



**ASSOCIATION OF THE INSURANCE AND
REINSURANCE COMPANIES OF TURKEY**

INSURANCE LAW

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PART I

Objective, Scope and Definitions

Objective and scope

ARTICLE 1 - (1) The objective of this Law is to regulate principles and procedures relating to the commencement of operations, management, organization, operation principles and procedures, termination and supervision of activities of the parties which are subject to this Law, to regulate procedures and principles related to the insurance arbitration system for the settlement of disputes arising from insurance contracts in order to provide the development of the national insurance sector, to protect the rights and interests of people involved in an insurance contract, and ensure that the national insurance sector operates effectively in a secure and stable atmosphere.

(2) Insurance companies, reinsurance companies, Association of the Insurance and Reinsurance Companies of Turkey, intermediaries, actuaries and loss adjusters operating in Turkey are subject to the provisions of this Law.

(3) Social security institutions, Export Credit Bank of Turkey (Eximbank) and other establishments operating in insurance in accordance with their special laws are out of the scope of this Law, the provisions of this Law governing supervision are applicable for the latter.

Definitions

ARTICLE 2 - (1) For the purposes of this Law,

a) “Actuary” shall mean a person, who calculates premiums, reserves and dividends and prepares tariffs and technical principles in accordance with the legislation by applying probability and statistical theories for insurance technique and relevant investment, financing and demography issues,

b) “Intermediary” shall mean insurance agent and broker,

c) “Minister” shall mean the Minister, to which the Undersecretariat of Treasury is attached to,

ç) “Association” shall mean the Association of the Insurance and Reinsurance Companies of Turkey,

d) “Broker” shall mean a person representing the parties who want to conclude an insurance or reinsurance contract, acting impartially and independently in the selection of companies with which such contracts are to be made, observing the rights and benefits of the people who want to purchase coverage, having adopted it as a profession to carry out preparatory works before the conclusion of the contract, and to assist if necessary during the implementation of the contract or payment of claims,

e) “Account” shall mean guarantee account,

f) “Business plan” shall mean a plan which details the establishment objective of insurance and reinsurance companies, and shows their ability to meet their estimates and liabilities, at least for the first three years of their operation,

g) “Commission” shall mean the Insurance Arbitration Commission,

ğ) “Register” shall mean registers which show the records of real/legal persons who work actively, it will be kept by the Association for the insurance companies and reinsurance companies operating in Turkey, and by the Union of Chambers and Commodity Exchanges of Turkey for loss adjusters and insurance agents,

h) “List” shall mean insurance arbitrators list,

ı) “Minimum guarantee fund” shall mean an amount representing at least 1/3 of the capital requirement of the insurance and reinsurance companies,

i) “Undersecretariat” shall mean the Undersecretariat of Treasury,

j) “Equity” shall mean the amount remaining after balance sheet loss and the deduction of other items to be deemed appropriate by the Undersecretariat from the paid capital of insurance companies and reinsurance companies, or their capital allocated for Turkey, any reserve fund, revaluation fund, retained profit, profit and capital reserves, and capital like items and other

resources to be deemed appropriate by the Undersecretariat,

k) “Reinsurance company” shall mean reinsurance companies established in Turkey and Turkish organizations of reinsurance companies established abroad,

l) “Insurance agent” shall mean a person who has adopted it as a profession to intermediate to insurance contracts in the name and account of the insurance company for a permanent term within a specific place or region based on a contract without holding a title such as commercial representative, commercial attorney, sales official or employee, or to perform such activity on behalf of the insurance company and who carry out the preparatory works before the conclusion of the contract and assist during the implementation of the contract and payment of claims,

m) “Loss adjuster” shall mean an impartial and independent person who determines the amount, reasons and characteristics of losses and damages which arise as a result of the realization of risks which have been the subject of insurance and who have adopted it as a permanent profession to execute tasks such as the determination of value by reconciliation, preliminary adjusting and loss surveillance,

n) “Insurance arbitrator” shall mean a person who solves disputes arising from an insurance contract between the

policy holders or people who benefit from the insurance contract and the party, which undertakes the risk,

o) “Insurance rapporteur” shall mean a person, who for the purpose of solving disputes arising from an insurance contract between the policy holder or people who benefit from the insurance contract and the party who undertakes the risk, perform the preliminary examination upon complaints which have been referred to the Commission,

ö) “Insurance company” shall mean insurance companies established in Turkey and Turkish organizations of insurance companies established abroad.

PART II

Insurance Companies and Reinsurance Companies

Establishment of insurance companies and reinsurance companies

ARTICLE 3 - (1) Insurance companies and reinsurance companies which are going to operate in Turkey have to be established as a joint stock or a cooperative. Insurance companies and reinsurance companies shall not be engaged in other businesses except insurance transactions and businesses which are directly related to insurance operations.

(2) For insurance companies and reinsurance companies to be established as a joint stock,

- a) It is compulsory that founders;
- 1) are not bankrupt or have not declared bankruptcy,
 - 2) have the financial power and good repute which are necessary to become a founder or shareholder of an insurance or reinsurance company,
 - 3) are not the holder of a share on the basis of a voting right or the capital, which is directly or indirectly ten percent and higher, or less than ten percent but grants the power to nominate members to the auditory board and the board of directors in a way that shall be effective in the auditing and management in such financial institutions which are subject to winding up, or which have been subject to the provisions of this Law, Article 20, paragraphs two and three,
 - 4) have not been sentenced to imprisonment or more than one judicial fine, or should not have been convicted of infamous offences such as simple or qualified embezzlement, corruption, bribery, theft, fraud, breach of trust, fraudulent bankruptcy, gross misconduct as well as smuggling offences, fraudulent acts in public procurements and purchases and sales, laundering the proceeds of crime, revealing secrets of the state or tax evasion except for crimes committed by imprudence, even if they have enjoyed amnesty,
 - 5) if they are a legal person, those who have management and auditory powers over such legal person shall meet the criteria other than financial power sought in founders,

b) They should have shares issued in return of cash and registered excluding the part that is publicly traded in listed joint stock companies,

c) If they are to act within a holding, then the financial standing of the holding company should be sufficient to carry out insurance activities,

(3) Insurance companies and reinsurance companies which are established as cooperative and do not make insurance contracts with people other than their members;

a) shall deal with mutual insurance,

b) shall not have less than two hundred partners,

c) shall not grant any privilege to their managers.

(4) In order for cooperatives to make contracts with people other than their members, the permit of the Undersecretariat is necessary, provided that this matter is included in their article of association. In order for cooperatives to make contracts with people other than their members, they have to raise their capital to an amount to be determined by the Undersecretariat.

(5) Principles and procedures regarding the operation of foreign insurance companies and reinsurance companies in Turkey are determined by the Council of Ministers.

Organization of insurance companies and reinsurance companies

ARTICLE 4 - (1) Boards of directors of insurance companies and reinsurance companies shall not be less than five persons including the general manager, and auditors shall not be less than two persons. The general manager is a natural member of the board of directors.

(2) Members of the board of directors should meet the criteria sought in founders of an insurance company and reinsurance company except the criteria of financial power; the majority of them should hold an undergraduate degree of at least four years, and they should have at least three years of experience in any one of insurance, economics, business, accounting, law, finance, mathematics, statistics, actuary or engineering fields.

(3) General manager and deputy general managers should meet the criteria sought in founders of an insurance company and reinsurance company except the criteria financial power, should hold an undergraduate degree of at least four years, and those who are to be appointed as general managers should have minimum ten years of knowledge and experience, and those who are to be assigned as deputy general manager and will engage in insurance business and insurance technique should have minimum seven years of experience in any one of insurance, economics, business, accounting, law, finance, mathematics, statistics, actuary or engineering

fields, whereas those who are to be assigned to other deputy general manager posts should have minimum seven years of experience and knowledge in that field which they shall be responsible for. At least, one of the deputy general managers should be responsible for issues related to insurance business or insurance technique.

(4) Managing directors should meet the criteria sought for the general manager.

(5) Even if they have been employed with other titles, other managers who perform duties and have powers equivalent or superior to the post of deputy general manager, are subject to provisions which are applicable to general managers and deputy general managers.

(6) Auditors should meet the criteria sought in founders of insurance company and reinsurance company except the criteria of financial power, should hold an undergraduate degree of at least four years, and they should have at least three years of experience in any one of insurance, economics, law, finance, business and accounting fields.

(7) Persons who enjoy the management and control of legal entities which hold majority interest in an insurance or reinsurance company are required to meet the criteria sought in founders of insurance and reinsurance companies except the criteria of financial power.

(8) Insurance companies and reinsurance companies are required to establish an effective internal audit system, including risk management systems, in order to regularly control and audit the compliance of all their business and operations with insurance legislation and other relevant legislation, internal regulations of the company and its management strategy and policies, and to detect and prevent mistakes, frauds and unlawfulness. Internal audit service may also be outsourced.

License

ARTICLE 5 - (1) For the purpose of commencing their operation, insurance companies and reinsurance companies have to obtain a license from the Undersecretariat for each insurance branch in which they would like to operate. Licenses obtained are registered to the Turkish Trade Registry, and published in the Turkish Trade Registry Gazette as well as any two of the daily newspapers which are circulated across Turkey and which are ranked among the first ten in terms of circulation.

(2) Insurance companies can only operate in any one of life and non-life insurance groups. Insurance branches included in these groups are determined by the Minister.

(3) Insurance companies and reinsurance companies which have completed establishment formalities and are seeking for a license, have to raise their paid-up capitals up to such amount to be determined by the

Undersecretariat according to the insurance branches in respect of which licenses are requested and to the given coverages. This amount can not be less than five million Turkish Liras. The Undersecretariat is authorized to increase such amount provided that it does not exceed the rate of increase in Producer Price Index declared by the Turkish Statistical Institute.

(4) An insurance company or reinsurance company that fails to file an application for a license within one year as from the completion of the establishment procedures shall not use the wording of insurance or reinsurance company in their trade names.

Assessment of license request

ARTICLE 6 - (1) License application shall be refused in case of the existence of one of the followings;

a) founders, managers and auditors of insurance companies and reinsurance companies fail to meet the criteria stipulated in this Law,

b) it is found that the rights and benefits of the parties to the insurance contract cannot be protected sufficiently according to the business plan and the documents presented, or liabilities are not organized in such a manner that they are executable in a permanent and sufficient way,

c) it is found that the application does not cover sufficient statements or information or it fails to meet the criteria stipulated in this Law,

ç) it is found by way of inspection that the insurance company or reinsurance company fails to hold necessary technical equipment or sufficient number of qualified personnel, or is not capable of performing insurance business in that field for which the license is required.

Withdrawal of license

ARTICLE 7 - (1) Without prejudice to the provisions of this Law relating to the withdrawal of a license;

a) if part or whole of the terms relating to the grant of a license are lost, and this has not been corrected within the given period, which should not be less than three months, by the Undersecretariat,

b) if no insurance or reinsurance contract is concluded within one year from the grant of the license or if no insurance or reinsurance contract is concluded continuously for a six months time period, except for those that are concluded with the approval of the Undersecretariat,

c) if it is found that as a result of practices that are contrary to insurance legislation, the rights and benefits of people related to an insurance contract are endangered,

ç) if the liabilities arising from the provisions of this Law, except the provision of Article 20, are seriously violated, or the violation of duties have become customary, and this has not been corrected within the

period, which shall not be less than three months, given by the Undersecretariat,

d) if there have been major derogations from the objectives set forth in the business plan except the derogations that the Undersecretariat is informed about,

then the license of the insurance or reinsurance company in the relevant branch or all branches can be withdrawn by the Undersecretariat. License withdrawals are registered to the Turkish Trade Registry, and published in the Turkish Trade Registry Gazette as well as any two of the daily newspapers which are circulated across Turkey and which are ranked among the first ten in terms of circulation.

(2) Companies whose licenses have been withdrawn have to transfer their portfolios relating to the withdrawn license within the period, which shall not be longer than six months, given by the Undersecretariat. Otherwise, the Undersecretariat shall be entitled to take all the measures relating to the winding up of the portfolio, including ex officio transfer.

Amendments to the article of association

ARTICLE 8 - (1) Approval of the Undersecretariat shall be sought in the amendments to the articles of association of insurance companies and reinsurance companies. Draft amendments which are not approved by the Undersecretariat shall not be included in the agenda of the general meeting and discussed. The Registrar shall

not register the amendments of the articles of association in the trade register without the approval of the Undersecretariat.

Obtaining beneficial interest and voting rights

ARTICLE 9 - (1) Share acquisitions which shall directly or indirectly reach or exceed ten percent, twenty percent, thirty three percent or fifty percent of the capital of an insurance company or reinsurance company as well as share transfers which will cause the shares of a shareholder to achieve or to fall below such ratios are subject to authorization by the Undersecretariat.

