

# LAW OF GEORGIA ON INSURANCE

## Chapter I - General Provisions

### Article 1 - Relations regulated by this Law

1. This Law regulates relations in the area of insurance between insurance organisations and legal and natural persons, as well as relations between insurance organisations, and defines fundamental principles for State regulation of insurance activities.

1<sup>1</sup>. This Law shall not apply to the activity of deposit insurance provided for by the Law of Georgia on Deposits Insurance System.

2. In the area of insurance, relations shall be regulated by the Constitution of Georgia, the Civil Code of Georgia, this Law, other laws and subordinate acts of Georgia.

3. If an international agreement or treaty, to which Georgia is a party, establishes procedures different from the ones prescribed by this Law, the procedures established by the international agreement or treaty shall be applied.

4. (Deleted).

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 855 of 17 May 2017 – website 2.6.2017*

### Article 2 – Basic concepts used in the Law

The concepts used in this Law have the following meanings:

a) insurance – a relationship established for the protection of private and property interests of natural and legal persons through monetary funds created by insurance payments (insurance premiums) and other sources permitted by the legislation, upon the occurrence of certain circumstances (insured events);

b) insurance activity - activity of an insurer related to the conclusion and implementation of insurance and reinsurance contracts;

c) insurer -

c.a) a legal person in the organisational-legal form of a joint-stock company, which is established to carry out insurance activity, and licensed, according to the procedures established by this Law, to carry out the relevant type of insurance activity;

c.b) a branch (representative office) founded in Georgia by insurance and reinsurance organisations registered in member states of the Organisation for Economic Co-operation and Development (OECD) and licensed by appropriate agencies, registered according to the procedures established by the legislation of Georgia for registration of branches (representative offices).

d) policyholder - a natural or legal person that has concluded an insurance contract with an insurer;

e) the insured - a natural or legal person covered by an insurance policy. A policyholder may also be the insured, unless otherwise provided by the insurance contract;

f) beneficiary - a natural or legal person that receives insurance policy proceeds according to an insurance contract or the legislation on compulsory insurance;

g) insurance agent - a natural or legal person that acts on behalf of and in the name of an insurer within the powers granted by the insurer;

h) insurance broker – an individual entrepreneur or a legal person established in accordance with the legislation of Georgia, which is registered by a Legal Entity under Public Law called the Insurance State Supervision Service of Georgia (the Service), and which independently carries out brokerage activity in the field of insurance, as a type of its entrepreneurial activity;

h1) brokerage activity in the field of insurance - brokerage paid activity performed by a person to conclude an insurance contract / reinsurance contract, which shall include at least one of the following activities:

h1<sup>a</sup>) an offer to conclude an insurance contract / reinsurance contract;

h1<sup>b</sup>) performing preparatory works for concluding an insurance contract / reinsurance contract, organising the conclusion of an insurance contract;

h1<sup>c</sup>) concluding an insurance contract on behalf of an insurer and / or concluding a reinsurance contract on behalf of an reinsurer;

h1<sup>d</sup>) in accordance with the insurance contract / reinsurance contract, the administration of loss assessment and insurance compensation payment procedures depending on the insured event;

h1<sup>e</sup>) assisting in the performance of an insurance contract / reinsurance contract within the time frame specified by an insurer / insured, including the right to collect insurance premiums and to issue insurance compensations



- i) insurance risk - an event containing signs of the possibility and fortuitousness of its occurrence, and which is the reason for insurance;
- j) insured event - an event upon the occurrence of which payment of insurance policy proceeds is provided by an insurance contract;
- k) insurance policy - a signed document (certificate) issued by an insurer about an insurance contract;
- l) reinsurance - a transaction during which an insurer fully or partially transfers the insured risk and the associated loss to a reinsurance company, on the basis of a reinsurance contract and in consideration of the peculiarities of each such contract;
- m) non-state pension scheme founder - a legal person that is defined by the Law of Georgia on Non-state Pension Provision and Insurance;
- n) (deleted);
- o) (deleted);
- p) significant share - 10% or more of stated or paid-in capital of an insurer/insurance broker held by a person through direct or indirect participation;
- q) administrator – in the case of an insurer, a member of the supervisory board of an insurer; in the case of an insurance broker, a director, a member of the supervisory board (if any), an individual entrepreneur of an insurance broker; an individual entrepreneur itself;
- r) indirect participation - possessing a share in authorised capital through a third person;
- s) beneficial owner - a person determined by the legislation of Georgia;
- t) subsidiary (subsidiary organisation) - a legal person, in which the insurer holds 50% or more of the interest (voting shares, participatory interest), or controls it, in the case of an entity without a legal status;
- u) branch - a structural unit of an insurer that, on the basis of a decision of the governing body of the insurer, carries out the activity of the insurer, related to entering into and performing insurance and reinsurance contracts.
- v) supervisory fee - the gross premium amount earned by an insurer and/or an insurer's income included the types of cumulative and refundable life insurance specified in Article 19<sup>1</sup> of this Law.
- w) consumer:

w.a) a natural person intending to receive insurance services or, at the stage of concluding an insurance contract, an insured natural person;

w.b) at all stages of fulfilling the obligations under the insurance contract, an insured, insurance policy holder, beneficiary and / or third parties (under the civil liability insurance, a person who has suffered damage).

*Law of Georgia No 961 of 20 June 2001 - LGH I, No 20, 3.7.2001, Art. 69*

*Law of Georgia No 940 of 29 December 2004 - LGH I, No 6, 19.1.2005, Art. 49*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 2832 of 23 March 2010 - LGH I, No19, 13.4.2010, Art. 106*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*

*Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

*Law of Georgia No 1821 of 22 December 2017 - website, 28.12.2017*

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

### **Article 3 - Concept of insurance**

1. Insurance is a relationship where personal and property interests of natural and legal persons are protected upon the occurrence of a certain circumstance (an insured event) at the expense of the monetary funds created by insurance payments (insurance premiums) paid by those persons and at the expense of other sources permitted by legislation.

2. Insurance activity is an activity of an insurer and is related to the entering into and performing insurance and reinsurance contracts.

### **Article 4 - Object of insurance**

1. The object of insurance may be any property or personal non-property interest not contradicting the legislation of Georgia, including:

a) insurance related to the life, health, ability to work, pension provision and other personal interests of the insured (personal insurance);

b) insurance related to owning, administering and using property (property insurance);

c) insurance related to an injury that the insured causes to third persons (natural or legal) or to their property (liability insurance).

### **Article 5 - Forms of insurance**

1. Insurance may be voluntary or compulsory.

2. Voluntary insurance is based on a contract concluded between an insurer and a policyholder. The types, conditions and



procedures for voluntary insurance shall be defined by a contract concluded between an insurer and a policyholder.

3. Voluntary insurance may be administered by any licensed insurance organisation of Georgia.

4. Compulsory insurance is a form of insurance where the object of insurance, its types and procedures for its administration are defined by the appropriate law on compulsory insurance.

5. In the case of compulsory insurance, an insurer shall be obligated to conclude a contract with a policyholder according to the conditions defined by law. An insurer may offer to a policyholder conditions that are more favourable than those prescribed for the policyholder by law.

6. Compulsory insurance may be administered by any licensed insurance organisation of Georgia.

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No 4, 20.11.1998, Art. 37*

#### **Article 6 - Consequences of violation of compulsory insurance procedures**

1. If a person is subject to compulsory and statutory insurance and is not insured, he/she shall be entitled to demand in court that the policyholder carry out its obligation to insure him/her.

2. If a policyholder does not conclude an insurance contract, or conditions of the concluded contract are less favourable than those provided by the legislation, the policyholder shall be obligated to compensate the insured for the loss in the amount that the insured would have received if he/she had been insured.

3. A policyholder may demand through the court that the insurer administer insurance according to Article 5(5) of this Law.

#### **Article 7 - Activity of foreign natural and legal persons in the field of insurance in the territory of Georgia**

1. A foreign citizen, a stateless person, a legal person established with foreign capital in the territory of Georgia, also, a branch and a representative office of a foreign legal person that perform their activities in the territory of Georgia, shall carry out insurance in insurance organisations of Georgia, according to the legislation of Georgia.

2. The persons referred to in paragraph 1 of this article shall have all the rights and obligations as citizens and legal persons of Georgia in the field of insurance in the territory of Georgia.

3. A foreign natural person, a stateless person, a foreign legal person (including foreign insurance and reinsurance organisations) may be founders of insurance and reinsurance organisations of Georgia.

4. Activity of a foreign insurance organisation as of a direct insurer in the territory of Georgia shall be permitted only through a branch (representative office) defined in Article 2(c.b) of this Law.

4<sup>1</sup>. A branch (representative office) defined in Article 2(c.b) of this Law shall carry out its activity in the territory of Georgia according to the legislation of Georgia and shall have the right to sue and be sued.

5. An insurance organisation of Georgia may independently and directly enter into reinsurance contracts with one or more reinsurers.

6. A foreign legal person shall carry out insurance brokerage activity in Georgia through a duly registered branch (representative office), based on contracts concluded with legal persons of Georgia.

7. An insurance organisation of Georgia may directly use the services of a foreign brokerage organisation to reinsure its risks abroad.

