court hearing the case that at the time when the vehicle was used he had reasonable grounds for believing, and in fact believed, that the vehicle was insured under this Act.

**60. SOLICITING INSTRUCTIONS, ETC.**

(1) A person who, directly or indirectly, for personal gain—

(a) solicits instructions or authority to act on behalf of any other person in respect of the making or commencement of a claim or action for damages or compensation for the death of or bodily injury to a person caused by, or arising out of the use of, a motor vehicle, or in respect of negotiation, compromise or settlement of any such claim or action; or

(b) on behalf of any other person, makes or commences, or causes to be made or commenced, a claim or action for damages or compensation referred to in Paragraph (a), or negotiates, settles or compromises any such claim when made or commenced,

is guilty of an offence.

Penalty: A fine not exceeding K200.00.

(2) Subsection (1)(b) does not apply to a lawyer properly acting in the course of his profession.

(3) An agreement to pay to a person who contravenes Subsection (1) money for work done or services rendered in respect of a matter referred to in that subsection is void, and money so paid is recoverable by action brought in a court of competent jurisdiction by the person who paid it.

**61. SAVING OF OTHER REMEDIES.**

<sup>93</sup>No proceedings or conviction for an offence against, contravention of or neglect or failure to comply with this Act affects any remedy to which a person aggrieved or injured by the act or omission to which the proceedings or conviction relates is entitled against the successor company, or against the person who committed the act or was responsible for the omission.

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<sup>93</sup> Section 61 amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**62. AVOIDANCE OF CERTAIN CONTRACTS.**

(1) In this section, “**public motor vehicle**” means a public motor vehicle as defined in the *Motor Traffic Act 1950*.

(2)<sup>94</sup> <sup>95</sup>A contract for the conveyance of a passenger in a public motor vehicle is void so far as it purports to negative or to restrict the liability of the successor company or a person in respect of claims that may be made against the successor company or the person in respect of the death of or bodily injury to the passenger while being carried in, entering or alighting from the vehicle, or purports to impose a condition with respect to the enforcement of any such liability.

**63. STATEMENT BY OWNER AS TO INSURANCE.**

(1)<sup>96</sup> <sup>97</sup>The owner of a motor vehicle in respect of which a claim is made in relation to a death or bodily injury arising out of or caused by the use of the motor vehicle shall, on demand by or on behalf of the person making the claim, state whether or not he is or was insured under this Act, or would have been so insured if the successor company had not avoided or cancelled the certificate.

(2) A person who, without reasonable excuse, fails to comply with Subsection (1), or wilfully makes a false statement in reply to a demand under that subsection, is guilty of an offence.

Penalty: A fine not exceeding K500.00.

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<sup>94</sup> Section 62(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>95</sup> Section 62(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>96</sup> Section 63(1) amended by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s10; amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>97</sup> Section 63(1) amended by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1996* (No. 47 of 1996), s10; amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**PART XI. – MISCELLANEOUS.**

**64. REGULATIONS.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required or permitted to be prescribed, or that are necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**PART XII.<sup>98</sup> – TRANSFER OF UNDERTAKING OF THE SUCCESSOR COMPANY, ETC<sup>99</sup>.**

**65. MINISTER MAY APPOINT TRANSFER DATE AND NOMINATE COMPANY.**

<sup>100</sup>The Minister may, by notice in the National Gazette—

- (a) appoint a day (hereinafter referred to as “**the transfer date**”); and
- (b) nominate a company or companies incorporated under the *Companies Act* (Chapter 146) (hereinafter referred to as “**the successor company**”), for the purposes of this Part.

**66. SHARES IN SUCCESSOR COMPANY ON TRANSFER DATE.**

<sup>101</sup>(1) The successor company shall, on the transfer date, be wholly owned by the State.

(2) The shares in the successor company shall be held by the Minister on behalf of the State.

**67. TRANSFER OF ASSETS, ETC., OF TRUST TO SUCCESSOR COMPANY ON TRANSFER DATE.**

<sup>102</sup>On the transfer date—

- (a) all assets held by, and all obligations and liabilities imposed on, the successor company are transferred to the successor company; and
- (b) all contracts and agreements (including contracts of employment) entered into, made with or addressed to the successor company are, to the extent they were immediately before the transfer date binding on and enforceable against the successor company binding on and of full force and effect against or in favour of the successor company as if the successor company had been a party to them or bound by them or entitled to the benefit of them; and
- (c) all licences held by the successor company are transferred to, and deemed to be held by, the successor company for the unexpired period of such licences; and
- (d) any arbitration, action or proceeding pending or existing by, against or in favour of the successor company does not abate or discontinue, but

<sup>98</sup> Part XII inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>99</sup> Part XII: heading amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>100</sup> Section 65 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>101</sup> Section 66 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>102</sup> Section 67 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1; amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.



may be prosecuted, continued or enforced by, against or in favour of the successor company.