(2) A share transfer that grants the privilege of nominating members to the executive boards in a manner to influence the company's supervision and management are subject to authorization by the Undersecretariat irrespective of ratio limitations.

(3) Share transfers which are carried out in violation of the provisions of the first and second paragraphs and without authorization, shall not be registered to the share book.

(4) The provisions of this article shall be applied to the acquisition of beneficial interest and voting rights.

(5) It is essential that shareholders who directly or indirectly hold ten percent or more of the capital or voting rights and beneficial interest, or an interest which is lower than the said ratios but gives the privilege of

nominating members to the executive boards of the management in a manner to influence management and supervision, should meet the criteria sought in the founders of the insurance company and reinsurance company. The insurance company and reinsurance company shall notify such shareholders who fail to meet such criteria to the Undersecretariat. Shareholders who lose the qualifications sought in the founders shall not benefit from the shareholder rights except dividends. In that case, shareholder rights are exercised by the trustee.

(6) The Minister may introduce share limitations to such shareholders who, due to their fields of operations, may affect the financial structure of insurance companies and reinsurance companies

Winding up, merger, acquisition, portfolio transfer and bankruptcy

ARTICLE 10 -(1) Voluntary winding up of an insurance company, its merger with one or several companies, its acquisition by another company with its assets and liabilities, transfer of insurance portfolio in part or in whole along with guarantees and reserves are subject to authorization by the Minister. The provisions of this paragraph shall apply also to reinsurance companies. Winding up, merger, acquisition and portfolio transfers which are contrary to this article will be null and void.

(2) The Undersecretariat, where necessary, may require the replacement of winding up agents.

(3) Mergers, acquisitions and portfolio transfers are published at least two times in any two newspapers circulated across Turkey and which are ranked among the first ten in terms of circulation and between these two publications there shall be a one week time period. Provided that the insurance contract is included in the transferred portfolio, the assigner of the portfolio, people who have concluded a contract with the company being acquired or merged can terminate their contracts due to acquisition, merger or portfolio transfer within three months as from the date they have become aware of such merger, acquisition or portfolio transfer.

(4) In case of the bankruptcy of the insurance company, the insured shall participate in the bankrupt's estate in the third rank.

(5) Where necessary, the Undersecretariat may require replacement of the authorities of the bankrupt's estate.

PART III

Insurance Contracts

Insurance contracts

ARTICLE 11 - (1) The main content of insurance contracts are arranged in accordance with the general terms approved by the Undersecretariat and are to be applied by all insurance companies in a similar way. However, insurance companies can determine special conditions in accordance with the specialities of the

matter. In that case, these special conditions shall not be misleading and will be shown clearly in the insurance contract under the title of special conditions.

(2) If within thirty days as from the date the written offer relating to the conclusion of the life assurance contract is received by the insurance company, the insurance company does not reject the offer, the insurance contract shall be considered to be concluded.

(3) Information to be provided by the insurance companies and insurance agents to the policy holder, beneficiary and the insured during the formation and maintenance of the contract shall be governed by regulation.

(4) Besides the risks covered, risks which are not covered are also stated in insurance contracts clearly. The risks which are not stated will be considered to be covered.

(5) Foreign words shall not be used in insurance contracts. Principally, the translation of foreign words shall be used as determined by the Turkish Language Institute.

Tariffs

ARTICLE 12 - (1) Insurance tariffs are determined freely by insurance companies in accordance with the principles of insurance, and generally recognized actuarial methods. However, amounts of coverages and

tariffs and instructions for compulsory insurances imposed by this Law and other laws are determined by the Minister and published in the Official Gazette.

(2) If it is deemed necessary, the Minister may decide to require the approval of the Undersecretariat for tariffs, premiums, formulas and schemes of life assurances and personal accident, health, sickness and facultative earthquake insurances with terms longer than a year or without prejudice to the provisions of the special laws he may decide to liberate agency commission rates which are determined and announced by him and the tariffs which are determined or subjected to the approval by him.

Compulsory insurances

ARTICLE 13 - (1) The Council of Ministers may impose compulsory insurances where it deems necessary for public interest. Insurance companies, without prejudice to the provisions of Article 20, paragraph two subparagraph (b) and paragraph three of this Law, shall not refrain from providing those compulsory insurances which are within their fields of operation.

(2) The Undersecretariat is authorized to determine the persons who will perform compulsory insurance audit after it has taken the opinions of related institutions and establishments which will make operations or transactions on the benefit which constitutes the subject of compulsory insurance.

(3) Those authorities that are authorized to grant a permit or license for the execution of an activity or use of a thing, or to inspect the same, as well as institutions and establishments that are determined under the second paragraph, are obliged to inquire with respect to the acts and operations they shall carry out whether the relevant compulsory insurances have been provided within the required coverage limits. If such institutions and establishments as well as authorities that are authorized to grant permit or license and carry out inspections find that the insurance has not been provided at required coverage limits, no transaction shall be made. Until required coverage is obtained, that activity of the insured which constitutes the subject of compulsory insurance is halted by the relevant authorities.

Guarantee Account

ARTICLE 14 - (1) In respect of the compulsory liability insurances imposed by Article 13 of this Law; Road Traffic Law No: 2918 and dated 13.10.1983; Road Transportation Law No: 4925 and dated 21.12.1959 and compulsory insurances imposed by the Insurance Supervision Law No: 7397 and dated 21.12.1959 which has been abolished by this Law, a Guarantee Account shall be established under the auspices of the Association of the Insurance and Reinsurance Companies of Turkey in order to cover losses that arise as a result of the occurrence of the following conditions up to the related coverage amounts.

(2) Application to the Guarantee Account is possible for the following circumstances;

a) personal injuries to a person where the insured cannot be identified,

b) personal injuries caused by parties which do not have the required insurance coverage at the date the risk has occurred,

c) personal injuries and damages to property for which the insurer is obliged to pay in the case of the withdrawal of his licenses in all branches permanently or his bankruptcy due to weakness in his financial situation,

ç) personal injuries for which the operator shall not be held responsible in accordance with the Road Traffic Law No: 2918 in an accident where the vehicle involved is stolen or seized by violence,

d) the payments which shall be made by the Turkish Motor Insurance Bureau which deals with Green Card Insurance applications.

The Council of Ministers, if it deems necessary, may decide that damages to property are partially or completely compensated from the Account.

(3) Revenues of the Account consist of; participation fees paid by insurance companies as one percent of total premiums collected for compulsory insurances specified in the first paragraph and green card insurance, and the

participation fees to be collected as two percent of net premiums from policy holders. The Minister is authorized to reduce these ratios down to five per thousand or raise them up to the legal limits again.

(4) Insurance companies are required to deposit the participation fee which they have to pay in accordance with the third paragraph until the end of February of the following year and the participation fee collected from policy holders until the end of the month that follows the collection month to the Account.

(5) A separate account shall be opened for each compulsory insurance and green card insurance covered by the Account, and incomes and expenses of insurances are followed in these accounts.

(6) Revenues, expenses and transactions of the Account are supervised by the Undersecretariat every year.

(7) Principles for the formation and operation of the Account, accretion of fund assets, payments from the Account, recourses to the related persons or to Turkish Motor Vehicles Bureau, the participation fee for the information centre to be created in accordance with Article 24 herein and to the Commission as well as other expenses will be regulated by regulation.

Insurances that may be concluded abroad

ARTICLES 15 - (1) If they are located in Turkey, insurable interests of the residents of Turkey have to be

insured in Turkey by the insurance companies operating in Turkey.

(2) However the following insurances can be purchased abroad:

a) Transportation insurance for the goods which are subject to export and import,

b) Hull insurance to be provided for aircraft, ships, helicopters which are purchased with foreign loans, exclusively limited to the loan amount and applicable for the term until the foreign debt is paid up, or limited to the period of financial leasing if the same are brought home by financial leasing obtained abroad,

c) Liability insurances arising from the operation of ships,

ç) Life assurances,

d) Personal accident, sickness, health and motor vehicle insurances, limited to the time people will be abroad or their temporary stay in abroad,

may be concluded abroad.

(3) The Council of Ministers is authorized to expand the scope of insurances that may be concluded abroad.

PART IV

Financial Structure

Technical reserves

ARTICLE 16 - (1) Insurance companies and reinsurance companies are obliged to allocate reserves in accordance with the principles specified in this article for their obligations arising from insurance contracts.

(2) Unearned premiums reserve; for each insurance contract in effect, consists of that part of the gross premium which extends to the next fiscal period or periods on a daily basis, and in respect of annual life assurances in effect or those life assurances with periods longer than a year for which accumulation premiums are collected, it consists of that part of the gross premiums which extends to the next period or periods after the portion that has been set aside for the accumulation is deducted. However, in reinsurance and retrocession transactions where it is impossible to calculate a reserve on a daily basis, unearned premiums reserve can be allocated according to 1/8 principle.

(3) Unexpired risks reserve; is a reserve which shall be allocated in those insurance branches for which it is accepted that the level of risk undertaken and earned premiums throughout the contract term are not compatible, and also where unearned premiums reserve is inadequate compared to the risk undertaken by the company and its level of expected cost.

(4) Equalization reserve; is a reserve which shall be allocated for the insurance branches determined by the Undersecretariat to balance the claims rate fluctuations in following fiscal periods and to meet catastrophic risks. The Undersecretariat may decide the allocation of prudence according to the determined principles and procedures to substitute this reserve.

(5) Mathematical reserve; is the sum of the reserves specified in the contract's technical terms and calculated using statistical and actuarial methods in order to cover the liabilities of insurance companies to policyholders and beneficiaries for life, health, sickness and personal accident insurance contracts with periods longer than a year, and if it is committed, the reserves for the part allocated to insured from the revenues derived from the investment of such reserves.

(6) Outstanding claims reserve; consists of the amount of claims that has been reported but not yet paid, estimated amount of claims that has been incurred but not reported and reserves for expenses arising from such claims, and of additional reserves allocated according to the principles set by the Undersecretariat for adequacy when such amounts prove to be inadequate.

(7) Bonus and rebate reserve; consists of the amounts of bonuses and rebates reserved for insured or beneficiaries according to the technical results of the current year if the company gives bonuses or applies rebates.

(8) It is essential that in technical reserves, the reinsurer share should be proportional to the risk and premium being transferred. However, the Undersecretariat may require that the reinsurer share is not deducted for those businesses assigned to reinsurers which fail to meet the financial criteria to be determined by the Undersecretariat.

(9) Assets of insurance companies and reinsurance companies should be adequate to cover technical reserves. Procedures and principles relating to technical reserves as well as the rules on the assets in which technical reserves are to be invested shall be determined by regulation.

Guarantees

ARTICLE 17 -(1) Insurance companies have to allocate guarantees according to the principles set forth in this article in order to meet their commitments arising from the insurance contracts they have concluded in Turkey.

(2) Insurance companies operating in the life branch are obliged, during the period determined by the Undersecretariat and on behalf of the Undersecretariat, to block or to mortgage as a guarantee the amount that remains after deducting the loans given to the insured in accordance with the Turkish Commercial Code No: 6762 dated 29.6.1956 and the mathematical reserves that correspond to the amount of premiums not yet collected from the sum of outstanding claims reserve and

mathematical reserves allocated according to the time periods determined by the Undersecretariat. For newly established insurance companies, the guarantee amount to be allocated for the first three years shall be determined by the Undersecretariat taking into account the paid-up capital of the company. However, the provisions of the fourth paragraph shall apply for life, personal accident, health and sickness coverages which such companies provide for one year or periods less than a year.

(3) In respect of insurance companies which have to make payments to the insured in the life branch within a fiscal year exceeding the revenue from that branch, that part of the assets deemed appropriate by the Undersecretariat which have been presented as guarantee and blocked for the said branch is released taking into account the portion being exceeded.

(4) Non-life insurance companies shall establish a minimum guarantee fund which should not be less than one third of their capital requirement whose calculation method is to be determined by regulation. In any period, the minimum guarantee fund shall never be less than one third of the capital requirement necessary for each branch in which the company is operating. The Undersecretariat is entitled to decide the blockage or establishment of mortgage over the assets of the minimum guarantee fund. However, the provision of the second paragraph shall apply to the guarantees allocated

for personal accident, sickness and health insurance contracts with terms longer than a year.

(5) The Undersecretariat may release the guarantee blockage in those branches in which the insurance company has terminated its operation provided that all the payments for that branch have been made to the insured. However, if the company faces insolvency problems, the Undersecretariat may decide payments to be made to the insured from the guarantees.

(6) Guarantees shall not be included in the bankrupt's estate or winding up estate, seized, exposed to injunction and precautionary seizure unless all the receivables of the insured are paid. However, the Undersecretariat's right of injunction on guarantees is preserved in order to protect insured's receivables.