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No4, 20.11.1998, Art. 37*

*Law of Georgia No 940 of 29 December 2004 - LGH I, No6, 19.1.2005, Art. 49*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

### **Chapter II - Participants of Insurance Relations**

#### **Article 8 - Policyholder**

1. A policyholder is person that has entered into an insurance contract with an insurer.

2. A policyholder may be either a legal or a natural person.

3. A legal person registered in Georgia may enter into an insurance contract, except for a reinsurance contract, related to activity carried out in the territory of Georgia and to property located in the territory of Georgia only with an insurance organisation licensed by the Service. A citizen of Georgia may enter into an insurance contract in the territory of Georgia only with an insurance organisation licensed by the Service.

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No4, 20.11.1998, Art. 37*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

#### **Article 9 – Insurer**

1. An insurer is a legal person that is established to perform insurance activity and that has obtained a license for carrying out the relevant type of insurance, according to procedures established by this Law. An insurer shall be registered as an organisation according to procedures established for registering legal persons in Georgia.



2. The only organisational and legal form of an insurance organisation shall be a joint stock company. An organisation financed from the State Budget may not found or be a founder of an insurance organisation.
  3. A company name of a licensed insurance organisation shall include the word 'insurance' or any other phrase containing this word. No one shall have the right to use the word 'insurance' or any other phrase containing this word without an insurance license issued by the Service (except when such use is established or recognised by the law of Georgia or by international agreement, or when it is evident from the context that includes the word 'insurance' or any other phrase containing that word, that the entity concerned does not carry out insurance activity determined by this Law).
  4. The liquidation of an insurance organisation shall be carried out according to the procedures established by this Law, other laws and by the Service.
  5. Insurance organisations shall enjoy equal rights when carrying out their activities.
  6. Abuse of a dominant position or any other activity intended to significantly restrict competition on the insurance market, or give advantage to or gain an advantage by the insurer(s) with respect to other insurer(s) shall be prohibited.
  - 6<sup>1</sup>. An insurer shall be guided by the principles of good faith, diligence and prudence, and carry out insurance activities in accordance with these principles
  - 6<sup>2</sup>. An insurer shall be obliged to have internal consumer rights policies and procedures for the protection of consumers and to ensure their protection at any stage of relationship with consumers. The insurer's Supervisory Board shall approve the insurer's internal consumer protection policy, and the insurer's consumer protection procedures shall be approved by the insurer's director, who has full managerial and representative powers.
  7. An insurer shall be managed and its activity shall be carried out according to the guidelines, methodological documents, rules and instructions determined by the Service. If there is no procedure established by the Service for a certain type of insurance activity, the insurer shall be authorised to act according to the international insurance norms and practice.
  8. An insurer shall, based on the requirements established under the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA), define tax residence of an insured/policyholder/beneficiary and obtain information on a respective status of a person.
  9. An insurer may refuse to perform insurance services, or terminate such relations if an insured/policyholder/beneficiary refuses to provide the insurer with the information based on the requirements established under the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA).
- Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*
- Law of Georgia No 6149 of 8 May 2012 - website, 25.5.2012*
- Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*
- Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*
- Law of Georgia No 4461 of 28 October 2015 - website, 11.11.2015*
- Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

## **Article 9<sup>1</sup> – Administrative bodies of an insurer**

1. Establishment and operation of administrative bodies of an insurer shall be implemented according to the Entrepreneurs Law of Georgia, considering the requirements determined under this Law.
  2. The highest administrative body of an insurer shall be a general meeting of shareholders. It shall act under the procedure established by the legislation of Georgia and the Statute. The general meeting of shareholders shall elect the Supervisory Board. The Supervisory Board shall provide control of the insurer's activity. The Board shall consist of at least three and not more than 21 members.
  3. The general meeting of shareholders shall elect a member of the Supervisory Board for a maximum of 4 years term. Further, repeat election of one and the same person shall be unlimited.
  4. Insurer's supervisory board meetings shall be held at least once in a quarter. The insurer shall, within seven business days after holding the meeting, inform the Service in writing about the date of the meeting held and the agenda of the meeting, and shall indicate the supervisory board members that attended the meeting. Depending on the importance of an issue, the Service may, within the scope of its competence, additionally request information with respect to the issues included in the agenda of the meeting.
  5. Administration and representation of an insurer shall be assigned to the directors. The insurer shall have at least three directors. They shall be appointed to the post for a maximum of four years term and shall be dismissed from the post by the supervisory board of the insurer. Further, repeat appointment of directors shall be unlimited.
  6. Powers of the directors shall be determined and separated under the Statute of the insurer. At least one director shall have the full power of management and representation.
- Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

## **Article 9<sup>2</sup> – Internal audit**



1. The activity of an insurer shall be subject to the conduct of internal audit in accordance with the procedure and conditions defined by this article.
2. The main purpose of conducting internal audit shall be to verify the compliance and suitability of an insurer's current activities with the legislation of Georgia, to assess its adequacy and effectiveness, monitor the observance of legal acts and internal procedures and rules, and evaluate internal management systems.
3. The internal audit functions shall be performed by an internal auditor or a specially designated structural unit called the Internal Audit Service.
4. The head / officer / internal auditor of the Internal Audit Service shall be appointed to and released from the position by the majority of votes of an insurer's supervisory board.
5. No person may be appointed as the head / officer / internal auditor of the Internal Audit Service, if such person:
  - a) is convicted of serious or particularly serious crime and / or legalisation of illicit income;
  - b) is convicted of economic crime;
  - c) is a close relative of a shareholder owning a significant portion of shares of an insurer or of an administrator of an insurer who is, in accordance with the Civil Code of Georgia, the first of the second degree heir, or who has business / commercial interests with such person;
  - d) has no academic degree - a certificate of qualification (diploma) on the completion of the relevant stage of higher academic education granted by a higher education institution;
  - e) is a member / administrator or other employee of the governing body of the same or other insurer.
6. An insurer shall submit to the Service in advance the information / documentation confirming the circumstances provided for by paragraph 5 of this article for the purpose of assessing compliance with the requirements of the same paragraph by the person / officer / internal auditor to be appointed by the Internal Audit Service.
7. An Insurer shall immediately notify the Service in the case of resignation or dismissal of the head / internal auditor of Internal Audit Service, indicating the relevant grounds thereof.
8. The Internal Audit Service / internal auditor shall be independent in their activities and shall be accountable to an insurer's supervisory board. It shall be inadmissible to assign matters falling within their powers to other structural units of an insurer and to third parties for consideration.
9. The supervisory board of an insurer is obliged to draft the necessary internal documents on internal audit policy, and rules and procedures for conducting internal audit in order to ensure full performance of the of internal audit functions.
10. An insurer's supervisory board shall be required to approve the annual internal audit programme / quarterly programme on the annual basis. It shall contain at least:
  - a) a list of areas of activity that should be audited;
  - b) a description of the content of the audit for areas of activity in which the audit should be conducted
11. The head of Internal Audit Service / internal auditor shall submit to the supervisory board the following internal audit opinions:
  - a) a scheduled opinion on the results of the internal audit determined by the annual internal audit programme / quarterly programme;
  - b) unscheduled opinion, if, according to their grounded opinion, substantive violations have been identified as a result of the audit. In addition, the unscheduled opinion must be submitted to an insurer's supervisory board not later than five business days after the violations are revealed. The supervisory board of the insurer shall ensure its review within the shortest time possible after the submission of the unscheduled opinion.
12. The internal audit report shall contain at least the following data:
  - a) description of the internal audit;
  - b) violations and inaccuracies identified by the internal audit and recommendations / measures to be taken for their elimination;
  - c) the position of the head of the area of activity and the estimated action plan in which violations and inaccuracies have been identified as a result of the internal audit;
  - d) a report on the elimination of violations and inaccuracies identified during the audit.
13. The Internal Audit Service / internal auditor shall issue opinions and submit proposals on unplanned matters raised by the insurer's supervisory board regarding the performance of the internal audit functions, as well as on matters raised by their own initiative.
14. The Service shall be entitled to request at any time and an insurer is obliged to submit an internal audit opinion (s) upon request.
15. The head / officer / internal auditor of the Internal Audit Service shall perform their duties impartially.
16. The head / officer / internal auditor of the Internal Audit Service, while performing their duties, shall be entitled to request and receive any information, to request explanations from the insurer's staff and administrators, as well as to have full access to computer files (without the right to modify them). In addition, they shall not disclose the information that was made known to them during the conduct of internal audit, except as provided for by the legislation of Georgia.
17. An insurer is obliged to ensure the smooth performance of the internal audit functions and to this end, provide the Internal Audit Service / internal auditor with all the necessary conditions for performing their duties.
18. The insurer's governing bodies are obliged to determine the measures to eliminate violations and inaccuracies