**68. FORMAL TRANSFER OF LAND, ETC., UNNECESSARY.**

<sup>103</sup>Where any asset falling to be transferred under Section 67(a) is land registered under the *Land Registration Act 1981*, the Registrar of Titles shall, without formal transfer and without fee, on application by the successor company, enter or register the successor company in the register kept under the Act and, on entry and registration, grant a certificate of title, lease or other instrument evidencing title to the land within that Act.

**69. MINISTER EMPOWERED TO SELL SHARES IN SUCCESSOR COMPANY.**

<sup>104</sup>The Minister is, on and in accordance with the terms of the direction of the National Executive Council, empowered to sell the shares of the successor company.

**70. TAX AND DUTIES.**

<sup>105</sup>(1)<sup>106</sup> <sup>107</sup>For the purposes of the *Income Tax Act 1959*, the successor company shall be deemed to have acquired the assets, obligations and liabilities referred to in Section 67(a) at a value equal to their written down book value in the books of the successor company as at the transfer date.

(2)<sup>108</sup> <sup>109</sup>The successor company shall be entitled to tax depreciation and to any other applicable tax deduction in respect of assets, obligations and liabilities referred to in Section 67(a) as if the successor company had owned such assets, rights and liabilities since such assets, rights and liabilities were first acquired by the successor company.

(3) Shares issued to the Minister responsible for finance matters on behalf of the State shall be deemed to have been fully paid and issued for valuable consideration other than cash.

(4) The transfer to the successor company of the assets, rights and liabilities specified in the allocation statement shall be exempt from any stamp duty, fee, tax, charges or other duty payable under any Act, including without limitation, the *Land Registration Act 1981*.

(5) No registration fee shall be payable in respect of the authorized capital of the successor company, and no tax or duty shall be payable on the issue of shares, to the Minister responsible for finance matters on behalf of the State.

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<sup>103</sup> Section 68 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>104</sup> Section 69 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>105</sup> Section 70 inserted by *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s1.

<sup>106</sup> Section 70(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>107</sup> Section 70(1) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>108</sup> Section 70(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

<sup>109</sup> Section 70(2) amended by the *Motor Vehicles (Third Party Insurance) (Amendment) Act 1997* (No. 28 of 1997), s2.

**71. REPLACEMENT OF SUCCESSOR COMPANY.**

<sup>110</sup>(1) Subject to Section 72—

- (a) on and from 1 January 1999, Motor Vehicles Insurance Ltd is deemed to be, and to have been at all times on and from that date, the successor company under this Act other than in this Part; and
- (b) all claims and liabilities arising as a result of the provision of third-party insurance cover to owners of motor vehicles under and in accordance with this Act which arose before 1 January 1999, or which arose or may rise after 1 January 1999, are claims against and liabilities of Motor Vehicles Insurance Ltd as the administrator of the Fund.

(2) Subsection (1) does not alter or affect the ownership of assets held by the successor company prior to 1 January 1999 or the results of the amalgamation of the successor company with PNGBC Ltd and the PNGBC Holding Co. No. 1 Ltd (which amalgamation, for the avoidance of doubt, is deemed to have taken effect on 31 December 1998).

(3) Without limiting the generality of Subsection (2), assets held by the successor company immediately prior to the amalgamation referred to in Subsection (2), which, as a result of the operation of Part VI, are properly regarded as assets of the Fund, remained as assets of the Fund immediately after the amalgamation.

**72. ANOTHER NOMINATED COMPANY.**

<sup>111</sup>(1) Where at any time—

- (a) another company is able and willing to carry on the insurance business; and
- (b) the Minister is satisfied that the other company has the capacity to carry on the insurance business to be able to provide adequate third-party insurance cover to owners of motor vehicles in Papua New Guinea,

the Minister may, by notice in the National Gazette, nominate that other company to carry on the insurance business commencing on a specified date after the date of the notice.

(2) On and from the date specified in the notice under Subsection (1), the nominated company shall carry on the insurance business in place of or in addition to Motor Vehicles Insurance Ltd by providing third-party insurance cover from that date and thereafter.

(3) A nomination under Subsection (1) shall not effect the responsibility of Motor Vehicles Insurance Ltd for claims and liabilities arising in respect of the insurance business before the date specified in the notice.

<sup>110</sup> Section 71 added by No 50 of 2000 s 5.

<sup>111</sup> Section 72 added by No 50 of 2000 s 5.

(4) The Minister may nominate under this section—

- (a) more than one company to carry on the insurance business at the same time; or
- (b) one or more companies to carry on the insurance business at the same time as Motor Vehicles Insurance Ltd.

(5) Where, as a result of this section, there is more than one successor company, each of the successor companies shall administer a proportion of the Fund under Part VI.

**SCHEDULE 1 – OATH AND AFFIRMATION OF OFFICE.**

Sec. 12

*Oath.*

“I, . . . , do swear that I will well and truly serve the Independent State of Papua New Guinea in the office of director of the Motor Vehicles Insurance (P.N.G.) Trust.

So help me God!”

*Affirmation.*

“I, . . . , do solemnly and sincerely promise and declare that I will well and truly serve the Independent State of Papua New Guinea in the office of director of the Motor Vehicles Insurance (P.N.G.) Trust”

Office of Legislative Counsel, PNG