(7) The Undersecretariat is authorized to carry out arrangements related to financial structure and capital requirement of insurance companies, reinsurance companies and other establishments operating in insurance business, and to determine the types of assets to be blocked, the principles of valuation, procedures and principles relating to blocking, unblocking, imposing and revoking mortgages. Costs related to these operations are met by the relevant company.

Account principles, record order, basic financial statements and financial structure arrangements

ARTICLE 18 - (1) Insurance companies and

reinsurance companies are obliged to arrange, publish and send to the Undersecretariat their accounts and financial statements in accordance with the principles and sample formats determined by the Undersecretariat.

(2) Insurance companies and reinsurance companies have to make sure that their balance-sheets, profit and loss statements and other financial statements that would be deemed appropriate by the Undersecretariat are audited by independent audit firms and published. The Undersecretariat is authorized to regulate the auditing of the insurance companies and reinsurance companies by independent audit firms.

(3) If it is found that the financial statements published by insurance companies and reinsurance companies are misrepresented, the Undersecretariat, taking into consideration the generally accepted accounting rules and principles, can make sure that the corrected financial statements are republished.

(4) The Undersecretariat is authorized to demand insurance companies and reinsurance companies to keep different books other than those compulsory under other laws, to determine the principles and procedures which such books shall be subject to, to request all kinds of information, statements, reports, account extracts and financial statements which comply with the principles and samples to be determined by itself, where deemed necessary to publish financial statements, to determine financial ratios in order to strengthen the financial

structure of the insurance sector, to determine in which assets and by which ratios the company's resources shall be invested.

(5) Where necessary, the Undersecretariat is authorized to demand all kinds of information, documents, and reports from the insurance companies, reinsurance companies, intermediaries and loss adjusters. During the preparation of consolidated statements, the Undersecretariat can demand all kinds of information and documents from parent company and the parent company can demand all kinds of information and documents from the establishments which are related with the consolidated financial reporting.

Prohibition of asset reducing transactions

ARTICLE 19 - (1) Shareholders, members of the board of directors, auditors and employees of insurance companies and reinsurance companies shall not use the company resources directly or indirectly except for payments, financial support and advances given to the personnel subject to provisions determined by the articles of association of the company or by the resolution of the general meeting or the board of directors, shall not execute transactions which reduce the value of an asset in conflict with the rules of goodwill, and shall not make disguised earning transfers by any means. Insurance companies and reinsurance companies may not pledge their assets as collateral for the benefit of their personnel, shareholders, affiliates or other persons

and establishments, or act as a surety and provide loans except for those arising from their own debts or insurance transactions.

Strengthening financial structure

ARTICLE 20 - (1) If it is found that an insurance company or reinsurance company fails to meet the amount of minimum guarantee fund, to allocate the guarantee which it has to establish, to have sufficient and appropriate assets to cover technical reserves, to fulfil its obligations arising from contracts or that its financial structure is weakened to endanger the rights and benefits of the insured, the Minister, by giving an appropriate period of time to the insurance company or reinsurance company, for the strengthening of the financial structure may require the insurance company or reinsurance company;

- a) to present and implement an encompassing recovery plan that includes how it shall correct the weakness of its financial structure and protect the rights and benefits of the insured,
- b) to increase capital, to pay the outstanding portion, to make payments to the company as compensation for the capital, to stop dividend payments or to allocate additional guarantee,
- c) to dispose the assets in part or in full, or to stop such disposition, to stop acquiring new affiliates and fixed assets,

ç) to take other measures to strengthen its financial structure and liquidity, and to reduce the risks,

d) to convene an extraordinary general meeting with an agenda to be determined, or to postpone the general meeting,

e) to perform other similar duties.

(2) In addition, the Minister is also authorized;

a) to take all the measures to ensure that the insurance portfolio in all branches in which the insurance company is operating and in any one or whole of the insurance groups in reinsurance companies are transferred to another company or companies along with all guarantees and reserves, and where no such assignee exists, then to take all the measures for the winding up of the portfolio which will be transferred,

b) to limit the insurance portfolio,

c) to replace part or all of the members of the board of directors or auditory board, or to appoint new members to these boards by increasing the number of existing members, or to request that the management of the insurance company or reinsurance company is assigned to a trustee,

ç) to take similar measures in order to strengthen the financial structure.

Article 4 of this Law shall apply to persons to be

appointed in accordance with subparagraph (c) of this paragraph.

(3) When the measures stipulated in this article are not applied or it is found that they are not going to be applied, or the insurance company or reinsurance company postpones its payments, fails to comply with its liabilities to the insured, or the company's equity falls below the minimum guarantee fund, the Minister is authorized to revoke the insurance or reinsurance company's right to conclude further insurance contracts in all branches or the relevant branches and its authority to renew policies, to withdraw its license and to block its assets.

(4) If it is found that institutions and establishments other than insurance companies and reinsurance companies, which operate in accordance with their special laws and which conclude insurance and reinsurance contracts in accordance with the provisions of the Turkish Commercial Code fail to comply with their liabilities arising from the contracts or have a weakening financial structure which may endanger the rights and benefits of the insured, the Minister shall be authorized to take measures to strengthen the financial structure, to replace part or all of the persons in management and audit positions, or to request the transfer of the management to a trustee.

(5) Criteria for weakness in the financial structure are determined by regulation.

(6) Those who are assigned to the company's management and auditing in accordance with this article shall not be held responsible for the existing or future public debts of the company, debts to social security institutions and other financial liabilities of the company. In order to institute a criminal action against public officials who are assigned in accordance with this article, authorization by the Minister is necessary, and any legal action instituted against such persons are deemed to have been instituted against the Undersecretariat. Except for actions instituted by the Undersecretariat, litigation expenses and the attorney fee determined in the minimum attorney fee tariff declared by the Turkish Bar Association arising from the legal actions, investigations and prosecutions against such persons shall be met from the budget of the Undersecretariat. Provisions of the Turkish Commercial Code relating to the release of the board of directors shall not apply to those who are appointed in accordance with this article.

PART V

Actuaries, Intermediaries and Loss Adjusters

Actuaries and brokers

ARTICLE 21 - (1) Insurance companies and reinsurance companies have to work with a sufficient number of actuaries. The Undersecretariat shall keep an Actuaries Register where actuaries are registered. No one shall act as an actuary unless registered in the

register. Principles and procedures relating to the acquisition of the title actuary as well as the duties and authorities of actuaries are determined by regulation.

(2) Brokerage is performed with a broker license obtained from the Undersecretariat. The Undersecretariat may assign duties to non-governmental organizations and professional institutions for the preparation of the procedures related to the license for examination and approval. Procedures and principles related to the brokers' duties and authorities are determined by regulation.

(3) Partners of insurance companies, insurance agents and loss adjusters, persons in charge of management and audit of these, persons who have signing power on their behalf, and company employees engaged in professional activity; shall not act as a broker, be appointed to the board of directors and auditing board of any legal person broker, use signing power on their behalf, become partner of these and accept any paid work from them. Such restrictions shall also apply to the spouses of these persons and the children under their custody.

(4) Any person banned from acting as an insurance broker shall not be employed in any activity relating to brokerage and cooperation shall not be made with these people for the execution of the brokerage profession.

(5) Insurance brokers and their employees shall not disclose any know-how or confidential information they

learn in the execution of their duties without the permission of the relevant authority. However it is obligatory that any incidence giving rise to a criminal offence is reported to competent authorities.

Loss adjusters

ARTICLE 22 - (1) Loss adjusting business is carried out by real or legal persons.

(2) Any person who wants to act as a loss adjuster;

a) shall obtain a loss adjusting license from the Undersecretariat,

b) shall be registered in the Register.

(3) Principles and procedures relating to foreign loss adjusters are determined by the Council of Ministers.

(4) The title of loss adjusters shall be acquired after a loss adjusting license is obtained. Persons, who work as loss adjuster, after having obtained their licenses, shall apply to the Union of Chambers and Commodity Exchanges of Turkey to be registered in the Register. The Undersecretariat may assign duties to non-governmental organizations and professional institutions for the preparation of the procedures related to the license for examination and approval.

(5) The register of the loss adjuster shall be removed from the Register if;

- a) all the licenses he has obtained have been withdrawn,
- b) a decree has been issued for his dismissal from the profession,
- c) he has failed to execute his profession within six months following his registration,
- ç) he abandons loss adjusting business,
- d) he fails to deposit the registration fee within the specified period, or fails to pay his regular fee for a consecutive period of three years.

(6) Before issuing a decision of removal from the Register, a written defence is required from the loss adjuster. In addition, to be able to take a decision of removal from the Register, the loss adjuster should have been heard, or should have not complied with the invitation for being heard. The decision for removal from the Register shall be reasoned.

(7) The loss adjuster who proves that the circumstances, which resulted in his removal from the Register no longer exist, has the right to be registered in the Register again. However, those in respect of whom a decision of dismissal from the profession has been taken shall not be registered in the Register again. No registration fee shall be taken from a loss adjuster who is registered again.

(8) Those who request to be registered again in the Register may be required to prove the continued

existence of the criteria for registration in the Register. The decision for refusal of the request to be registered again in the Register shall be a reasoned decision.

(9) The person who has been removed from the Register or whose request to be registered again has been refused may present a written objection to the Undersecretariat within fifteen business days. Upon such objection, the Undersecretariat has to notify its decision within fifteen business days at the latest. Such decision is final.

(10) Real person loss adjusters are obliged to perform loss adjusting business as their habitual profession. As long as they perform this profession, real person loss adjusters shall not be engaged in any other profession as tradesmen or businessmen, which are incompatible with the nature of this profession, or engage in insurance agent and brokerage activities.

(11) A real person loss adjuster shall not have more than one office.

(12) Legal person loss adjusters shall perform loss adjusting business exclusively. Where business is carried out with a legal person loss adjuster, the work is to be assigned to the legal person. However, a certificate of authorization is issued by the legal person to the loss adjuster who is to follow up the business. In the loss adjusting report, the seal of the company shall be accompanied by the signature of the real person loss

adjuster. Loss adjusters who work for legal person loss adjusters shall not accept works other than those which are delegated by the legal person, engage in a paid work or salaried job, and work in the name and account of another legal person loss adjuster.

(13) Loss adjusters shall be impartial. Loss adjusters shall not accept a loss adjusting business where important causes which may give rise to doubts about the impartiality of the loss adjuster with respect to any of the parties exist, or where they have a degree of relativity or business partnership with any of the parties as specified in the Code of Civil Procedure No: 1086 and dated 18.6.1927, Article 245, paragraphs (1), (2), and (3). This provision shall also apply to those loss adjusters employed by legal person loss adjusters. Reports which have been issued in violation of this provision shall be void.

(14) Partners of insurance companies, insurance agents and brokers, persons in charge of management and audit of these, persons who have signing power on their behalf, and company employees engaged in professional activity; shall not act as a loss adjuster, be appointed to the board of directors and auditing board of any legal person loss adjuster, use signing power on their behalf, become partner of these and accept any paid work from them. Such restrictions shall also apply to the spouses of these persons and the children under their custody.

(15) Loss adjusters and persons working for them shall

not disclose any know-how or confidential information they learn in the execution of their duties without the permission of the relevant parties. However, it is obligatory that any incidence giving rise to a criminal offence is reported to competent authorities.

(16) Those that have been banned from acting as a loss adjuster shall not be engaged in activities related to loss adjusting, and no cooperation shall be made with these persons for the execution of the loss adjusting profession in whatever form.

(17) The report issued by authorized loss adjusters for traffic accidents result in damage to property, and its model to be determined by the Ministry of Interior, shall serve as accident report in the payment of claims as regards accidents and damages referred to in Highway Traffic Code, Article 99. Reports issued by loss adjusters shall be evidentiary.

(18) Loss adjusters may reject the work proposed to them without any reason, but they have to notify in writing to the proposing party whether they accept the work or not within three business days, at the latest, except for force majeure events and unexpected circumstances. Loss adjusters who fail to make such notices are deemed to have accepted the work.

(19) A loss adjuster may be appointed freely by the insurer, policy owner or people benefiting from the insurance contract. The insurance contract specifies

which party is to cover the fee if a loss adjuster is to be appointed by the insurer, the policy owner or people benefiting from the insurance contract. Where it is not specified in the contract, the fee is paid by the insurer. A person whose offer is rejected by two loss adjuster may require the assignment of a loss adjuster from the Loss Adjusters Executive Committee. The assigned loss adjuster has to accept the work in return of the fee determined by the Committee. However, the obligation to accept the work shall not apply in respect of the accident and loss reports, which are issued in accordance with the seventeenth paragraph of this article.

(20) The loss adjusting fee is determined freely between the loss adjuster and the party appointing him.

(21) Loss adjuster courses, exams and internships are conducted separately for each branch of expertise. Insurance adjuster courses and other training activities are not subject to Private Education Institutions Code No: 5580 dated 8.2.2007.