## **Article 10 – Insured**

1. An insured shall be a person covered by insurance. A policyholder may also be an insured, unless otherwise defined in the insurance contract.
2. The legislation on compulsory insurance may obligate a policyholder to insure a third person. In the case of voluntary insurance, a policyholder may specify a third person as an insured in the insurance contract; in this case, the object of insurance shall be the insured person and the personal interests related to him/her (personal insurance), or property of the insured person and interests related to it (property insurance).
3. When insuring property, an insured who is not a policyholder, must have an interest in maintaining that property.
4. In the case of compulsory insurance, obtaining the consent of a third person for entering into a contract, in which he/she it will be specified as the insured, shall not be necessary. In the case of voluntary insurance, refusal of a third person to have such a contract entered into shall make entering into it impossible or, if such a contract has already been entered into, shall cause its modification or termination.
5. When insuring property, a policyholder shall be obligated to notify a third person about his/her/its intention to insure the third person's property or related interests, accurately defining the object of insurance.
6. If a policyholder is obligated to insure a third person, the third person may request that the policyholder report on the performance of his/her/its obligations, and in the cases defined in the legislation - a document evidencing insurance. If a policyholder has not performed or improperly performed his/her/its obligation concerning the insurance of a third person, the third person shall be entitled to exercise the rights defined in Article 6(1) and (2) of this Law.
7. The rights of insured minor citizens shall be realised according to procedures established by legislation.
8. Entering into a contract in favour of the insured shall not release the policyholder from fulfilling the obligations defined in the contract.
9. A third person shall be insured at the expense of the policyholder. The obligations of an insured who is not a policyholder, as well as obligations of a policyholder, arising upon occurrence of the insured event, shall be determined by an insurance contract. The policyholder shall be obligated to notify the insured about the obligations defined in the insurance contract.
10. If an insured refuses to receive the insurance policy proceeds to which he/she/it is entitled as per the insurance contract, the right to receive the proceeds shall be transferred to the policyholder.
11. In the case of the death of an insured, if he/she was not the policyholder, the insurance contract shall be terminated, unless the legislation or the contract provides for the replacement of the insured.
12. If the death of the insured is the insured event considered in the insurance contract, the contract shall be terminated after its performance.
13. In the case of the death of an insured, if he/she was not the policyholder, and the contract of property insurance has been concluded in favour of him/her, the rights and obligations of the insured for the property that is an object of insurance, shall, with the consent of the policyholder, be transferred to the heir of the deceased insured, unless otherwise defined in the legislation or in the contract.
14. If a policyholder does not agree to have the insured replaced, or if heirs do not give their consent to undertake the rights and obligations of the deceased insured, the contract shall be terminated.

## **Article 11 - Beneficiary**

1. A beneficiary shall be a natural or legal person that receives insurance policy proceeds according to an insurance contract or the legislation on insurance.
2. A beneficiary may be designated in the case of both personal and property insurance.
3. When administering compulsory insurance, the beneficiary shall be designated according to the legislation regulating the given type of insurance. When administering voluntary insurance, the beneficiary shall be designated by the policyholder.
4. The insured shall be the beneficiary, unless otherwise defined in the legislation on compulsory insurance or the insurance contract.
5. The beneficiary shall be the insured, unless the beneficiary has been designated by the contract.
6. A contract of property insurance may be entered into in favour of the beneficiary without indicating the name or title of the beneficiary. When entering into such a contract, a policyholder shall be given an insurance certificate (a policy, certificate, etc.); in this case, the beneficiary shall be the person who presents the aforementioned document to the insurer.
7. When a policyholder is not the insured, in the case of death of the latter or his/her waiver of his/her rights, his/her rights shall be transferred to the policyholder. This shall entail the results defined in Article 10(11) of this Law.
8. Entering into a contract in favour of the beneficiary shall not release the policyholder from fulfilling the obligations defined in the contract.



## **Article 12 - Insurance agent and insurance broker**

1. Brokerage activities in the field of insurance shall be carried out by an insurance agent or an insurance broker.
2. An insurer may carry out insurance activities both directly and through an insurance agent and an insurance broker. An insurer is obliged to carry out insurance activities only through an insurance broker registered in the relevant manner.
3. Brokerage activity in the field of insurance shall be activities under Article 2 (h<sup>1</sup>) of this Law, if they are carried out by an insurer or employees thereof, as well as the provision of such supplementary information to consumers by a person within the scope of other professional activities, which is not aimed at ensuring the assistance in the conclusion / performance of an insurance contract, or, within the scope of other professional activities, management/regulation of expert examination of the loss/claim of an insurance company.
4. The name of the person conducting insurance brokerage activities shall contain the words 'insurance broker', or other phrase using these words. No one shall have the right to use the words 'insurance broker' or other phrase using these words in the firm name of the company without due registration by the Service, except where the use of 'insurance broker' or other phrase using these words is established or acknowledged by law or treaties of Georgia, or where, from the context, in which the words 'insurance broker', or other phrase using these words are used, it is clear that a person does not carry out brokerage activities in the field of insurance under this Law.
5. Registration and deregistration of an insurance broker shall be carried out by the Service. The Service shall maintain a registry of insurance brokers (including an electronic registry), which must be updated where changes are made thereto. The data on registration, making changes to the registration data or deregistration of an insurance broker shall be recorded by the Service in the registry of insurance brokers within two working days after the relevant decision by the Service is made and shall be published in the Legislative Herald of Georgia within 10 days after such decision is made.
6. An insurance broker shall be responsible, prior to the commencement of insurance brokerage activities, apply to the Service for registration and submit documents / information that certify compliance of the insurance broker with registration conditions duly prescribed by the Service, including the compliance with the eligibility criteria of a founder and an administrator.
7. An insurance broker shall have the right to commence insurance brokerage activity after being registered as an insurance broker by the Service in accordance with the procedure established by this Law.
8. The relations of an insurance agent and an insurance broker with an insurer /insured/reinsurance company shall be determined by a contract concluded between them.
9. Insurance contributions paid by an insured under an insurance contract to an insurance agent and insurance broker shall be deemed paid to the insurer independently of the fact of their transfer to the insurer.
10. Insurance compensation issued by an insurance broker shall be deemed issued after the actual receipt thereof by an insured / insurance policy holder / beneficiary.
11. An insurer, insurance agent, insurance broker shall be prohibited from entering into an insurance contract on behalf of a foreign insurance organisation, except for an owner's civil liability insurance agreement that applies only outside Georgia.
12. An insurance agent and an insurance broker are obliged, during the validity of the insurance contract, to inform an insurer of all the circumstances that they are aware of and that are important for concluding the insurance contract.
13. An insurance broker is obliged to provide to consumers the following information when performing brokerage activities in the field of insurance, when concluding an insurance contract and making changes thereto:
  - a) own contact information;
  - b) information on the registration as an insurance broker and the scope of powers;
  - c) information on the ownership of significant shares in the insurer by the insurance broker or on the insurer's ownership of significant shares in the insurance broker and the amount of those shares (if any);
  - d) terms of insurance offered to consumers by an insurer;
  - e) an insurance contract that is designed to fully meet the risks covered by the consumer's insurance application;
  - f) information on the terms and conditions of the insurance contract, in particular, insurance contributions, insurance compensation, loss settlement, terms and conditions for obtaining insurance compensation, restrictions and other important terms of the insurance contract; such information must be provided to the consumer at the stage of conclusion of the insurance contract;
  - g) information on the right of the customer to request and receive information on remuneration for rendering brokerage services in the field of insurance by an insurance broker;
  - h) information on the contents of the insurance policy and the insurance contract;
  - i) information on submission of a claim by a consumer;
  - j) information on whether an insurance broker collaborates with more than one insurer. In the case of cooperation with more than one insurer by the insurance broker, the consumer shall have the right to request and receive information on the firm names of these insurers;
  - k) other consulting information related to the insurance contract.
14. The information referred to in paragraph 13 of this article shall be provided to the consumer in a format and language understandable to him / her, in writing or through the means of electronic storage / longer storage, which, in addition to



storing information, ensures that the information is accessible to the consumer in the future without prejudice to its integrity, except for information related to relationships arising from re-insurance contracts. In the case of urgency or where a consumer requests so, the information may be provided to the consumer verbally, on the basis of the fulfillment of the supply obligation by an insurance broker in compliance with the terms of this paragraph upon conclusion of the insurance contract.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

### **Chapter III - Ensuring the Financial Stability of the Insurer and the Insurance Broker**

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

#### **Article 13 - Conditions for ensuring the financial stability of an insurer**

1. The basis for ensuring the financial stability of an insurer shall be the insurer's capital, insurance reserves and reinsurance system.

1<sup>1</sup>) At all stages of conducting insurance activities, the minimum amount of an insurer's capital will be determined by the Service according to the types of insurance and forms of insurance under the procedure established by the Service for replenishing the amount. Further, at all stages of conducting insurance activities, the minimum amount of an insurer's capital must not be less than one-third of the solvency margin ratio obtained by the calculation .

1<sup>2</sup>) At all stages of conducting insurance activities, financial resources equivalent to the minimum amount of an insurer's capital shall be permanently deposited to a separate account/account opened for this purpose in a banking institution/institutions licensed in Georgia. Further, the above financial resources must be deposited in a banking institution/institutions licensed in Georgia for at least one-year period.

1<sup>3</sup>) Prior written consent of the Service shall be necessary for conducting a transaction with respect to the minimum amount of an insurer's capital. Further, it must be conducted by non-cash payment.

1<sup>4</sup>) The financial resources provided for in paragraph 1 <sup>2</sup> of this article shall only be used with the prior written consent of the Service.

1<sup>5</sup>) At all stages of conducting insurance activities, the amount of an insurer's regulatory capital set by the Service shall not be less than the highest value between the minimum amount of insurer's regulatory capital determined by the Service and the solvency margin ratio obtained by calculation .

2. An insurer shall be liable to a policyholder for all the obligations contained in the insurance contract, irrespective of a reinsurance contract.

3. An insurer shall be obligated to submit to the Service, upon its request, information about a foreign insurance organisation, with which it has concluded a reinsurance contract. The information must include data on the financial situation of the reinsurance company.

