

LEPPARD LEGISLATION WATCH

OCTOBER 2018

A number of matters that you need to take note of this month, particularly as far as the Policyholder Protection Rules are concerned.

Legislation for YOU

Financial Services Board Act

The Financial Sector Regulation Act repealed section 1 (appeal board) and section 26B (panel and appeal proceedings) of the Act on 28 September 2018.

Short-Term Insurance Act: Policyholder Protection Rules

The following are selected aspects relating to the revised policyholder protection rules: (These rules apply to all new and existing policies from the date on which a rule takes effect as set out in Chapter 8, except where otherwise indicated in a rule).

(i) The following previous policyholder protection rules still apply - rule 4 (direct marketers) until 1 January 2019, and rule 7.3 (unilateral termination of policies) until 1 January 2020;

(ii) The application, definitions, rule 2 (product design), rule 3 (credit life and consumer credit insurance), rule 5 (negative option), rule 7 (voidness), rule 8 (waiver), rule 9 (uncompleted forms), and rule 15 (grace) commenced on 1 January 2018;

(iii) Rule 1 (fair treatment) commenced 1 January 2018; (Specific provisions relating to suitable advice and to group schemes only commence 1 January 2019);

(iv) Rule 4 (cooling-off rights) and rule 16 (record-keeping) commences 1 January 2019;

(v) Rule 2A (microinsurance product standards) commenced 1 October 2018;

(vi) Rule 6 (determining premiums and excesses) commenced 1 July 2018, except for rules 6.1 and 6.5 which commenced 1 January 2018;

(vii) Rule 10 (advertising) and rule 14 (ongoing review of product performance) commenced 1 July 2018;

(viii) Rule 11.5.3 and 11.5.4 of rule 11 (disclosure) commenced 1 October 2018; (Further commencements in rule 11 will take effect on 1 January 2019 and on 1 July 2019).

(ix) Rule 12 (intermediation and distribution) commenced 1 January 2018; (Rule 12.2.1 and 12.2.2 (in relation to existing intermediary agreements), and rule 12.4 commences 1 January 2019).

(x) Rule 17 (claims management) and rule 18 (complaints management) commence 1 January 2019; (Both rules will commence 1 July 2019 insofar as they relate to group schemes), and

(xi) Rule 13 (data management) and rule 19 (termination of policies) commences 1 January 2020.

Short-Term Insurance Act

(i) The Insurance Act 2017 repealed sections 46 (receipt for premium paid in cash) and 47 (copy of policy and inspection of policy records) of the Act on 1 October 2018.

(ii) The general regulations have been amended from 1 July 2018 so that, amongst others, parts 1, 4, 5A, 5B, 5C and 6 reflect recent Insurance Act, Short-term Insurance Act and policyholder protection rule changes, part 3 (limitation of assets) is repealed, and part 4 (authorisation of and requirements for collection of premiums by intermediaries) is substituted. (Portions of regulation 4.1, and regulation 4.2, will only commence on 1 July 2019).

Legislation for YOUR CLIENT

Draft Companies Amendment Bill

The draft Companies Amendment Bill proposes numerous amendments, of which the following may be of particular interest:

- i. An amendment to a Memorandum of Incorporation (MOI) takes effect 10 business days after receipt by the Companies Commission, if, after 10 business days, the Commission has not endorsed it or failed to deliver a rejection with reasons;
- ii. Annual financial statements must include particulars showing remuneration and benefits received by each director and prescribed officer, and each individual must be named;
- iii. Directors of a public company must prepare a prescribed directors remuneration report for each financial year, that is Board-approved and presented to shareholders at the AGM;
- iv. It will be an offence for a director or prescribed officer, in addition to the company, to fail to accommodate a reasonable section 31 request for access to financial information, or to unreasonably refuse or

- impede such access;
- v. The annual return must include, inter alia, a copy of the latest annual financial statements and a copy of the company's securities register;
 - vi. The court has the power to, upon application by a company or an interested party, validate the creation, allotment or issue of shares which are otherwise invalid;
 - vii. Financial assistance to a subsidiary does not require a special resolution;
 - viii. A social and ethics committee report, and remuneration report, must be presented at an AGM;
 - ix. Overhauling certain social and ethics committee requirements, such as the appointment of such committee for a public company or state-owned company at each AGM; the Minister may prescribe the qualifications of committee members and the functions of such committees, and the report prepared by the SEC must be externally assured.

Comments on the proposed amendments may be made until 20 November 2018.

Companies Act: Practice Note 1 of 2018

Practice note 1 of 2018 has been gazetted that states that only individuals who are members in good standing of legal, accounting or business management professions will be licensed as business rescue practitioners, and that the licence of a practitioner (i.e. a licence granted before 12 October 2018), who is not a member of a professional body, will end by effluxion of time as stated in the license unless he or she affiliates for a renewal possibility.

***Leppard Legislation Watch** is a monthly newsletter providing selected updates on legislation which could have an impact on the business of Leppard Underwriting and its clients. **Leppard Legislation Watch** is not intended as legal or professional advice and is published for general information purposes only. This newsletter is not a substitute for legal or other professional advice.*