(22) No one, other than those authorized in this Law, shall engage in loss adjusting or use words and phrases in his trade name or in any document giving the impression that he is engaged in loss adjusting business.

Insurance agents

ARTICLE 23 - (1) Insurance agency is carried out by real or legal persons. Those who want to be engaged in insurance agency shall be registered in the Register

maintained by the Union of Chambers and Commodity Exchanges of Turkey.

(2) Principles and procedures on the qualifications of insurance agents are determined by regulation. Persons who will work as insurance agents shall obtain a certificate which confirms their qualifications from the Undersecretariat and shall apply to the Union of Chambers and Commodity Exchanges of Turkey, in order to be registered in the Register. The Undersecretariat may assign duties to the Union of Chambers and Commodity Exchanges of Turkey for the preparation of the procedures related to the license for examination and approval. The Union of Chambers and Commodity Exchanges of Turkey may decide to cooperate with non-governmental organizations or professional institutions for the realization of these operations.

(3) In respect of banks and establishments which have been established by a special law and authorized to carry out insurance agency activities, the obligation to be registered in the Register as described in the first paragraph of this article and the second paragraph concerning the obtainment of a certificate from the Undersecretariat shall not apply.

(4) The register of the insurance agent shall be removed from the Register if;

a) he has lost the qualifications necessary to carry out insurance agency,

- b) he has been dismissed from the profession,
- c) he has failed to operate within six months following his register in the Register,
- ç) he has abandoned insurance agency,
- d) his register has been removed from the chamber of commerce or chamber of industry and commerce,
- e) he fails to deposit the registration fee within the specified period, or fails to pay his monthly fee for a consecutive period of three years.

(5) Before issuing a decision of removal from the Register, a written defence is required from the agent. In addition, to be able to take a decision for removal from the Register, the insurance agent should have been heard, or should have not complied with the invitation for being heard. The decision for removal from the Register shall be reasoned.

(6) The agent who proves that the circumstances, which resulted in his removal from the Register no longer exist, has the right to be registered in the Register again. However, those in respect of whom a decision of dismissal from the profession has been taken shall not be registered in the Register again. No registration fee shall be taken from an insurance agent who is registered again.

(7) Those who request to be registered again in the Register may be required to prove the continued

existence of the criteria for registration in the Register. The decision for refusal of the request to be registered again in the Register shall be a reasoned decision.

(8) The person who has been removed from the Register or whose request to be registered again has been refused may present a written objection to the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey within fifteen business days. Upon such objection, the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey has to notify its decision within fifteen business days at the latest. Such decision is final.

(9) Law on Protection of Consumers No: 4077, dated 23.2.1995, Article 4/A, paragraph three shall only apply to insurance agents with respect to their services provided related to agency operations. The insurance agent is not responsible for defective services provided by the insurance company as the provider.

(10) Insurance agents who have been authorized to conclude contracts and collect premiums other than banks and establishment which are established by a special law and authorized to carry out insurance agency and insurance agents who have been authorized to conclude contracts and collect premiums in respect of life assurances or compulsory insurances, shall not have any other commercial activities other than agency activities related to private pension transactions.

(11) The Council of Ministers is authorized to make arrangements relating to the activities of foreign insurance agents in Turkey and the intermediation activities in Turkey by Turkish agents on behalf of foreign insurance companies.

(12) Persons in charge of management and audit of insurance companies, insurance brokers and loss adjusters and persons who have signing power on their behalf shall not assume duties in the board of directors and auditory boards of agents, use signing power on their behalf, become partner of these and accept any paid work from them. Such restrictions shall also apply to the spouses of these persons and the children under their custody. However, the restriction that applies to the spouses and children of persons in charge of management and audit of insurance companies and persons who has signing power on their behalf is limited with the agency activities for the company where such people work.

(13) Any real or legal person, other than those who are authorized in this Law, shall not engage in insurance agency activity and use words and phrases in his trade name or in any document giving the impression that he is engaged in insurance agency business.

(14) Those that have been banned from acting as insurance agent shall not be engaged in activities related to insurance agency, and no cooperation shall be made

with these persons for the execution of the insurance agency profession in whatever form.

(15) In case of the termination of the agency agreement, the insurance agent has the right to get the agent commission for the works he has already accomplished, or he would have accomplished within a short period of time if the agency agreement had not been terminated.

(16) After the termination of the agency agreement, if the insurance company gains considerable benefit due to the portfolio of the insurance agent and if it is fair and just, the insurance agent has the right to claim compensation from the insurance company. However, in case the insurance agent dissolves the contract without any sound reason or causes the dissolution of the contract as a result of his own fault, his right to claim compensation shall be forfeited.

(17) Insurance agents and their employees shall not disclose any know-how or confidential information they learn in the execution of their duties without the permission of the relevant parties. However it is obligatory that any incidence giving rise to a criminal offence is reported to competent authorities.

(18) Provisions of the Turkish Commercial Code governing agencies shall also apply to insurance agents.

PART VI

Professional Organizations

Association of the Insurance and Reinsurance Companies of Turkey

ARTICLE 24 - (1) Insurance companies and reinsurance companies are obliged to become members of the Association of the Insurance and Reinsurance Companies of Turkey, which is headquartered in Istanbul and is a professional organization having the status of a public legal entity, within one month after getting their licenses. However, the Council of Ministers is authorized to abolish this obligation. Article 9, paragraph seven of the Law on the Union of Chambers and Commodity Exchanges of Turkey, and Chambers and Exchanges No: 5174 dated 18.5.2004, shall not be applicable to the insurance companies and reinsurance companies.

(2) A member insurance company and reinsurance company shall be immediately registered in the Register by the Board of Directors of the Association. The register of the insurance company or reinsurance company shall be removed from the Register if;

- a) all the licenses it has obtained have been withdrawn,
- b) its authority to conclude insurance and reinsurance contracts has been revoked in all branches,

c) it has failed to conclude an insurance or reinsurance contract within one year after getting its licenses or for six months consecutively except those that are within the knowledge of the Undersecretariat,

ç) a bankruptcy or winding up decision has been issued for the insurance company and reinsurance company,

d) despite being notified, it has failed to pay the participation fees for the expenses and entrance fees within the specified period.

(3) An insurance company and a reinsurance company that is not registered in the Register is not authorized to elect and to be elected in the General Assembly. An insurance company or a reinsurance company, which proves that the circumstances which resulted in its removal from the Register no longer exist, has the right to be registered in the Register again. No registration fee shall be taken from the insurance company or reinsurance company which is registered again.

(4) If the Board of Directors of the Association deems necessary it may request from insurance or reinsurance companies, which request to be registered again, to prove the continued existence of the criteria for registration. The decision for refusal of the request to be registered again in the Register shall be a reasoned decision.

(5) The insurance and reinsurance company which has been removed from the Register or whose request to be

registered again has been refused, may present a written objection to the Undersecretariat within fifteen business days against the removal or refusal decision of the Board of Directors. Upon such objection, the Undersecretariat has to notify its decision within fifteen business days at the latest. The decision of the Undersecretariat is final.

(6) An insurance or reinsurance company whose licenses have been withdrawn, in respect of which a bankruptcy and winding up decision has been issued, or whose operation is ceased due to other reasons shall lose its Association membership.

(7) The objective of the Association is to;

- a) ensure the development of the insurance profession,
- b) ensure that its members work in solidarity, unity, integrity and discipline which the insurance profession requires and in line with the needs of the economy,
- c) take and implement the necessary decisions to prevent unfair competition.

(8) Duties and authorities of the Association are as follows:

- a) to take measures for the improvement of the insurance profession, for this purpose to establish research institutions and support researches and studies,
- b) to take necessary steps for the representation and awareness of insurance, to become a member of related

institutions in and outside Turkey and to send delegates to these institutions,

c) if deemed necessary, to prepare guiding tariffs for insurance contracts to be used by the sector,

ç) to comply with the duties arising from the insurance legislation, and to monitor the implementation of its decisions and measures,

d) to determine the compulsory professional rules, to ensure that members work in discipline which the insurance profession requires in line with the needs of the economy, and to take and implements all kinds of measures necessary to prevent unfair competition among its members,

e) to cooperate with relevant institutions and associations with the purpose of providing insurance education, to organize seminars and conferences, publish books, magazines and booklets,

f) to establish insurance examination and research committees in necessary quantity and quality, to arrange their duties, powers and methods of working,

g) to issue annual reports about the annual operation results of its members, and to circulate these reports to members and concerned parties,

ğ) to provide the registration of insurance related information and to establish a data centre for this purpose,

h) to organize the operation of insurance arbitration and to keep a list of insurance arbitrators.

(9) The Association shall follow the implementation of the decisions and measures it has taken according to the legislation for the professions it is related to, and take those measures that have been required by the Undersecretariat.

(10) The Association, with the approval of the Undersecretariat, is authorized to establish bureaus, companies, and foundations with legal personality related to insurance, or participate in existing companies within the context of this Law.

(11) Bodies of the Association consist of the General Assembly, the Board of Directors, Chairmanship, Presidential Committee, Disciplinary Board and Auditory Board. Insurance companies and reinsurance companies are represented with one full member in only one of these bodies except the General Assembly.

(12) Insurance companies and reinsurance companies are represented by the general manager or his deputy in the General Assembly. The Undersecretariat may have a representative in the Association's General Assembly.

(13) The Presidential Committee elected by the General Assembly for two years consists of a president, a vice-president, and a controller which the Board of Directors shall elect among its members at the first meeting.

(14) The Chairman of the Association, full and substitute members the Board of Directors, the Disciplinary Board and the Audit Board are elected by the General Assembly. The Chairman of the Association is the Chairman of the Board of Directors as well. The number of members in the Board of Directors is determined according to the number of members registered at the date the General Assembly is held. If the number of members is fifty or below, then the Board of Directors shall have seven members, if the number of members is between fifty and sixty, then the board shall consists of nine members, and if the number of members is sixty or above, the board shall consist of eleven members, and of four substitute members in any case. The Disciplinary Board and Auditory Board shall each consist of three full members and two substitute members. The term of office of the Chairman of the Association, Board of Directors, Disciplinary Board and Auditory Board is two years. The Disciplinary Board and Auditory Board shall elect a chairman at the first meeting.

(15) The working principles and scope of activities of the Association are regulated by regulation. Insurance companies and reinsurance companies have to comply with the decisions and measures taken by the Association.

(16) Insurance and reinsurance companies shall pay an entrance fee, the amount of which is determined by the General Assembly, upon their membership to the Association and every year. The participation fees paid

for the expenses of the Association are calculated and distributed based on the sum of the direct premium incomes in Turkey obtained within a year by the members as outlined by the principles in the regulation. If these fees are not paid within the periods determined by the Regulation, the Association shall collect the same by execution proceedings. Decisions related to the payment of participation fees shall have the status of written official document in the sense of the Law on Execution and Bankruptcy No: 2004 dated 9.6.1932, Article 68.

(17) The Association may require participation fees from insurance companies for the expenses of the data centre to be established. The participation fee shall be determined by the Undersecretariat up to the one per thousandth of the premium production realized by the companies in respect of such insurances which are decided to be collected at the data centre. The Undersecretariat is authorized to increase or decrease this ratio up to fifty percent. If it is deemed necessary, expenses of the data centre shall be supported from the budget of the Association, and from the Account subject to the approval the Undersecretariat.

(18) In respect of members which do not timely and fully comply with the decisions and measures taken by the Association according to this article an administrative fine from two thousand Turkish Liras up to six thousand Turkish Liras will be imposed by the Board of Directors of the Association.

(19) All activities of the Association are supervised by the Undersecretariat.

Election principles for the bodies of the Association and prohibitions

ARTICLE 25 - (1) Elections of the bodies of the Association shall be carried out by secret voting, and open vote counting, and each member has one vote in the bodies.

(2) No later than fifteen days prior to the General Assembly meeting during which the election shall be held, a list indicating the representatives of the members for the election of the Association and a letter including the agenda, venue, date and time of the meeting and the details of the second meeting which shall be held in the absence of quorum, shall be submitted to the judge who serves as the chairman of the county election board of that locality. If there is more than one county election board in the locality where the election shall be held, the authorized judge shall be determined by the Supreme Election Board. It is compulsory that meeting dates are arranged so that discussions are concluded until the evening of a Saturday, taking into account other issues included in the agenda, and the elections are held between nine a.m. and five p.m. on the next day which is Sunday.

(3) The judges approve the list indicating the members who will participate in the election and other issues

indicated in the second paragraph, if necessary after the examination of relevant registers and documents by the judge and if exists after the completion of deficiencies by related parties. The approved list and other issues related to the meeting are announced in the billboards of the Association for three days.

(4) Objections to the list during the announcement period are examined by the judge, and decided within two days, at the latest.

(5) Lists that become final thereafter as well as other issues related to the meeting are sent to the Association after the approval.