4. An insurer shall be prohibited to:

- a) issue a loan to purchase its own equities;
- b) issue a loan to purchase equities of a holder of a significant share or equities of administrator;
- c) issue a loan to purchase equities of its subsidiary.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 5003 of 1 July 2011 - website, 15.7.2011*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

#### **Article 14 - Economic limits and guidelines**

1. An insurer shall be obligated to observe the economic limits defined by the Service, listed below:

- a) at all stages of insurance activities, the minimum amount of capital and the solvency margin ratio obtained by calculation;
- b) amount of insurance reserves according to the types;
- c) a marginal ratio of assets permitted for paying up insurance reserves to insurance reserves;
- d) a marginal ratio of capital to liabilities;
- e) (deleted – 08.06.2016, No 5384);
- f) proportionality between the amount of regulatory capital and the solvency margin ratio obtained by calculation.

2. The action referred to in paragraph 1 of this article shall not apply to a branch (representative office) defined in Article 2(c.b) of this Law.

3. In the period from the end of each calendar year until 15 April of the next year, an insurer shall be obliged to submit to the Service an annual audited financial report for the past year, which is prepared according to the International Financial



Reporting Standards (IFRS) approved by the International Accounting Standards Board (IASB) and that was audited according to the International Standards on Auditing (ISA) published by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC). In the case of submission of a consolidated audited report, an insurer shall be obliged to submit, as a separate entrepreneurial entity, its audited annual financial report for the previous year, which is prepared according to the International Financial Reporting Standards (IFRS) approved by the International Accounting Standards Board (IASB) and that was audited according to the International Standards on Auditing (ISA) published by the International Auditing and Assurance Standards Board (IAASB) of the International Federation of Accountants (IFAC).

4. A branch (representative office) defined in Article 2(c.b) of this Law shall be obliged to submit annual audited financial reports of a founder insurance organisation and/or a reinsurance company and/or a founder holding company, upon their publication in their respective country of origin.

5. An insurer is obliged to publish the financial report, statistical report and external audit opinion in scheduled periods, and in the form and according to procedures defined by the Service.

6. An insurer is obliged to publish, in the form and manner prescribed by the Service, the information on the direct owner of more than 10 percent or 10 percent of the shares and the beneficiary owner of significant shares.

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No4, 20.11.1998, Art. 37*

*Law of Georgia No 940 of 29 December 2004 - LGH I, No6, 19.1.2005, Art. 49*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*

*Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

## **Article 15 - Insurance reserves of an insurer**

1. An insurer shall create reserves to fulfil the undertaken insurance obligations. The types of insurance reserves and the procedures for their creation shall be defined by the Service.

2. The assets permitted to cover insurance reserves shall be determined by the Service.

3. During the whole period of its activity, a branch (office) referred to in Article 2(c.b) of this Law shall have national or foreign currency and/or debt securities placed in commercial bank of Georgia, the amount of which shall be determined according to the minimum capital required by the legislation of Georgia for insurance organisations registered in Georgia.

*Law of Georgia No 940 of 29 December 2004 - LGH I, No 6, 19.1.2005, Art. 49*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

## **Article 16 - Guarantees of the solvency of an insurer**

1. In order to ensure its solvency, an insurer shall be obligated to comply with economic norms and limits set out in this Law; the method for calculating the ratio and normative volume of these norms and limits shall be defined by the Service.

2. An insurer shall choose assets permitted for covering insurance reserves according to the conditions of diversification, recoverability, profitability and liquidity.

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

## **Article 16<sup>1</sup> – Conditions for ensuring the financial stability of the insurance broker**

1. The basis for ensuring the financial stability of an insurance broker shall be its capital / guarantee fund and professional liability insurance.

2. An insurance broker is obliged to possess the minimum amount of capital / guarantee fund established by the Service at all stages of carrying out brokerage activities in the field of insurance. These funds shall be deposited on a separate account (s) opened for this purpose in a licensed banking institution (s) of Georgia continuously for at least one year period at all stages of the brokerage activity in the field of insurance.

3. An insurance broker is obliged to have professional liability insurance (including limits, terms of insurance) at all stages of the brokerage activity in the field of insurance in the manner established by the Service. ***Shall enter into force from 1 January 2020***

4. At all stages of the brokerage activity in the field of insurance, an insurance broker shall separately maintain its own account and the consumer account in a separate commercial bank licensed in Georgia on a separate account opened for



this purpose. It shall not be permissible to use the amount on the consumer's account, except to transfer it to the insurer in the form of insurance premiums and to transfer it to the insured in the form of insurance compensation. The funds accumulated on the account shall not be included in the custodial property and may not be used to meet the requirements of other creditors. In addition, the means and measures of security provided by the legislation of Georgia shall not be applied to the account

5. An insurance broker is obliged to submit to the Service before April 15 of each calendar year and after the end of each calendar year, the audited annual financial statement of the previous year prepared in accordance with the legislation of Georgia.

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

#### **Article 17 – (Deleted)**

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

#### **Article 18 – (Deleted)**

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No 4, 20.11.1998, Art. 37*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

### **Chapter IV - State Monitoring of Insurance Activity**

#### **Article 19 - Authority exercising state monitoring over insurance activity**

1. State monitoring of insurance activity shall be exercised by the Service. The authority of the Service shall be determined by this Law, and other issues related to its activity shall be regulated by the Statute of the Service, which shall be approved by the Government of Georgia.

2. The Service shall be independent in its activity and shall be accountable to the Government of Georgia. The Government of Georgia may suspend or revoke any unlawful decision of the Service.

3. A Supervisory Board with advisory functions shall be established at the Service. The composition of the Supervisory Board shall be determined by an ordinance of the Government of Georgia. The Supervisory Board shall consist of seven members. The Board shall consist of the Chairperson of the Budget and Finance Committee of the Parliament of Georgia, the Minister of Finance of Georgia, the Minister of Economy and Sustainable Development of Georgia, the Minister of Internally Displaced Persons from the Occupied Territories, Labour, Health and Social Affairs of Georgia, the Minister of Environment and Agriculture of Georgia and of two experts from the non-governmental sector nominated by the Prime-Minister of Georgia.

3<sup>1</sup>. The powers and the rules of operation of the Supervisory Board of the Service shall be determined by its Statute approved by the Supervisory Board.

4. The Service shall be run by the head of the Service, who shall be appointed for five years on the recommendation of the Supervisory Board of the Service and shall be dismissed from office by the Government of Georgia.

5. (Deleted - 26.12.2014, No 2993).

*Law of Georgia No 961 of 20 June 2001 - LGH I, No 20, 3.7.2001, Art. 69*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 2993 of 26 December 2014 - website, 30.12.2014*

*Law of Georgia No 1640 of 7 December 2017 - website, 14.12.2017*

*Law of Georgia No 3061 of 5 July 2018 - website, 11.7.2018*

#### **Article 19<sup>1</sup> – Supervisory fee rate**

The amount of supervisory fees shall be determined from the gross premium amount earned by an insurer during the calendar year and/or from the amount of income of an insurer in the types of accumulative and refundable life insurance. The rate of supervisory fees shall be:

a) one percent of gross premium earned annually by an insurer;

b) one percent of annual income earned by an insurer in the types of accumulative and refundable life insurance .

*Law of Georgia No 1821 of 22 December 2017 - website, 28.12.2017*

#### **Article 19<sup>2</sup> – Payment of supervisory fees**



1. An insurer is obliged to pay the current supervisory fee in the following period, in accordance with the supervisory fee of the previous calendar year, in the following amount:
    - a) not later than 10 January – 25 percent;
    - b) not later than 10 April – 25 percent;
    - c) not later than 10 July – 25 percent;
    - d) not later than 10 October – 25 percent.
  2. The amounts transferred to pay the current supervisory fees shall be included in the supervisory fees payable by an insurer by the calendar year.
- Law of Georgia No 1821 of 22 December 2017 - website, 28.12.2017*

### **Article 19<sup>3</sup> - Funding sources and budget of the Service**

1. Funding sources of the Service shall be:
    - a) supervisory fees;
    - b) grants and/or donations from charity;
    - c) other income permitted by the legislation of Georgia.
  2. The purpose of the insurer's payment of supervisory fees shall be to effectively develop the insurance industry by the Service, protect the interests of an insurer, the interests of an insured and consumers, as well as to cover the costs of the Service.
  3. The supervisory fees shall be transferred to a separate account for the use of the Service, which has full authority to use it purposefully.
  4. The funds not used by the Service during the current year shall be transferred to account of the following year and shall be considered in expense budget of the Service and / or, in accordance with the legislation of Georgia, shall be allocated to the State Budget of Georgia upon the decision of the Government of Georgia.
  5. The Service shall prepare the budget of the Service for the next year in accordance with the procedure established by the legislation of Georgia, which shall reflect all expenses of the Service and the source of their coverage.
- Law of Georgia No 1821 of 22 December 2017 - website, 28.12.2017*

### **Article 20 - Functions of the Service**

1. For the purposes of this Law, the Service shall: implement state policy in the area of insurance, promote financial stability of the insurance market, protect rights of customers within the scope of its authority, ensure efficiency and solvency of insurance organisations and create a competitive environment. In order to meet these goals, it shall generalise insurance activity, create normative and methodological base and ensure its monitoring within the scope of its authority, develop new draft laws and other projects, as well as prepare draft amendments to the existing laws.
  2. State, municipal and sectoral insurance programmes initiated by state or local self-government bodies shall be agreed with the Service and shall be carried out only with its consent.
- Law of Georgia No 2007 of 28 May 1999 - LGH I, No 20(27), 9.6.1999, Art. 84*  
*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*  
*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*  
*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*  
*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