(6) The Judge assigns a polling committee which consists of a chairman and two members among those who are not candidates. In the same way three substitute members are determined by the judge. In the absence of the chairman of the polling committee, the oldest member shall chair the committee.

(7) The polling committee is responsible for ensuring that the election is carried out and managed in accordance with the principles of the code, and for counting of the votes, and this responsibility shall continue uninterruptedly until the election and counting of votes are completed.

(8) At the end of the election period, the results of the election shall be registered in a minute to be signed by the chairman and members of the polling committee. If there

is more than one polling station, minutes are combined by the judge. A copy of each minute is published at the election site and in this way the provisional results of the election are announced. Used vote papers and other documents are submitted to the chairman of the county election board, along with a copy of the minute to be kept for three months.

(9) Objections to the procedures carried out during the election and to the election results within two days, as of the arrangement of the minutes, are examined by the judge on the same day, and a final decision is given. After the expiry of the objection period, and conclusion of objections, the judge announces the final results as described above, and notifies the Association.

(10) A member whose name is not written in the list shall not cast vote. Votes shall be cast after the electorate proves his identity with a certificate given by the Association or an official authority, and puts his signature next to his name on the list. A vote shall be cast by placing the voting paper issued collectively or separately according to bodies into the envelope which bears the seal of the county election board and given during the voting by the chairman of the polling committee. Votes placed into other envelopes shall be void. Tools and equipment used in the elections are supplied by the county election board, and the location of voting boxes shall be determined by the judge.

(11) In the case of invalidation of the election by the

judge due to irregularity or illegal practice which may affect the election results, the judge shall determine the Sunday, to repeat the election, which is not earlier than one month and later than two months, and notify the Association. On the determined day, only the election is held, and election procedures are carried out as stipulated in this article and other provisions of the Law.

(12) Remuneration shall be paid to the chairman of the county election board, the judge, chairman and members of the polling committee in accordance with the principles specified in the Law on Basic Provisions of Elections and Register of Voters No: 298 dated 26.4.1961. This remuneration and other election expenses shall be met from the budget of the Association.

(13) Offences committed against the chairman and members of the polling committee during the elections shall be punished as if they have been committed against public officials.

(14) The Association shall not be engaged in any activity outside the scope of its establishment objectives. Political parties may not nominate candidates in the elections of the bodies of the Association. Bodies of the Association that act in violation of its objectives shall be dismissed by a court order upon the request of the Minister or the Public prosecutor, and new elections shall be held.

(15) Bodies dismissed shall be replaced by new ones

within one month at the latest. Those who are newly elected shall complete the terms of office of former members.

(16) Provisions regarding dismissal shall not apply in respect of the General Assembly of the Association.

(17) The related bodies of the Association are obliged to fully comply with the decisions of the Minister and Undersecretariat on the procedures carried out by the bodies of the Association in accordance with this Law. Provisions of paragraph fourteen shall apply to the bodies of the Association which fail to obey these decisions without any legal reason or which give a new decision for the same purpose with its previous decision or which do not perform its legal duties despite the warning.

(18) Criminal responsibilities of the dismissed members of the bodies and representatives of legal persons shall continue. Dispositions which give rise to the dismissal of such bodies, under the seventeenth paragraph, shall be void.

(19) If it is deemed necessary for national security, public order, prevention of commitment or continuity of an offence, or arrest of criminals and a delay considered unfavourable then the Minister may prohibit the activities of the Association. The related decision of the Minister shall be presented to the approval of the authorized judge within twenty four hours. The Judge

notifies the decision within forty eight hours; otherwise such administrative decision shall be automatically void.

(20) The persons in charge of management and audit of the Association and employees of the Association shall not disclose any know-how or confidential information they learn in the execution of their duties without the permission of the relevant parties. However, it is obligatory that any incidence giving rise to a criminal offence is reported to competent authorities.

Loss Adjusters Executive Committee

ARTICLE 26 - (1) Seven full and seven substitute members of the Loss Adjusters Executive Committee, which consists of nine members in total who have been appointed for a period of four years, are elected in accordance with the rules and principles determined by the Undersecretariat among loss adjusters who are registered in the Register kept by the Union of Chambers and Commodity Exchanges of Turkey and who have good repute and experience in the profession. Moreover, a board member of the Union of Chambers and Commodity Exchanges of Turkey and the Secretary General of the Union of Chambers and Commodity Exchanges of Turkey or a deputy to be determined by him are appointed to this Committee as permanent member. To be eligible for election to the Loss Adjusters Executive Committee, a person should have actually performed loss adjusting at least for ten years. Criteria sought in full members shall also be sought in substitute

members. Loss Adjusters Executive Committee shall elect a chairman and a vice-chairman from among its members at the first meeting. Legal person loss adjusters are represented at the Loss Adjusters Executive Committee by their general managers or people who have been authorized to represent the legal person. Those who have been subject to disciplinary punishment within the past five years and those in respect of whom an investigation has been initiated due to an offence that prevents acting as a loss adjuster shall not be elected to the Loss Adjusters Executive Committee, or represent a legal person therein until such investigation is complete. If members of the Loss Adjusters Executive Committee lose their eligibility for election later on, or fail to attend in person, or by their representatives, three consecutive meetings shall forfeit membership automatically.

(2) Loss Adjusters Executive Committee shall perform the following duties:

a) to establish professional rules in order to ensure that loss adjusting activities are performed impartially and in an honest manner, business ethics are preserved, and members of the profession work with the attention, discipline and solidarity required by the profession,

b) to take and implement all measures necessary to prevent unfair competition between members of the profession,

c) to follow professional developments, administrative

and legal arrangements at home and abroad, and to inform members in these issues,

ç) to establish relations with national or international financial, economic and professional institutions and establishments in the field of of loss adjusting business,

d) to organize training activities such as courses, seminars and conferences in order to develop the loss adjusting profession,

e) to follow developments in insurance and loss adjusting profession, to gather related publications and court decisions and submit them to the use of the members of the profession,

f) to declare opinions to relevant authorities in respect of professional matters,

g) to carry out the registration procedures which are necessary in order to act as a loss adjuster according to the insurance legislation, and the procedure of removal from the Register,

ğ) to give disciplinary punishments about loss adjusters in matters which relate to insurance activity,

h) to perform other duties to be assigned by the Undersecretariat.

(3) Loss Adjusters Executive Committee's decisions are notified to the Board of the Union of Chambers and Commodity Exchanges of Turkey in fifteen days.

Procedural transactions for the entry into force of the decisions of the Loss Adjusters Executive Committee are executed by the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey. The Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey has to take necessary steps for the decisions which are notified by the Loss Adjusters Executive Committee in fifteen days from the notice. Loss Adjusters Executive Committee may, for the purpose of fulfilling the operations specified in the second paragraph, authorized chambers of commerce or chambers of industry and commerce with the approval of the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey, and the Undersecretariat.

(4) Provision of the Law on The Union of Chambers and Commodity Exchanges of Turkey and Chambers and Exchanges, Article 94 are also applicable to the Loss Adjusters Executive Committee. Attendance fees and other payments to the members of the Loss Adjusters Executive Committee are determined by the General Assembly upon the proposal of the Union of Chambers and Commodity Exchanges of Turkey's Board of Directors and the approval of the Undersecretariat.

(5) In order to secure that loss adjusting services are carried out as required, Loss Adjusters Executive Committee shall apply the following disciplinary punishments according to the nature and the degree of seriousness of the act to those loss adjusters who act in

violation of the honour of the profession, those who fail to perform their duties, or who perform their duties deficiently, or those who act in a manner damaging the trust necessary for the profession:

a) Warning; is the notification to the loss adjuster by a letter that he should be much careful in the execution of his profession.

b) Censure; is notification to the loss adjuster by a letter that he is deemed faulty in his duty and behaviour.

c) Temporary suspension of professional activity; is to prohibit professional activity for a period not shorter than six months and longer than a year, provided that the title of loss adjuster is reserved.

ç) Dismissal from profession; is the dismissal of a loss adjuster from the profession, and prohibition of further execution of the profession.

(6) Those who are authorized to represent and bind a legal person loss adjuster in respect of whom a decision of dismissal from profession has been issued shall not act as loss adjusters and work as auditor or representative of another legal person loss adjuster.

(7) Those loss adjusters who act in violation of the rules of the profession, the honour of the profession, those who fail to perform their duties, or who perform their duties deficiently, or who act in a manner damaging the trust required by the duty shall be subject to a warning

punishment, and to censure punishment if the same act is repeated.

(8) Those loss adjusters who fail to perform their duties independently, impartially and fairly, or who perform their duties deficiently or act in violation of the general principles of the profession shall be punished with temporary suspension of professional activity.

(9) Loss adjusters who have issued false loss adjusting reports intentionally are punished with dismissal from the profession, if this is supported by the final judgement of the court.

(10) A loss adjuster in respect of whom an investigation is being carried out due to a work which may require the punishment of dismissal from profession may be prevented from providing service as a measure with the decision of the Loss Adjusters Executive Committee. The decision of prevention from providing service is notified to the relevant authorities immediately. The decision for prevention from providing service shall be revoked when the investigation is cancelled or a punishment is given which does not prevent acting as a loss adjuster. The decision for prevention from service shall be revoked when the events and circumstances which give rise to the issue of such decision cease to be valid or when it is discovered thereafter that the same do no longer exist.

(11) In respect of a loss adjuster who commits acts which are subject to disciplinary punishments, two or more

times, in a period of three years, for each new offence a punishment which is heavier than the previous one shall be applied.

(12) Loss adjusters who, having been punished with temporary suspension of professional activity, repeat the offence that necessitates such punishment within the succeeding five-year period shall be punished with dismissal from profession.

(13) Inquiry and issue of a judgment shall not prevent the performance of a disciplinary investigation and the taking of disciplinary action.

(14) Investigations about the members of the Loss Adjusters Executive Committee are carried out by the Undersecretariat. Decisions taken by the Undersecretariat are final.

(15) No disciplinary investigation shall be carried out if three years have elapsed from the date on which acts requiring disciplinary action have been committed. However, that period shall not be counted if the case has been referred to the Loss Adjusters Executive Committee.

(16) No disciplinary punishment shall be given if five years have elapsed from the date on which acts requiring disciplinary action have been committed.

(17) If the act necessitating disciplinary action constitutes an offence at the same time, and a longer

lapse of time has been determined in the relevant laws for that offence, the lapse of time specified in the relevant laws shall apply instead of the lapse of time specified in this article.

(18) An objection to disciplinary decisions may be filed to the Undersecretariat within fifteen days as from the notification of the decision by the Loss adjusters Executive Committee. Undersecretariat gives its decision within a month and such decision is final.

(19) Decisions relating to disciplinary punishments shall not be applied unless such decisions become final.

(20) Loss adjusters who have been subject to a disciplinary punishment other than dismissal from profession and temporary suspension of professional activity may apply to the Loss Adjusters Executive Committee five years after the execution of such punishments, and demand that the disciplinary punishment about them is removed from their registers. If such party has not been subject to any disciplinary punishment within that period, the disciplinary punishment about him is removed.

(21) In respect of members who fail to comply with the decisions and measures taken by the Loss Adjusters Executive Committee in accordance with this article in a timely and complete manner, an administrative fine from two thousand Turkish Liras up to six thousand Turkish Liras shall be imposed by the Loss Adjusters Executive Committee.

(22) The Union of Chambers and Commodity Exchanges of Turkey allocates a suitable setting, sufficient number of personnel and necessary technical equipment for the Loss Adjusters Executive Committee to perform its duties in an effective manner.

(23) The Loss Adjusters Executive Committee is authorized to determine the fee for Registration or the regular fee with the approval the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey. Such payments are registered as revenue in the budget of the Union of Chambers and Commodity Exchanges of Turkey.

(24) If the Undersecretariat discovers any violation of applicable legislation and general interests of the insurance sector, it may require the Union of Chambers and Commodity Exchanges of Turkey to cancel the arrangements relating to loss adjusters or to introduce changes in such arrangements.

(25) The working principles and procedures of the Loss Adjusters Executive Committee are determined by regulation to be issued by the Ministry of Industry and Commerce with the approval of the Ministry which the Undersecretariat is affiliated with.

Insurance Agents Executive Committee

ARTICLE 27 - (1) An Insurance Agents Sector Council shall be established within the Union of Chambers and Commodity Exchanges of Turkey. Members of the

Council which consists of forty people are elected in accordance with the principles and procedures determined jointly by the Union of Chambers and Commodity Exchanges of Turkey and the Undersecretariat from among insurance agents who have credit and experience in the profession and who are members of a chamber of commerce or a member of industry and commerce. Turkish Insurance Agents Sector Council shall not be bound by the provision of second paragraph of Article 57 of the Law on the Union of Chambers and Commodity Exchanges of Turkey and Chambers and Exchanges.

(2) Insurance Agents Sector Council Members shall elect seven members and seven substitute members to the Insurance Agents Executive Committee, which shall consist of nine members to serve for a period of four years. A Board Member of the Union of Chambers and Commodity Exchanges of Turkey and the Secretary General of the Union of Chambers and Commodity Exchanges of Turkey or the person who will be appointed by the Secretary General are appointed to this Committee as permanent member. In order to be eligible to this committee, it is essential to have performed actually as an insurance agent for a period of at least ten years. Criteria sought in full members shall also be sought in substitute members. Insurance Agents Executive Committee shall elect a chairman and a vice-chairman from among its members at the first meeting. Legal person insurance agents w are represented at the Insurance Agents Sector Council and Insurance Agents

Executive Committee by their general managers or persons who have been authorized to represent the legal person. Those who have been imposed to disciplinary punishment within the past five years, those in respect of whom an investigation has been initiated due to an offence that prevents acting as an insurance agent shall not be elected to the Insurance Agents Executive Committee, or represent a legal entity therein until such investigation is complete. Members who despite their presence in the Insurance Agents Executive Committee lose their eligibility for election later on, or who fail to attend in person, or via their representatives, three consecutive meetings shall forfeit membership automatically.

(3) Insurance Agents Executive Committee shall perform the following duties;

a) to establish professional rules in order to ensure that insurance agent activities are performed impartially and in an honest manner equitably and fairly, business ethics are preserved, and members of the profession work in solidarity and with the attention and discipline required by the profession.

b) to determine the ethical codes and try to achieve uniformity in insurance agent practices.

c) to take and implement measures in order to prevent unfair competition and unfair practices among insurance agents.

- ç) to observe developments, administrative and legal arrangements related to insurance and insurance agency profession at home and abroad, and provide its members and relevant parties with the information it gathers.
- d) to establish relations with other professional institutions related to insurance agency at home and abroad.
- e) to organize training activities such as courses, seminars and conferences in order to improve the insurance agency profession when necessary.
- f) to determine minimum physical conditions necessary for the insurance agency activity.
- g) to issue annual reports for submission to the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey.
- ğ) to carry out the procedures of registration in the Register which are necessary in order to act as an insurance agent under the insurance legislation, and the procedure of removal from the Register.
- h) to give disciplinary punishments about insurance agents in matters which relate to insurance activity.
- ı) to determine criteria for the employees of the insurance agent who will be entitled to draw up contracts and to keep records of these employees.

i) to fulfil other duties to be assigned by the Undersecretariat of Treasury.

(4) Decisions taken by the Insurance Agents Executive Committee shall be notified to the Board of Directors of Turkish Union of Chambers and Stock Exchanges within fifteen days at the latest. Procedural transactions for the fulfillment of the decisions taken by the Insurance Agents Executive Committee shall be performed by the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey. Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey shall be obliged to perform what is necessitated by the decisions notified by the Insurance Agents Executive Committee within fifteen days at the latest after the date of notification. The Insurance Agents Executive Committee shall be entitled to assign any chamber of commerce or chamber of industry and commerce for the fulfillment of the transactions specified in item three upon the approval of the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey, if necessary.

(5) Insurance Agents Executive Committee shall be bound with the provision of the Law on the Union of Chambers and Commodity Exchanges of Turkey and Chambers and Exchanges, Article 94. Attendance fees and other payments to members of the Insurance Agents Executive Committee are to be determined by the General Assembly upon the proposal of the Union of

Chambers and Commodity Exchanges of Turkey's Board of Directors and approval of the Undersecretariat.

(6) In respect of disciplinary punishments to be given for insurance agency activities of insurance agents, the authorities specified in the Law on the Union of Chambers and Commodity Exchanges of Turkey, and Chambers and Exchanges, Articles 87, 88 and 89 are executed by the Insurance Agents Executive Committee, and Article 87 of the same Law applies to disciplinary offences and punishments to be given in respect of insurance agents. However, provisions of the Law on the Union of Chambers and Commodity Exchanges of Turkey, and Chambers and Exchanges, Article 87 governing temporary dismissal from membership and long term dismissal from membership are applied as temporary dismissal from profession and long term dismissal from profession. In respect of insurance agency activities of insurance agents, the punishment of dismissal from profession may be given for offences to be determined by the regulation. Those who are authorized to represent and bind a legal person insurance agent in respect of whom a decision of dismissal from profession has been issued shall not act as insurance agent and work as an auditor or representative of another legal entity insurance agent. An insurance agent in respect of whom an investigation is being carried out due to a work which may require the punishment of dismissal from profession may be prevented from service as a measure with the decision of the Insurance Agents

Executive Committee. The decision for prevention from service shall be revoked when the investigation is cancelled or a punishment is given which does not prevent performing as an insurance agent, and shall be revoked by the Insurance Agents Executive Committee if it is discovered that the events and circumstances giving rise to such decision do not exist, or have disappeared later on. Both the decision for prevention from service and the revocation of such decision are notified to the Chamber where the insurance agent is registered and to the relevant authorities immediately. The Union of Chambers and Commodity Exchanges of Turkey Higher Disciplinary Board shall be authorized to execute disciplinary investigations to be carried out in respect of members of the Insurance Agents Executive Committee only about the insurance agent activity, and to decide about the disciplinary punishments referred to in this paragraph. The provision of the Law on the Union of Chambers and Commodity Exchanges of Turkey and Chambers and Exchanges, Article 92 shall apply to disciplinary punishments to be given to insurance agents.

(7) The Insurance Agents Executive Committee is authorized to determine the fee for recording in the Register or the regular fee with the approval of the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey. Such payments are registered as revenue in the budget of the Union of Chambers and Commodity Exchanges of Turkey.

(8) The Union of Chambers and Commodity Exchanges of Turkey allocates a suitable setting, sufficient number of personnel and necessary technical equipment for the Insurance Agents Executive Committee to perform its duties in an effective manner.

(9) If the Undersecretariat finds any violation of legislation and violation of the general interests of the insurance sector, it may require the Union of Chambers and Commodity Exchanges of Turkey to cancel the arrangements relating to insurance agents or to introduce changes in such arrangements.

(10) The working principles and procedures of the Turkish Insurance Agents Sector Council and Insurance Agents Executive Committee are determined by regulation to be issued by the Ministry of Industry and Commerce with the approval of the Ministry which the Undersecretariat is attached to.

PART VII

Supervision and Furnishing Information

Supervision

ARTICLE 28 - (1) Supervision of all insurance operations of insurance and reinsurance companies operating in Turkey, establishments engaged in insurance operations in accordance with their special laws, insurance and reinsurance intermediaries, loss adjusting activities, actuaries and other persons

operating in the insurance sector are carried out by the Insurance Supervisory Board.

(2) Insurance Supervisory Board is composed of a chairman, insurance supervisors, insurance supervisory actuaries and their assistants. Inspection, supervision, examination and inquiry duties and authorities vested in the Ministry which the Undersecretariat is attached to or the Undersecretariat, by the provisions of this Law and other laws governing insurance business, insurance and persons and establishments operating in the insurance sector, shall be executed and exercised by insurance supervisors, insurance supervisory actuaries and their assistants.

(3) Examination, determination and inspection of the operations, assets, affiliates, receivables, equities and liabilities of insurance companies and reinsurance companies, the relation and balances between their profit and loss statements, all other elements that affect their financial structure and administrative structures, use and protection of premiums collected and actuarial and financial accounts and balances of insurance companies are carried out by insurance supervisors, insurance supervisory actuaries and their assistants.

(4) Insurance supervisors, insurance supervisory actuaries and their assistants are authorized to request information they deemed necessary, for the provisions of this Law and other laws governing insurance business, from insurance companies and reinsurance companies,

their affiliates, subsidiaries, branches, and representative offices, other real and legal persons including intermediaries and banks, and to examine all their books, records and documents.

(5) Public institutions, the Association and other non-governmental and professional organizations are obliged to provide all kinds of information and documentation, if they are related with their duties, to the insurance supervisors, insurance supervisory actuaries and their assistants even if such information is confidential notwithstanding the prohibitive and restrictive provisions in special laws, except provisions relating to circumstances which shall give rise to serious consequences against the security of the State, essential foreign policy interests and the privacy of family life and the right to defence, in appropriate period of time and place, limited to the subjects and operations covered by the scope of this article, to submit and make available the required books and documents, to open the computer system in line with the purposes of the supervision, and to ensure security of the data. Insurance supervisors, insurance supervisory actuaries and their assistants are authorized to require minutes of meetings of the board of directors and auditory boards of institutions covered by this article and to carry out examinations with such persons, institutions and establishments that are relevant with the carried out procedure.

(6) If it is required during the supervision, examination and inquiry performed by insurance supervisors,

insurance supervisory actuaries and their assistants, all kinds of support, including the assistance of employees working at risk management and internal audit systems, shall be supplied by the establishments that are being subject to supervision, examination, or inquiry.

(7) Within the scope of the provisions of this Law and other laws, the determination, analysis, monitoring and measurement of the operations, risk structures, receivables, equities, debts, liabilities, and commitments, the relation and balances between their profit and loss statements and all other elements that affect their financial structure of the institutions which are subject to this Law, and the monitoring of the risks which may be faced by these establishments, are performed by the Undersecretariat in accordance with a regulation to be issued.

(8) The Undersecretariat is authorized to monitor and analyze the information and documents belonging to the establishments subject to this Law; to verify the compliance of the administrative and financial, on both a consolidated and non-consolidated basis, structure of these establishments with the legislation; to evaluate the reports, financial statements and internal audit reports of these establishments by comparing them with the supervision and monitoring results of the Undersecretariat; to ensure that all precautionary measures related to these establishments are implemented and concluded taking into account the type and size of their risk exposure, the reliability of their risk

management systems and the audit risk according to the results obtained by the Undersecretariat; to follow the implementation of measures which affect or may affect the operations of subsidiaries, financial affiliates and branches of these establishments, and if necessary, take further measures with the relevant parties.

(9) Persons and establishments that are subject to this Law are obliged to present to the Undersecretariat the information, documents, statements, reports and financial statements which are prepared in such formats determined by the Undersecretariat to be compatible with their account and record orders using such communication channels and within the period determined by the Undersecretariat. Information sent by establishments by electronic means shall be in the responsibility of the board of directors within the scope of the internal audit system.

Obligation to furnish information

ARTICLE 29 - (1) Persons subject to this Law and engaged in any professional activity related to insurance, affiliates of insurance companies and reinsurance companies, banks and other persons are obliged to provide all kinds of information and documents required by the Undersecretariat, notwithstanding the prohibitive and restrictive provisions in special laws, in relation to the execution of this Law even if such information is confidential. Any provision relating to circumstances which shall give rise to serious consequences against the

security of the State, essential foreign policy interests and the privacy of family life and the right to defence

(2) Within the scope of reciprocity and in relation to the execution of this Law, demands of authorities, authorized to carry out supervision according to the legislation of foreign countries, to carry out supervision in, and require information from, Turkish branches and partnerships of the establishments operating in insurance sector in their home countries, which are subject to this Law in Turkey, is conditional upon the permit of the Undersecretariat. Information required by these institutions may be given by the Undersecretariat subject to a non-disclosure condition. The Undersecretariat may have all kinds of cooperation and exchange of information within the framework of agreements with the supervisory bodies of foreign countries in matters related to insurance.

PART VIII

Arbitration

Insurance arbitration

ARTICLE 30 - (1) In order to settle the disputes arising from the insurance contract between the policy holder or people benefiting from the insurance contract on the one side and the party undertaking the risk on the other side, an Insurance Arbitration Commission shall be established within the Association. Those insurance establishments that want to become members of the

insurance arbitration system have to notify the Commission in writing. A person who is in conflict with the member establishments of the insurance arbitration system may still benefit from the arbitration procedure even if there is no special provision in the relevant contract.

(2) The Commission is composed of a representative from the Undersecretariat, two representatives from the Association, one representative from a consumers' association and an academician lawyer who will be determined by the Undersecretariat. The representative of the Undersecretariat must have a minimum work experience of ten years in public service, should be experienced in the insurance field, and should at least have the title of head of department; and the representatives of the Association shall meet the criteria sought in deputy general secretaries, as specified in Article 4 of this Law. The representative of the consumers' association shall be elected by the Undersecretariat from among three candidates nominated by the consumers' association which has the highest number of members in Turkey. The Commission shall elect a president from within. In the Commission, decisions are taken with the absolute majority of the total number of members. The President of the Commission and the members of the Commission who are elected to serve for two years are paid a remuneration equivalent to the monthly salary and other payments of the members and the president of the board of directors of public economic enterprises.

(3) The Commission perform the following duties;

- a) to appoint directors and deputy directors,
- b) to prepare the budget of the Commission which is to be followed in a separate account by the Association, and submit it to the Association,
- c) to take measures to ensure that the arbitration system operates in a fair, impartial and effective manner,
- ç) to prepare an annual report on the results of the activities of the Commission, and send it to the Association and the Undersecretariat,
- d) to prepare the computer infrastructure,
- e) to perform other duties assigned by the laws.