### **Article 20<sup>1</sup> – Protection of the rights of consumers**

1. An insurer and an insurance broker are obliged to ensure the protection of the consumer's rights at all stages of the pre-contractual relationship with consumers, the validity of the relevant agreement and the fulfillment of obligations under such agreement. In addition, the insurer is obliged to protect the consumer's rights in accordance with the rules established by the Service and in accordance with the internal policies for the protection of the insurer's consumer rights and procedures for the protection of consumer rights.
2. The Service shall be authorised to supervise the fulfillment of the obligations set forth in paragraph 1 of this article by the insurer and the insurance broker in order to ensure the protection of the rights of consumers.
3. The Service shall be authorised to request and process information about the applicant and / or other consumer (s), including personal data, in accordance with the rules established by the legislative and normative acts of Georgia for the purpose of supervising the protection of the consumer rights, and the insurer and the insurance broker are obliged to provide the above information to the Service.
4. A consumer shall have the right, where an insurer or an insurance agent fails to fulfil the obligations properly, to apply to an appropriate structural unit of the insurer, a court and / or any other public authority or a private institution with relevant powers, and where the insurer or the insurance agent violates his/her rights, to apply to the Service as well.
5. A consumer shall have the right, where an insurance broker fail to fulfil the obligations properly, to apply to a court and / or any other public authority or a private institution with relevant powers, and where the insurance broker violates his/her rights, to apply to the Service as well



## Article 21 - Powers of the Service

The Service shall be authorised to:

- a) issue and cancel insurance licenses; register and deregister insurance brokers;
- b) monitor the performance of the requirements contained in normative and methodological documents by an insurer and an insurance broker and check those documents, also check accounting documents, components of financial reports and other materials, and for that purpose, request and receive any information from an insurer and an insurance broker within the scope of its authority;
- c) apply sanctions determined in this Law against an insurer, an insurance broker and/or an administrator;
- d) keep a register of insurers and insurance brokers;
- e) determine the types of capital of an insurer, minimum amounts of the capital at all stages of insurance activity and the procedures for their calculation, including the deduction components necessary for the calculation;
- f) establish procedures for determining and creating types of insurance reserves, as well as procedures for determining assets permitted for covering insurance reserves and for determining their structure;
- g) define internal accounting requirements for insurance organisations and insurance brokers;
- h) (deleted – 08.06.2016, No 5384);
- i) determine marginal ratio of an insurer's capital to its liabilities;
- j) determine procedure for calculating a solvency margin of an insurer;
- k) prepare methodological and advisory documents on issues of insurance;
- l) develop and adopt instructions and normative acts on regulation of insurance activity and brokerage activity in the field of insurance;
- l<sup>1</sup>) request and receive information for exercising powers under Article 20<sup>1</sup> of this Law;
- m) request and receive information on both direct and beneficial owners of an insurer;
- n) request and receive information on the origin of an insurer's capital;
- o) define reporting forms (financial, statistical, etc.) and procedures for filing reports for an insurer;
- p) cooperate with foreign supervisory bodies within the scope of its authority; the cooperation may include exchange of information and conclusion of memorandums of mutual understanding;
- q) publish statistical information on the insurance market;
- r) establish procedures for registration or de registration of insurance brokers, and reporting procedures for insurance brokers as entrepreneurial entities independently conducting brokerage activities in the field of insurance, as well as eligibility criteria of a founder and an administrator of an insurance broker;
- s) establish procedures for liquidation and bankruptcy proceedings of an insurer;
- t) determine the basic data and the form of the business plan for the period from starting insurance activities through the following three years;
- u) determine the minimum amount of capital / guarantee fund and relevant requirements for the completion of all stages of brokerage activity in the field of insurance by the insurance broker;
- v) establish the rules of professional liability insurance of an insurance broker;
- w) review consumer statements on violations of requirements by the insurer and the insurance broker on the protection of consumer rights provided for by normative and methodological documents;
- x) supervise within own competence the compliance of an insurer with the principles of good faith, due diligence and prudence when carrying out insurance activities.

Law of Georgia No 2007 of 28 May 1999 - LGH I, No 20(27), 9.6.1999, Art. 84

Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342

Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34

Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162

Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013

Law of Georgia No 1469 of 4 October 2013 - website, 16.10.2013

Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015

Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016

Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019

## Article 21<sup>1</sup> - Violations and sanctions

1. The Service may apply sanctions against an insurer and/or an administrator if the insurer or the administrator:

- a) violated one of the provisions of this Law or any norm, instruction, procedure, requirement, or written instruction of the Service;
- b) violated time limits for submitting reports or submitted an incorrect report and any other inaccurate information;
- c) violated requirements of the Law of Georgia on Facilitating the Prevention of Money Laundering.

2. If violations referred to in paragraph 1 of this article are discovered, the Service may apply the following sanctions in the given order, or apply them out of order due to the seriousness of the potential risk:



- a) send a written warning;
- b) introduce special measures or issue instructions (directives) requiring the insurer to stop and prevent any further violations, and to measures to eliminate the violations in a given period of time;
- c) impose pecuniary penalties according to the procedures and in the amounts defined by the Service;
- d) suspend the signing authority of an insurer's administrator, and request the Supervisory Board/General Meeting of the insurer to suspend or remove him/her from office;
- e) suspend or restrict the distribution of profits, issuance of dividends and material incentives, and assumption of new obligations;
- f) in exceptional cases, when interests of a policyholder and those of an insured are at risk, suspend their right to carry out specific operations, impose a compulsory administration regime;
- g) cancel an insurance incense.

2<sup>1</sup>) The Service may apply the sanctions provided for by paragraph 22 of this article to an insurance broker and / or administrator if the insurance broker or administrator has violated:

- a) one of the provisions of this Law or any of its norms, instructions, rules, requirements, or written instructions;
- b) reporting rules or timeframe or otherwise submitted inaccurate reporting or other incorrect information.

2<sup>2</sup>) in the event of violation set forth in paragraph 2<sup>1</sup> of this article, the Service shall have the right to apply the following sanctions consistently, and in the case of the seriousness of the violation and of the possible risk, to apply the following sanctions in an inconsistent manner:

- a) send written warning to an insurance broker or an administrator;
- b) impose special measures or issue an instruction (s) requiring an insurance broker to stop and no longer allow the relevant violation and take measures within the time limit set by the Service to remedy such violation;
- c) impose a monetary fine on an insurance broker and / or an administrator in accordance with the rule established by the Service;
- d) deregister an insurance broker.

3. The sanctions imposed by this article shall correspond to the seriousness of the violation and the potential hazard.

4. The amount of the pecuniary penalty imposed under this article shall be paid to the State Budget of Georgia.

5. The sanction imposed on an insurer and/or an administrator by an administrative legal act shall be referred for enforcement on the basis of a writ of execution issued according to the administrative legal act entered into force according to the procedure established by the Law of Georgia on Enforcement Proceedings.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 1469 of 4 October 2013 - website, 16.10.2013*

*Law of Georgia No 4939 of 3 September 2019 - website, 9.9.2019*

## **Article 22 – Issuing insurance licenses**

1. Insurance licenses shall be issued by the Service, according to the Law of Georgia on Licenses and Permits.

2. Insurance licenses may be issued only to legal persons the organisational-legal form of which is a joint stock company.

3. An insurance license shall be issued only for the following activities:

- a) life insurance
- b) insurance (non-life)
- c) reinsurance.

4. If an insurer intends to carry out the activity referred to in Article 3(c) and has already obtained a license for any other type of insurance, it may carry out the activity referred to in Article 3(c) for that specific type of insurance for the performance of which it has already obtained the right by the relevant license, on the basis of an appropriate license. In that case, an additional license is not required. An insurer shall be obligated to notify the Service about this fact in writing, within 10 working days after the commencement of reinsurance activity.

5. In addition to the licensing conditions set out in the Law of Georgia on Licenses and Permits, a license seeker shall meet the additional licensing conditions and submit the following to the Service:

- a) a written application for a licence of insurance activity;
- b) constituent instruments (including the Statute);
- c) a document verifying the state registration;
- d) extract from the securities register issued by an independent securities registrar on distribution of shareholders' shares;
- e) an appropriate document/documents issued by a banking institution/institutions licensed in Georgia certifying that the founders have fully paid up in cash the minimum capital determined by the Service;
- f) an appropriate document/documents issued by a banking institution/institutions licensed in Georgia confirming that the minimum financial resources determined by the Service have been deposited to the bank account/accounts;
- g) identification documents of both direct and beneficial holders of a significant share. If there is no beneficial holder of a significant share, it is necessary that the licence seeker confirm this fact in writing;
- h) identification documents of all administrators;



- i) appropriately certified documents, and/or information (including the personal history) on compliance of significant shareholders and all administrators with the compliance criteria determined by Article 22<sup>1</sup> of this Law;
  - j) information on the origination of capital;
  - k) a business plan for the period from starting the insurance activity through the following three years (including the reinsurance programme) in accordance with the basic data and the form of the business plan approved by the Service;
  - l) information on the location of an insurer's head office, and if the insurer has a branch/branches – information on their location as well;
  - m) a document confirming the ownership or otherwise legal possession (use) of the real property where the head office/branch of an insurer will be located;
  - n) information on the organisational structure with the indication of respective functions of the structural units;
  - o) a document confirming payment of a license fee.
- f.c) have not been convicted of grave or especially grave crimes, terrorism financing and/or legalising illicit income, or any other economic crime

5<sup>1</sup>) An insurer shall use an insurance licence at least once within each six months of conducting insurance activity.