(4) The Commission is authorized to open offices where it deems necessary. In that case, the office director shall possess the same qualifications with those of the Commission director. Duties to be assigned to the office director are determined by the Commission.

(5) A director and two deputy directors, rapporteurs and sufficient number of personnel are assigned to work under the Commission. Directors and deputy directors are assigned by the Commission whereas rapporteurs and other personnel are assigned by the Commission according to the proposal of the director. Dismissal from office is subject to the same procedure with that of assignment. The director of the Commission shall;

a) meet the criteria sought in founders of insurance companies and reinsurance companies except the criteria of financial power,

b) at least hold an undergraduate degree,

c) have a minimum two years of experience in insurance law or a minimum five years of experience in insurance.

(6) Deputy directors shall possess the qualifications specified in the fifth paragraph except sentence (c). In addition, at least one of the deputy directors should have two years experience in insurance field.

(7) Disputes are settled by insurance arbitrators and rapporteurs who shall work in only one of the life and non-life insurance groups.

(8) Insurance arbitrators shall;

a) meet the criteria sought in founders of insurance companies and reinsurance companies except the criteria of financial power,

b) at least hold an undergraduate degree,

c) have a minimum of five years of experience in insurance law or a minimum of ten years of experience in insurance.

(9) Insurance rapporteurs who shall work at the Commission shall meet the criteria sought in the director of the Commission.

(10) Those who want to work as insurance arbitrator shall document their qualifications which are necessary to be arbitrator and apply to the Commission. Those who are deemed eligible are notified to the Undersecretariat for acceptance. If the Undersecretariat accepts the application, the name of the relevant person shall be registered in the Insurance arbitrators list which is to be kept by the Commission and a copy of which is to be sent to the Ministry of Justice, and any changes in the list are notified to the Ministry of Justice and the Undersecretariat in six month intervals.

(11) The name of the insurance arbitrator shall be removed from the list;

a) permanently if he has lost the qualifications necessary for working as an insurance arbitrator or it has been proven that he has acted in violation of the principle of impartiality;

b) for a period of one year if he has failed to conclude the files received by him in due time for maximum three times a year.

(12) Those that want to become a member in the arbitration system pay a participation fee, and those who apply to the Commission for the settlement of a dispute pay an application fee. If a higher amount has not been determined with a written agreement expressly by the parties to the dispute, awards given by the arbitrator up to forty thousand Turkish Liras shall be final for both

parties. Awards above forty thousand Turkish Liras may be appealed. Under any circumstances, provisions of the Code of Civil Procedure, Article 533 are reserved. Principles and procedures relating to appeal are governed by the Code of Civil Procedure.

(13) In order to apply to the Commission, the person who is in conflict with an establishment which engage in insurance business should have made the necessary applications to the insurance establishment regarding the event causing the dispute, and document that his demand has not been met in part or in full. The failure of the insurance establishment to reply in writing within fifteen business days since the application date is also a sufficient reason for an application to the Arbitration Commission.

(14) Applications shall not be filed to the Commission regarding disputes which have been referred to Court or to the Arbitration Committee for Consumer Problems according to the provisions of the Law on Protection of Consumers.

(15) The application which has been submitted to the Commission by the person who is in conflict with the establishment engage in insurance business shall be first examined by rapporteurs. Rapporteurs have to complete their examination within fifteen days at the latest. Applications which cannot be settled by rapporteurs are referred to the insurance arbitrator. The insurance arbitrator who shall deal with the dispute is selected by

the Commission from the insurance arbitrators list. The Commission may decide that a panel consisting of minimum three insurance arbitrators is formed according to the nature of the case. However, where the disputed amount is equal to or above fifteen thousand Turkish Liras, it is compulsory to form a panel. The panel decides by majority. The Arbitrator may consider the case on submitted documents only. The elected insurance arbitrator shall not reject the duty except for force majeure and unexpected circumstances. However, the parties may refuse the arbitrator referring to the causes of refusal specified in the Code of Civil Procedure. The refusal request is presented to the Commission by a petition within five business days at the latest, after being informed. Upon the refusal request, the Commission director takes his decision within five business days at the latest after hearing the views of both parties.

(16) Arbitrators have to issue their awards within four months, at the latest, as from the date they have been commissioned. Otherwise, the dispute is settled by the competent court. However, this period can be extended with the express and written consent of the parties. The arbitrator submits the award to the Commission director. The Commission director communicates the award to the court which is competent to settle the case, within three business days at the latest, in order for it to take necessary action according to the Code of Civil Procedure, Article 532.

(17) Fees of arbitrators, application fee, and membership participation fee are determined by the Undersecretariat taking into account the opinion of the Commission; fees of arbitrators are paid by the Commission.

(18) Persons in charge of management and audit of insurance companies, reinsurance companies, other establishments engage in insurance business, loss adjusters, insurance agents and brokers and persons who have signing power on their behalf, and persons performing professional activities for them and loss adjusters, insurance agencies and brokers shall not act as an insurance arbitrator. Such restrictions shall also apply to the spouses of these persons and their children. The Code of Civil Procedure, Article 28 shall also apply to insurance arbitrators.

(19) Persons who are in charge for the Commission, arbitrators and rapporteurs shall not disclose any know-how or confidential information they learn in the execution of their duties without the permission of the relevant parties. However, it is obligatory that any incidence giving rise to a criminal offence is reported to competent authorities.

(20) The structure and the duties of the Commission, the qualifications of the Commission director and deputy directors of the Commission and their working principles and procedures, the working principles and procedures of rapporteurs and insurance arbitrators, the way of arrangement of the awards, principles of

application to the Commission, principles related to the keeping of the List and the budget and other issues such as participation fee shall be determined by regulation.

(21) The Undersecretariat is authorized to increase the fixed monetary amounts specified in this article with the condition that the rate of increase shall not exceed the rate of the Producer Price Index declared by the Turkish Statistical Institute.

(22) Where this Law is silent, provisions of the Code of Civil Procedure shall be applied to insurance arbitration by comparison.

(23) Persons who will act as arbitrator in arbitration proceedings which are realized according to the Code of Civil Procedure shall meet the criteria sought in insurance arbitrators in this article.

PART IX

Miscellaneous

Insurance education centre and other organizations

ARTICLE 31 - (1) The Minister is authorized to set up an insurance education centre to make the necessary examinations on specific topics related to insurance in an impartial manner, meet training demands at home, abroad or within the framework of international agreements, and for similar purposes. Expenses of the insurance education centre shall be met from the

contributions of professional institutions operating in the insurance sector, from the relevant public and private sector institutions to which the centre serve and from donations in accordance with the principles to be determined by regulation. Training activities to be carried out by the insurance education centre are not subject to the Law on Private Educational Institutions.

(2) Except institutions such as associations, federations and unions which are established under certain laws, establishment of organizations for insurance and reinsurance practices is subject to the authorization by the Minister.

(3) Issues related to the insurance education centre and the organizations to be established in accordance with the second paragraph shall be regulated by regulation.

Bona fides

ARTICLE 32 - (1) Insurance companies and intermediaries shall not design their brochures, explanatory notices, other documents and their advertisements and commercials in a way that results in an understanding outside the limits and scope of the rights and benefits which they shall provide to the insured, and shall not make statements that are unreal, misleading, deceiving or that give rise to unfair competition. Where violation of this provision is ascertained the matter shall be referred to the Advertising Board that acts upon the Law on Protection of Consumers.

(2) Insurance companies, reinsurance companies, intermediaries and loss adjusters are obliged to refrain from acts which may endanger the rights and benefits of the insured, to act in accordance with the legislation and principles of the business plan, and to behave in compliance with the requirements of insurance and the rules of goodwill.

(3) Insurance companies shall not delay the payment of insurance claims in violation of the rules of goodwill.

(4) The Undersecretariat is authorized to take all the measures in order to ensure that insurance companies, reinsurance companies, intermediaries and loss adjusters comply with the above mentioned rules.

(5) Rights of persons to choose an insurance company shall not be restricted. In contracts, where one of the parties are obliged to buy insurance, provisions requiring the conclusion of the insurance contract with a certain company shall be void.

Specialty committees

ARTICLE 33 - (1) The Undersecretariat may establish specialty committees composed of people with knowledge and expertise on insurance, to make researches and analysis on the tariffs and policies set forth in this Law and the development of the insurance sector. Expenses of such committees shall be covered by the relevant professional institution operating in the

insurance field under the principles approved by the Ministry.

(2) Working rules and principles of the specialty committees shall be regulated by regulation.

PART X

Penalties

Administrative penalties

ARTICLE 34 - (1) Those who violate the principles referred to in the fourth and fifth paragraphs of Article 3, workplaces which operate without obtaining a license in violation of Article 5 shall be closed by the governorships upon the Minister's request up to one year and their advertisements and commercials are prevented or collected.

(2) The following administrative fines shall apply:

a) Twenty five thousand Turkish Liras if the prohibition of being engaged in another business referred to in the first paragraph of Article 3 is violated,

b) Eight thousand Turkish Liras if a company or a person that is warned for appointing persons who fail to meet the qualifications referred to in the second to seventh paragraphs of Article 4, and the assignment of the duties specified in such Article to persons who do not meet the criteria specified in this paragraph fails to comply with that warning within one month; ten thousand Turkish

Liras if an effective internal audit system is not established in accordance with eighth paragraph, or the obligation of recruiting sufficient number of internal audit personnel is violated, and this fault is not corrected within six months after the company has been warned,

c) Eight thousand Turkish Liras if the necessary registration and publication procedures have not been completed in accordance with the first paragraph of Article 5,

ç) Twelve thousand Turkish Liras if necessary registration and publication procedures have not been completed in accordance with Article 7,

d) Eight thousand Turkish Liras in case of the failure to make necessary notification to the Undersecretariat in accordance with the fifth paragraph of Article 9,

e) Twelve thousand Turkish Liras for failure to obtain necessary authorization in accordance with Article 10,

f) Ten thousand Turkish Liras in case of the breach of general conditions referred to in the first paragraph of Article 11,

g) Five thousand Turkish Liras for failure to act in accordance with fourth paragraph of Article 14,

ğ) Two thousand Turkish Liras for failure to meet necessary costs referred to in the seventh paragraph of Article 17,

h) Twelve thousand Turkish Liras for failure to act in accordance with the first, second and third paragraphs of Article 18, to comply with the obligation of keeping books and publish financial statements in accordance with the fourth paragraph, and to act in accordance with the principles and procedures determined by the Undersecretariat, including the asset structure of the company, in accordance with the fourth paragraph,

i) Eighteen thousand Turkish Liras for failure to comply with the obligation to employ actuaries in accordance with Article 21,

j) Twenty thousand Turkish Liras for failure to comply with the measures taken in accordance with the fourth paragraph of Article 32, and to act in accordance with the provision of the fifth paragraph,

j) Twelve thousand Turkish Liras for failure to comply with the decrees, regulations, communications and other regulatory arrangements issued by the Council of Ministers, the Ministry which the Undersecretariat is attached to and the Undersecretariat, if there is no other specific fine stipulated in this Law.

(3) Administrative fines are applied by the Undersecretariat.

Judicial penalties

ARTICLE 35 - (1) Real persons and executives of legal persons who are engaged in insurance business by

undertaking the risk without obtaining a license as requested in this Law, or use the name of establishments specified in this Law in their trade names, or in all their documents, advertisements and commercials, or public statements, or use such words and phrases in a manner to give the impression that they are engaged in activities regulated hereunder shall be sentenced to imprisonment from three years to five years, and a judicial fine from 600 days to 1000 days.

(2) Executives of cooperatives who conclude insurance contracts without obtaining an authorization from the Undersecretariat, in violation of the third paragraph of Article 3 of this Law, shall be punished with a judicial fine from 500 days to 1000 days.

(3) Chairman and members of the board of directors, and other employees of insurance companies and reinsurance companies shall be sentenced to imprisonment from six months to twelve years if they embezzle funds or other assets which are owned by the establishments and in their custody, control and responsibility due to their positions. Also such persons are sentenced to compensate the loss incurred by the establishment.

(4) If the offence described in the third paragraph has been committed by any fraudulent act aiming to deceive the establishment and conceal the act, the offender shall be sentenced to imprisonment not less than twelve years and to a judicial fine. However, the amount of the judicial

fine shall not be less than three times of the loss incurred. If the loss is paid in full before the prosecution, the fine to be imposed is reduced by one third.

(5) Real persons and executives of legal persons who fail to provide the information and documents required by the relevant authorities and supervisors specified herein and who prevent such supervisors to perform their tasks are sentenced to imprisonment from one year to three years and to a judicial fine which shall not be less than 200 days.