6. A license seeker (applicant) that intends to carry out non-state pension insurance and provisions shall be obligated to additionally present and register non-state pension scheme procedures, according to the Law of Georgia on Non-state Pension Provision and Insurance.

7. A license seeker shall be obligated to present documents specified in paragraph 5 of this article in original or duly certified copies.

8. A branch (representative office) [of an insurance organisation] specified in Article 2(c.b) of this Law may carry out the licensable activity defined in paragraph 3 of this article on the basis of the license of its founder insurance organisation in such a way that it is not obligated to obtain an appropriate license. A license held by a founder insurance organisation shall have the same legal status as a license issued on the basis of the legislation of Georgia, and no one shall have the right to request from the branch (representative office) to obtain an appropriate license.

9. A branch (representative office) specified in Article 2(c.b) of this Law, 10 days prior to the commencement of the activity referred to in paragraph 3 of this article, shall submit to the Service the documents obtained from the relevant supervisory body confirming that the founder insurance organisation is authorised to carry out appropriate insurance activity in the country of registration and to open a branch (representative office) in Georgia.

10. An insurance license shall be issued for an indefinite term.

11. An insurance license shall be issued to a specific insurer and the license may not be transferred to another legal person.

12. A license shall not be required for the activities of insurance agents and insurance brokers, or for activities related to assessment of insurance risk, extent of losses and certainty of an event, or for the activities related to advisory and research services in the area of insurance.

13. The right to carry out insurance activity in the territory of Georgia shall be enjoyed only by a legal person licensed by the Service or by the branch (representative office) referred to in Article 2(c.b) of this Law.

14. An insurer (license seeker) shall be responsible for the accuracy of documents submitted to obtain a license.

15. If changes are made to the documents submitted to obtain a licence, an insurer shall inform the Service of the fact in writing, and submit appropriate documents within seven working days after the changes are made. If the changes to the documents submitted were made before the decision to issue an insurance licence was taken by the Service, the insurer shall also submit to the Service the appropriate documents about the relevant changes during the review of a licence application.

16. The form of an insurance license shall be determined by the Service.

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No 4, 20.11.1998, Art. 37*

*Law of Georgia No 2007 of 28 May 1999 - LGH I, No 20(27), 9.6.1999, Art. 84*

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*

*Law of Georgia No 940 of 29 December 2004 - LGH I, No 6, 19.1.2005, Art. 49*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 2832 of 23 March 2010 - LGH I, No 19, 13.4.2010, Art. 106*

*Law of Georgia No 5003 of 1 July 2011 - website, 15.7.2011*

*Law of Georgia No 5528 of 20 December 2011 - website, 28.12.2011*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 1469 of 4 October 2013 - website, 16.10.2013*

*Law of Georgia No 3389 of 20 March 2015 - website, 31.3.2015*

*Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*

*Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

**Article 22<sup>1</sup> – Compliance criteria for a significant shareholder, members of the supervisory board and directors of an**



## **insurer**

1. A significant shareholder, members of the supervisory board and directors of an insurer shall meet the compliance criteria determined by this article.

2. A person shall be prohibited from being a significant shareholder of an insurer if:

a) he/she is a natural person, and:

a.a) a court has recognised him/her as a beneficiary of support, and it has not been determined otherwise by the court judgement;

a.b) has been convicted of a grave or especially grave crime and/or legalisation of illicit income;

a.c) has been convicted of an economic crime;

a.d) there is a court judgement prohibiting him/her from conducting insurance activity;

a.e) has previously been a significant shareholder or an administrator of the insurer and this company was declared bankrupt during the period of his/her activity;

b) he/she is a legal person, and:

b.a) has been convicted of a grave or especially grave crime and/or legalisation of illicit income;

b.b) has been convicted of an economic crime;

b.c) has previously been a significant shareholder of the insurer and this company was declared bankrupt during the period of his/her activity;

b.d) there is a court judgement prohibiting him/her from conducting insurance activity.

3. A person shall be prohibited from being a member of the supervisory board of an insurer and he/she shall be withdrawn from the Council by decision of a general meeting of shareholders if:

a) a court has recognised him/her as a beneficiary of support, and it has not been determined otherwise by the court judgement;

b) he/she has been convicted of a grave or especially grave crime and/or legalisation of illicit income;

c) he/she has been convicted of an economic crime;

d) he/she has previously been a significant shareholder or an administrator of an insurance company and this company was declared bankrupt during the period of his/her activity;

e) there is a court judgement prohibiting him/her from conducting insurance activity;

f) he/she is a person related to the insurer's director, who, under the Civil Code of Georgia, is a legal heir of the first or second category, or is a person connected to the insurer's director with business/commercial interests;

g) he/she is a member of the supervisory board, or a director in more than five enterprises registered in Georgia;

h) he/she is a director of the insurer;

i) he/she is a member of the insurer's administrative body, except for the case when he/she holds this position in an insurer/reinsurance company under the control of this insurer/reinsurance company, and/or in an insurer/reinsurance company that controls this insurer/reinsurance company;

j) he/she has no document (diploma) of completion of a respective academic higher education level, which certifies his/her academic degree – qualification granted by a higher educational institution;

k) he/she has not at least five years' experience in working on different executive positions (at least on the position of the head of a structural unit).

4. A person shall be prohibited from being a director of an insurer if:

a) a court has recognised him/her as a beneficiary of support, and it has not been determined otherwise by the court judgement;

b) he/she has been convicted of a grave or especially grave crime and/or legalisation of illicit income;

c) he/she has been convicted of an economic crime;

d) he/she is a member of the insurer's administrative body, except for the case when he/she holds this position in an insurer/reinsurance company under the control of this insurer/reinsurance company, and/or in an insurer/reinsurance company that controls this insurer/reinsurance company;

e) he/she has no document (diploma) of completion of a respective academic higher education level, which certifies his/her academic degree – qualification granted by a higher educational institution;

f) he/she has not at least five years' professional experience of working in the financial field or insurance field, and has not at least two years' experience in working on an executive position (at least on the position of the head of a structural unit);

g) he/she has previously been a significant shareholder or an administrator of an insurance company and this company was declared bankrupt during the period of his/her activity;

h) there is a court judgement prohibiting him/her from conducting insurance activity;

i) he/she is a person related to a member of the insurer's supervisory board, who, under the Civil Code of Georgia, is a legal heir of the first or second category, or is a person connected to the member of the insurer's supervisory board with business interests.

*Law of Georgia No 5384 of 8 June 2016 – website, 17.6.2016*

## **Article 23 – (Deleted)**

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*



## **Article 24 - License fee**

The amount and payment procedures for a license fee shall be defined by the legislation of Georgia.

## **Article 25 - Refusal to issue a license**

1. The Service shall not issue an insurance licence if:

- a) documents submitted to obtain a licence fail to meet the requirements determined by Article 22 of this Law, and they have not been improved by the licence seeker within the time frame defined by the Service;
- b) inaccurate/incomplete documents have been submitted, or the information contained in the documents submitted is inaccurate/incomplete and it has not been improved by the licence seeker within the time frame defined by the Service;
- c) administrators and significant shareholders fail to meet the requirements determined by Article 22<sup>1</sup> of this Law;
- d) a legal person has applied to the Service for a licence, who has no right to conduct insurance activities in the territory of Georgia according to this Law;
- e) a license seeker's licence obtained in the same licensable area has been cancelled and the reasons of such cancellation have not been eliminated;
- f) a legal person has applied to the Service for a licence, against whose significant shareholder there is liquidation or insolvency/bankruptcy proceedings in progress.

2. In the case of refusal to issue a license, the applicant shall be given a substantiated written response setting out the reasons for refusal.

3. If the request for a license is denied, the applicant may appeal the decision.

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 5384 of 8 June 2016 - website, 17.6.2016*

## **Article 26 – (Deleted)**

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No 4, 20.11.1998, Art. 37*

*Law of Georgia No 2007 of 28 May 1999 - LGH I, No 20(27), 9.6.1999, Art. 84*

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

## **Article 27 – (Deleted)**

*Law of Georgia No 1672 of 30 October 1998 - LGH I, No 4, 20.11.1998, Art. 37*

*Law of Georgia No 2007 of 28 May 1999 - LGH I, No 20(27), 9.6.1999, Art. 84*

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*

*Law of Georgia No 940 of 29 December 2004 - LGH I, No 6, 19.1.2005, Art. 49*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

## **Article 27<sup>1</sup> - Cancellation of an insurance license**

1. An insurance license may be cancelled only by decision of the Service:

- a) at the request of an insurance organisation, in cases where a license holder applies to the Service in writing for cancellation of the license;
- b) if economic limits and norms defined by the Service are repeatedly violated;
- c) if an insurer fails to meet the requirement determined by Article 22(5<sup>1</sup>) of this Law;
- d) if an insurer carried or carries out such insurance activities that are hazardous or harmful to its financial situation, and that may cause significant damage to the policyholders/insureds;
- e) if an insurer is insolvent.

2. A branch (representative office) referred to in Article 2(c.b) of this Law, shall terminate its activity, if:

- a) the legislation of Georgia on insurance is grossly and repeatedly violated;
- b) its founder insurance organisation made such decision; the Service shall be notified of the decision in the shortest time after the decision is made;
- c) its founder insurance organisation or reinsurance company is deprived of the right to carry out insurance activity in the country of registration; the branch (representative office) shall be obligated to notify the Service about this fact;
- d) insolvency (bankruptcy) proceedings are initiated against its founder insurance organisation or reinsurance company, or there is another reason for the commencement of its liquidation; the branch (representative office) shall be obligated to immediately notify the Service about it;

3. Once the Service makes a decision on cancellation of an insurance license or on termination of the activity of the branch (representative office) referred to in Article 2(c.b) of this Law, the insurer may no longer carry out the insurance activity permitted by the relevant license, except for the obligations it had undertaken earlier under insurance contracts,



until such contracts expire.

4. An insurer shall return the insurance license to the Service within three days after the decision on the cancellation of the license enters into force.

5. From the moment of cancellation of an insurance license, the process of liquidation of the insurer shall begin according to this Law, other laws and the procedures established by the Service.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 5384 of 8 June 2016 – website, 17.6.2016*

## **Article 28 - Consequences of reorganisation of an insurance organisation and of modifications made to its Statute**

1. If a legal person holding an insurance licence undergoes a merger, takeover or separation, its right to the licence shall be transferred to its legal successor. If required, a new licence shall be granted to the legal successor instead of the old one.

2. An application for a replacement license shall be accompanied by:

a) a decision on reorganisation of the legal person;

b) a copy of the state registration document of the insurer – legal successor.

3. If the articles of association of a legal person are modified in such a way that re-registration of the legal person is not required, the copies of those documents shall be sent to the Service.

4. If an insurer changes its company name, location or articles of association, its shall be obligated to submit a written notification and appropriate documents to the Service within seven working days after the change is made.

5. An insurer shall:

a) when alienating a significant share, provide the Service with a prior written notification about the transaction, and submit the documents/information under Article 22(5)(g, i) of this Law, as well as the data/information on the financial status of a person purchasing the significant share, and on the origin of money within the transaction value;

b) when undergoing reorganisation and/or establishing a branch (representative office), preliminarily provide the Service in writing with appropriate information/submit appropriate documents (in case of reorganisation, grounds for merger or separation and its conditions shall also be submitted).

5<sup>1</sup>. If an administrator is changed, an insurer shall preliminarily submit to the Service the documents/information provided for in Article 22(5)(h-i) of this Law.

5<sup>2</sup>) The Service shall send an insurer a substantiated refusal within 10 days after receiving a written request provided for in paragraph 5 and paragraph 5<sup>1</sup> of this article. If the insurer does not receive a substantiated refusal within this period, the consent shall be considered granted.

6. A transaction on purchasing a significant share shall be void if appropriate information is not submitted to the Service, or if the transaction is executed despite a substantiated refusal received from the Service

*Law of Georgia No 3062 of 26 August 2003 - LGH I, No 29, 18.9.2003, Art. 220*

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*

*Law of Georgia No 2832 of 23 March 2010 - LGH I, No19, 13.4.2010, Art. 106*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 5384 of 8 June 2016 – website, 17.6.2016*

*Law of Georgia No 1821 of 22 December 2017 - website, 28.12.2017*

## **Article 28<sup>1</sup> - Founding a branch (representative office), or establishing or purchasing a subsidiary abroad by an insurer**

1. In order to carry out the activity determined in the legislation of Georgia for persons conducting monitoring under the Law of Georgia on Facilitating the Prevention of Money laundering, an insurer shall submit to the Service the following documents within 14 days after founding a branch or establishing or purchasing a subsidiary:

a) a decision of the governing body of the insurer on founding a branch or establishing or purchasing a subsidiary;

b) a statement of the governing body of the insurer stating that for the purpose of fulfilling the recommendations of the Financial Action Task Force on Money Laundering (FATF), the branch or subsidiary concerned developed a programme for combating money laundering and terrorism financing.

2. If the laws and subordinate normative acts of a foreign country where a branch or subsidiary is located do not require the fulfilment of the Financial Action Task Force (FATF) recommendations, or if the country does not combat money laundering and terrorism financing, and the recommendations of the Financial Action Task Force are not followed at all or are followed inadequately:

a) the governing body of the insurer shall undertake a written obligation that the branch or subsidiary of the insurer will take measures for combating money laundering and terrorism financing according to the requirements existing in Georgia and the recommendations of Financial Action Task Force;

b) the insurer shall notify the Service if its branch or subsidiary cannot carry out measures related to combating money laundering and terrorism financing determined by the legislation of Georgia, because it is prohibited or restricted by the



legislation of the foreign country where the branch or subsidiary is located.  
*Law of Georgia No 2832 of 23 March 2010 - LGH I, No 19, 13.4.2010, Art. 106*  
*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

#### **Article 29 - Protection of commercial, confidential and insurance secrets of an insurer by employees of the Service**

1. Information about insurance operations and transactions (including when attempting to make a transaction) carried out by a policyholder/insured/beneficiary may be communicated only to the policyholder/insured/beneficiary concerned and to its representative, and to the Service – within the scope of its authority, and in the cases defined by the legislation of Georgia – to the Financial Monitoring Service of Georgia; also to a tax authority – based on the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA).

1<sup>1</sup>. The information provided for in paragraph 1 of this article may be communicated to a tax authority within the framework of the Agreement between the Government of the United States of America and the Government of Georgia to Improve International Tax Compliance and to Implement the Foreign Account Tax Compliance Act (FATCA). The tax authority may communicate this information to a competent body of the United States of America defined under this Agreement.

2. Employees of the Service may not disclose in any form the commercial secrets of an insurer, or the data on a policyholder/insured/beneficiary that are subject to insurance secrecy and that become known to them in the course of their official duties. Furthermore, it does not matter whether or not the person currently holds the above position.

3. If an employee of the Service violates the requirements of this article, he/she shall be held liable under the legislation of Georgia.

4. The procedure for deeming certain information as confidential, and the procedure for releasing such information or for approving the list of confidential information shall be determined by the Head of the Service.

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 5528 of 20 December 2011 - website, 28.12.2011*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

*Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*

*Law of Georgia No 4461 of 28 October 2015 - website, 11.11.2015*

#### **Article 30 – (Deleted)**

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

*Law of Georgia No 5914 of 14 March 2008 - LGH I, No 7, 26.3.2008, Art. 34*

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

#### **Article 31 – (Deleted)**

*Law of Georgia No 5271 of 11 July 2007 - LGH I, No 30, 30.7.2007, Art. 342*

### **Chapter V - Liability for Violating the Insurance Legislation**

#### **Article 32 - Liability for violating the insurance legislation**

The liability for violating the insurance legislation shall be incurred according to the legislation of Georgia.

### **Chapter VI - Transitional Provisions**

#### **Article 33 - Validity period of Articles 32-54**

Articles 32-54 of this Law shall be declared invalid upon the entrance into force of a new Civil Code of Georgia.

#### **Chapter VI<sup>1</sup> - Compulsory Administration, Liquidation and Bankruptcy Proceedings of Insurers**

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

#### **Article 33<sup>1</sup> - Insurers under compulsory administration**

1. If there is a risk of violation of the norms defined by the Service, and/or a risk of deterioration of the financial situation and/or a risk of non-fulfilment of insurance obligations, the Service shall be authorised to impose compulsory administration on an insurer; the decision shall be immediately published in the Legislative Herald of Georgia.

2. A decision to impose compulsory administration on an insurer shall include information on the reasons for imposing the compulsory administration, as well as information on the temporary administrator, the duration of the compulsory administration process and on the possible measures to be taken.



3. If a decision to impose compulsory administration on an insurer is appealed to a court, it shall not cause suspension of the compulsory administration process.
  4. A temporary administrator of an insurer shall begin the performance of his/her duties from the date indicated in a decision on the imposition of compulsory administration.
  5. From the date of making a decision on the imposition of compulsory administration, it shall be prohibited to carry out any action in the name or at the expense of the insurer without a written consent of the temporary administrator.
  6. The full powers of all governing bodies of an insurer shall be transferred to the temporary administrator of the insurer; the administrator shall exercise the powers in agreement with the Service, according to the established procedures.
  7. The temporary administrator of an insurer shall be obligated to submit a request, in the shortest time possible, for making necessary modifications to the list of the insurer's officials, submitted to the Service.
  8. The temporary administrator of an insurer shall be obligated to carry out activities in good faith, in the interests of policyholders/insured persons/beneficiaries and of the insurer.
  9. The temporary administrator of an insurer assigned by the Service shall satisfy the eligibility criteria established for the position of an insurer's administrator.
  10. A temporary administrator of an insurer shall be obligated to take necessary measures for improving the financial situation of the insurer, including sale of the insurer, payment of funds or suspension of their payment.
  11. A temporary administrator of an insurer shall be authorised to: reorganise the insurer that is subjected to compulsory administration, alienate its assets and liabilities (including insurance portfolio) or part of them, to another legal person. A temporary administrator shall be authorised to appoint and dismiss from office the employees of the insurer.
- Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*  
*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*  
*Law of Georgia No 4002 of 10 July 2015 - website, 20.7.2015*

### **Article 33<sup>2</sup> - Cancellation of compulsory administration**

1. A compulsory administration shall be cancelled:
    - a) after its period of validity expires;
    - b) by a well-grounded decision of the Service;
    - c) if an insurer's insurance license is cancelled.
  2. A decision to cancel compulsory administration shall be immediately published in the Legislative Herald of Georgia.
- Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*  
*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

### **Article 33<sup>3</sup> - Liquidation of insurers**

1. The cancellation of an insurance license shall cause the liquidation of the insurer. The functions of a liquidator shall be performed by a person appointed by the Service; the person shall satisfy the eligibility criteria defined for an administrator of an insurer. A person associated with this insurer may not be assigned as a liquidator. A compulsory enforcement shall be suspended as soon as liquidation proceedings commence.
2. Within three months after appointment, the liquidator shall be obligated to draw up a list of assets and liabilities, and deliver a copy to the Service for publication. A liquidator shall report to the Service according to the procedures established by the Service.
3. A liquidator may sell assets of an insurer at public auction or in any other convenient way, or transfer insurance policy claims to another insurer, or transfer claims against the insurer's assets to another legal person or organise the transfer of liabilities.
4. From the day of appointment, a liquidator may:
  - a) terminate the employment contracts of the insurer's employees;
  - b) terminate a service contract to which the insurer was a party;
  - c) terminate any obligation of the insurer as lessee of immovable property, if the lessor (who must be given a 60-day notice about the insurer's intention to use the right to cancel the lease agreement) does not have a claim on the rental fee, apart from the amount accrued as of the day of cancelling the agreement, and does not claim damages for the cancellation;
  - d) transfer all or part of the assets and liabilities of the insurer (including its insurance portfolio) to another legal person (including another insurer).
5. A temporary administrator, liquidator and bankruptcy manager of an insurer may file a claim with the court and contest an action or transaction performed by an administrator of an insurer 12 months earlier before the appointment of the temporary administrator, liquidator or bankruptcy manager, and request that the action or transaction be declared void, if as a result of the action or transaction the persons related to the insurer received material benefit at the expense of the insurer or gained some kind of advantage or any other preference or privilege that caused damage to the insurer (its creditors).
6. A liquidator shall publish a decision to liquidate an insurer in the Legislative Herald of Georgia and on the official website of the Service within 15 days after the appointment; the decision shall be republished one month after its first publication.



7. In the case of an insurer's liquidation, claims shall be satisfied on the basis of written applications of creditors, after 20 days from the submission of a list of assets and liabilities to the Service by the liquidator.
  8. The unclaimed money and property of an insurer shall be considered as unclaimed assets and shall be transferred into possession of the Service for the purpose of identifying their owners.
  9. A liquidator shall be obligated to act in good faith, in the interests of policyholders/insured persons/beneficiaries and other creditors.
  10. In the course of liquidation and bankruptcy proceedings the assets permitted for covering reserves may be used only after the liabilities arising out of insurance contracts are paid off.
- Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*  
*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

#### **Article 33<sup>4</sup> - Bankruptcy proceedings of insurers**

1. If during the preparation of a list of assets and liabilities on the basis of Article 33<sup>3</sup>(2) of this Law, it is determined that the insurer is insolvent, the liquidator of the insurer shall be obligated to notify the Service; based on this notice the Service shall make a decision to terminate the liquidation process against the insurer and to initiate bankruptcy proceedings against it.
2. If it is determined that an insurer is insolvent, the Service may initiate bankruptcy proceedings against the insurer, without launching liquidation proceedings. In that case, a bankruptcy manager shall, first of all, exercise the powers and fulfil the obligations determined for a liquidator under Article 33<sup>3</sup> of this Law.
3. As soon as bankruptcy proceedings against an insurer are initiated, compulsory enforcement shall be suspended.
4. By decision of the Service a bankruptcy manager shall be appointed and he/she shall satisfy the eligibility criteria defined for an insurer's administrator.
5. A bankruptcy manager shall be obligated to:
  - a) publish a statement on initiating bankruptcy proceedings against the insurer in the Legislative Herald of Georgia and on the official website of the Service, within 14 days after making the decision; the decision shall be republished one month after its first publication. The same statement shall define the liability of the insurer to the creditors. Within one month from the second publication of the statement the creditors of the insurer shall submit to the bankruptcy manager a substantiated written request indicating the amount and reasons for their claims;
  - b) notify appropriate tax authorities about initiating bankruptcy proceedings against the insurer.
6. A bankruptcy manager may sell assets of the insurer at public auction or in any other convenient way, according to procedures established by the Service, or transfer the claim on insurance policies to another insurer, or transfer the claim on the assets of the insurer to another legal person or organise the transfer of liabilities.
7. From the day of appointment, a bankruptcy manager may:
  - a) terminate employment contracts of the insurer's employees;
  - b) terminate a service contract to which the insurer was a party;
  - c) transfer all or part of the assets and liabilities of the insurer (including insurance portfolio) to another legal person.
  - d) satisfy the claims of the insurer's creditors in an established order of priority, by one-off payment or payment in instalments.
8. The remuneration of a bankruptcy manager shall be commensurate with the obligations fulfilled by him/her. The remuneration of a bankruptcy manager shall be determined by the Service. The Service may cover by its own funds all expenses and remunerations related to the appointment of a bankruptcy manager and fulfilment of his/her obligations.
9. During bankruptcy proceedings against an insurer, claims shall be satisfied in the following order of priority:
  - a) first order of priority - all expenses and remunerations related to the appointment of a bankruptcy manager and fulfilment of his/her obligations, as well as obligations that the insurer incurred after the cancellation of the insurance license;
  - b) second order of priority - secured creditors, except for claims secured by tax lien;
  - c) third order of priority - claims of the creditors that are based on life and non-state pension insurance. The amount of life insurance liabilities for cumulative and refundable types of life insurance shall be the amount of the life insurance reserve;
  - d) fourth order of priority - claims of creditors that are based on accident insurance contracts;
  - e) fifth order of priority - claims of all other creditors arising out of all other insurance contracts;
  - f) sixth order of priority - tax arrears, including claims secured by tax lien;
  - g) seventh order of priority - other claims against the insurer and late claims submitted by creditors.
10. If the existing money is not sufficient to fully cover the claims referred to in paragraph 9 of this article, then each matured claim of the respective order of priority shall be satisfied in proportion to the extent of the claim of each creditor falling within the relevant order of priority, except for claims determined in paragraph 9(a) of this article, which must be paid in full.
11. Claims of each subsequent order of priority shall be satisfied after the claims of previous order of priority are satisfied.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No29, 12.10.2009, Art. 162*



### **Article 33<sup>5</sup> - Completion of bankruptcy proceedings of insurers**

1. The bankruptcy proceedings shall be completed after the assets of the insurer are realised and the money received from realisation is distributed by the bankruptcy manager according to the established procedure.
2. A bankruptcy manager shall be obligated to prepare a report on the realisation of the insurer's assets and distribution of money received from realisation and submit to the Service a final report on the completion of bankruptcy proceedings; , based on this report, the Service shall issue an administrative legal act on the completion of the insurer's bankruptcy proceedings. This decision shall immediately be published in the Legislative Herald of Georgia.
3. Unidentified money and property of an insurer shall be considered as unclaimed assets and shall be transferred to the possession of the Service for the purpose of identifying the owner.
4. Upon completion of bankruptcy proceedings against an insurer, the insurer shall be withdrawn from the relevant registry.

*Law of Georgia No 1679 of 24 September 2009 - LGH I, No 29, 12.10.2009, Art. 162*

*Law of Georgia No 354 of 20 March 2013 - website, 4.4.2013*

## **Chapter VII - Final Provisions**

### **Article 34 - List of invalid acts**

1. Upon entrance into force of this Law, the following shall be declared invalid:
  - a) Article 193(2), Article 195 (4) and Chapter 32 of the Civil Law Code of Georgia (the Official Gazette of the Supreme Soviet of the Georgian SSR, 1964, No 36, Art. 662)
  - b) Ordinance No 747 of 20 October 1993 of the Cabinet of Ministers of the Republic of Georgia on Compulsory State Insurance of Passengers;
  - c) Ordinance No 941 of 27 December 1993 of the Cabinet of Ministers of the Republic of Georgia on Compulsory State Insurance of Workers against Accidents at the Expense of Enterprises and Organisations (except for those financed from the Budget);
  - d) Ordinance No 154 of 16 March 1994 of the Cabinet of Ministers of the Republic of Georgia on Compulsory State Insurance of the Property of State Enterprises, Associations and Organisations;
  - e) Ordinance No 523 of 26 August 1995 of the Cabinet of Ministers of the Republic of Georgia on Establishing Compulsory Insurance on Agricultural Crops;
  - f) paragraph 17 of Ordinance No 512 of 5 August 1994 of the Cabinet of Ministers of the Republic of Georgia on Launching a Campaign for Registration of Population of Georgia, of Aliens Permanently Residing in Georgia and of Stateless Persons, and for Issuing to them Identity Cards, Residence Cards and Georgian Passports respectively.
2. After this Law enters into force, all legal acts or those parts of legal acts that do not correspond to this Law shall be considered invalid.

### **Article 35 - Entry into force**

This Law shall enter into force upon its promulgation.

**President of Georgia**  
**Tbilisi**  
**2 May 1997**  
**No 690–II ბ**

**Eduard Shevardnadze**