(6) Real persons and executives of legal persons who provide misleading, incorrect and unreal information and documents to the relevant authorities and supervisors specified herein, to courts and other official departments are sentenced to imprisonment from one year to three years and to a judicial fine which shall not be less than 300 days.

(7) Those who intentionally damage the reputation or assets of establishments that are subject to this Law, or who spread false news in that sense are sentenced to imprisonment from one year to two years, and to a judicial fine which shall not be less than 200 days. If this act has been committed by media specified in the Press Law No:5187 dated 9.6.2004, or any of the communication media such as radio, television, video, internet, cable broadcast, electronic data communication devices or other similar media, the imprisonment shall be sentenced from two years to four years. Those who

spread false news which may rise doubts in the public as regards the reliability of the establishments which are subject to this Law, even if no names are mentioned, or which may affect the financial structure of such establishments negatively shall be punished with a judicial fine from 400 days to 1000 days.

(8) If persons who are in charge of the execution of this Law and the monitoring of its execution, insurance arbitrators and rapporteurs disclose the secrets about the persons and establishments acting under this Law, their affiliates, entities and persons who are related to insurance contracts, they learn due to their titles or in the execution of their duties, to persons other than those who have been authorized to learn such information in accordance with this Law and special laws, even after they leave their duties, or use such information for their own benefits, shall be sentenced to imprisonment from two years up to four years and to a judicial fine which shall not be less than 300 days.

(9) If the employees and executives of establishments which are subject to this Law, with the exception of the persons listed in the eighth paragraph of this Article, persons who are subject to this Law and their employees, and persons who serve in insurance sector by outsourcing, disclose the secrets which are belong to the establishments that are subject to this Law or persons who are related to insurance contracts, they learn due to their titles or in the execution of their duties, to persons other than those expressly authorized by this Law shall

be sentenced to imprisonment from one year to three years and to a judicial fine which shall not be less than 200 days.

(10) If the persons specified in the eighth and ninth paragraphs disclose the secrets specified the above paragraphs for their own benefits or the benefit of others, they shall be sentenced to imprisonment from three years up to five years, and to a judicial fine. In addition, according to the importance of the act, they are banned from executing their duties permanently or temporarily for six months to one year.

(11) Insurance company and reinsurance company auditors who prepare or approve false financial statements shall be punished with a judicial fine. However, such judicial fine shall not be less than one percent of the false amount.

(12) Those who fail to obtain the authorizations specified in the first, second and fourth paragraphs of Article 9 of this Law shall be punished with a judicial fine not less than 300 days, and those fail to comply with the share restrictions specified in the sixth paragraph shall be punished with a judicial fine not less than 400 days, and those who cause share transfers to be registered to the share book without obtaining authorization in violation of the third paragraph shall be punished with a judicial fine from 400 days to 1000 days.

(13) Those who apply tariffs in violation of the second paragraph of Article 12 herein, without the approval of

the Undersecretariat shall be punished with a judicial fine not less than 500 days, and those who give commissions other than the intermediation commissions determined and announced by the Undersecretariat shall be punished with a judicial fine not less than 300 days, and those who receive such commissions shall be punished with a judicial fine not less than 100 days.

(14) Those who refrain from concluding contracts in violation of the first paragraph of Article shall be punished with a judicial fine not less than 500 days.

(15) Those who purchase insurance for their interests which are insurable in Turkey from companies other than the insurance companies operating in Turkey and outside Turkey in violation of Article 15 herein are punished with a judicial fine.

(16) Those who fail to allocate adequate reserves as required in the first paragraph of Article 16 herein and those who allocate technical reserves in violation of the second to seventh paragraphs, and determine reinsurer share not as stipulated in the eighth paragraph; those who allocate guarantees in violation of the first and second paragraphs of Article 17, and a minimum guarantee fund in violation of the fourth paragraph and those who fail to make payments from the guarantees according to the fifth paragraph shall be punished with a judicial fine. However, the amount of the judicial fine shall not be less than ten percent of the liability not fulfilled or the lacking part of the liability if the liability has been fulfilled in partially.

(17) Those who violate the first paragraph of Article 19 of this Law shall be punished with a judicial fine up to one thousand days; if this violation decrease the value of the asset by violating the rules of goodwill shall be punished with a judicial fine up to two thousand days. However, the amount of the judicial fine shall not be less than twenty percent of the reduction in the asset.

(18) Brokers failing to comply with the third paragraph of Article 21 shall be punished with a judicial fine not less than 300 days, brokers acting as insurance agent and loss adjuster besides insurance brokerage shall be punished with a judicial fine not less than 400 days and brokers acting in violation of fourth paragraph of Article 2 of this Law shall be punished with a judicial fine not less than 200 days.

(19) Those who violate the third paragraph of Article 22 herein shall be punished with a judicial fine not less than 300 days; those who engaged in another profession other than loss adjusting in violation of the tenth paragraph shall be punished with a judicial fine not less than 100 days; those who open more than one office in violation of the eleventh paragraph shall be punished with a judicial fine not less than 60 days; real person loss adjusters and executives of legal person loss adjusters who violate the twelfth paragraph shall be punished with a judicial fine not less than 100 days; real person loss adjusters and those loss adjusters working with legal person loss adjusters who accept duties in violation of thirteenth paragraph or those loss adjusters who are in breach of

impartiality shall be punished with a judicial fine not less than 500 days; those who violate the fourteenth paragraph shall be punished with a judicial fine not less than 300 days; those who act in violation of the sixteenth paragraph and who carry out activities related to loss adjusting although they are not allowed according to this article shall be punished with a judicial fine not less than 200 days; those who delegate their loss adjusting powers or titles to others for their use and those who use such powers and titles in violation of the twenty second paragraph shall be sentenced to a judicial fine not less than 500 days; those who give the impression that they act as loss adjuster shall be sentenced to a judicial fine not less than 100 days.

(20) Those who violate the tenth paragraph of Article 23 of this Law shall be punished with a judicial fine not less than 100 days, those who violates the twelfth paragraph shall be punished with a judicial fine not less than 300 hundred days, those who delegate insurance agent authorities or titles to others, and persons who use such authorities and titles in violation of the thirteenth paragraph shall be punished with a judicial fine not less than 500 days, those who give the impression that they act as an insurance agent shall be punished with a judicial fine not less than 100 days, those who violate the fourteenth paragraph and those who are engaged in activities related to insurance agency although they are not allowed shall be punished with a judicial fine not less than 200 days.

(21) Responsible managers of insurance companies who conclude insurance agent contracts with parties which are not allowed to act as an insurance agent shall be punished with a judicial fine not less than 500 days, responsible managers of insurance companies who grant the authority to collect premium and to conclude contracts to parties who are not allowed to take such authority shall be punished with a judicial fine not less than 300 days, and those who accept such authorities shall be punished with a judicial fine not less than 200 days.

(22) Those who have been dismissed from the profession by a decision but continue to work as an auditor or work with powers to represent and bind a legal person loss adjuster in violation of sixth paragraph of Article 26 herein, and those who employ such persons, or those who have been dismissed from the profession by a decision but continue to work as an auditor or work with powers to represent and bind a legal person insurance agent in violation of sixth paragraph of Article 27 herein, and those who employ such persons shall be sentenced to imprisonment from one year to two years, and to a judicial fine not less than 300 days.

(23) Those who act as a broker or loss adjuster without obtaining a necessary license under this Law, who operate as an insurance agent without obtaining a certificate of conformity from the Undersecretariat and those who operate as an actuary without being registered in the Actuaries Register shall be sentenced to

imprisonment from one year to three years, and to a judicial fine not less than 400 days.

(24) Executives of the insurance companies and reinsurance companies which have not become a member of the Association within the period specified herein, and those who act as a loss adjuster or insurance agent without being registered in the Register shall be punished with a judicial fine not less than 150 days.

(25) Persons who delegate actuary and broker powers and titles to others for their use and those who use such powers and titles shall be punished with a judicial fine not less than 500 days, those who give the impression that they operate as such shall be punished with a judicial fine not less than 100 days.

(26) Those who establish organizations in the field of insurance without obtaining the authorization referred to in the second paragraph of Article 31 herein shall be punished with a judicial fine not less than 300 days.

(27) Those who violate the paragraph two of Article 32 of this Law and who delay the payment of claims in violation of the rules of goodwill referred to in the third paragraph of Article 32 shall be punished with a judicial fine not less than 300 days.

Prosecution

ARTICLE 36 - (1) The initiation of a prosecution due to offences specified herein is subject to a written

application by the Undersecretariat to the Public Prosecutor's office. Following such application the Undersecretariat shall gain the title of participant.

(2) If the Public Prosecutor decides that no prosecution is justified, the Undersecretariat is entitled to object to the notified decision in accordance with the Code of Criminal Procedure No: 5271 dated 4.12.2004.

(3) The provisions of this Article shall not apply to prosecutions to be carried out in respect of acts of intermediaries and loss adjusters who are considered as offences hereunder and those prosecutions initiated for violation of first paragraph of Article 15, and sixth to ninth paragraphs of Article 35.

PART XI

References, Amended and Abolished Provisions

References

ARTICLE 37 - (1) The references made in other laws to the abolished Insurance Supervision Law No: 7397 and dated 21.12.1959 shall be deemed to have been made to the related provisions of this Law.

(2) All the terms used in other laws to connote the actuaries working in the supervision department of the Undersecretariat shall be implemented as “Insurance Supervision Actuary”.

ARTICLE 38 - (1) The following amendments have been made to the Law of the Union of Chambers and Commodity Exchanges of Turkey and Chambers and Commodity Exchanges No: 5174 and dated 18.5.2004;

a) the paragraph below has been added to the end of Article 57:

“The provisions of Insurance Law relating to the insurance agents sector council are reserved.”

b) the phrase below has been added to the end of the phrase “by the authorized bodies” in the subparagraph (b) of the first paragraph of Article 93:

“and by the Insurance Agents Executive Committee and Loss Adjusters Executive Committee”

c) the provisional article below has been added:

“**PROVISIONAL ARTICLE 15 -** Loss Adjusters Executive Committee elections shall be held within sixty days succeeding the general body elections of the chambers. Until the Loss Adjusters Executive Committee is formed, the Undersecretariat of Treasury determines a provisional Loss Adjusters Executive Committee within one month after the publication of Insurance Law.

Insurance Agents Sector Council elections shall be made within sixty days after the general body elections of the chambers and Insurance Agents Executive Committee

elections shall be made within fifteen days at the latest after the formation of the Insurance Agents Sector Council. Until the establishment of the Insurance Agents Sector Council and with the decision of the Board of Directors of the Union of Chambers and Commodity Exchanges of Turkey and authorization by the Undersecretariat of Treasury, a provisional Insurance Agents Executive Committee shall be formed within a month after the entry into force of Insurance Law.”

ARTICLE 39 - (1) The third paragraph of the additional Article 8 of the Highway Traffic Law No: 2918 and dated 13.10.1983 has been amended as follows:

“The Association of the Insurance and Reinsurance Companies of Turkey shall keep the information related to the detection of the vehicles to be disqualified from traffic for the use of the Ministry of Interior or send this information to the related departments of it.”

ARTICLE 40 - (1) The article below has been added to the Decree related to Compulsory Earthquake Insurance No: 587 and dated 25.11.1999:

“**ADDITIONAL ARTICLE 1 -** The acts and operations performed within the scope of the Institution and this Decree, shall not be bound with Public Fiscal Administration and Control Law No: 5018 and dated 10/12/2003 and Public Procurement Law No: 4734 and dated 04/01/2002.”

ARTICLE 41 - (1) The following amendments have been made to the Private Pension Savings and Investment System Law No: 4632 and dated 28.3.2001:

a) paragraph (1) of Article 2 has been amended as below:

“1) Private pension intermediaries: Persons who act as intermediaries to the pension contracts of pension companies or making these on behalf of the companies,”

b) The fifth sentence of the first paragraph of Article 5 has been amended as, "In order to apply for transferring to another company, one must stay at the current company for at least one year." and the second and third paragraphs have been amended as below:

“The company has to direct contributions to investment at the latest, the second business day following the day of devolution to the company. The company which is in violation of its repartition, transfer and investment duties specified in this provision fully within the determined time limits shall be subject to the penalty for delay equivalent to twice the positive yield of the fund corresponding to the related period which the participants partake in case of transfers and the fund which they will partake in case of investment and this amount shall be added to the account of the participant.

In case the contribution is paid in full or partly by the associations, foundations, professional institutions and other establishments or groups with legal personality and employers which are a party to group pension contracts

on account of their employees or members, these contributions and their yields shall be followed in separate individual pension accounts and the principles for the exercise of rights and duties related to the accumulation in these accounts are determined in the group pension contract within the scope of the principles and procedures determined by the Undersecretariat. The vesting period for these accumulations, in any case, may not exceed five years starting from the date of accession of the participation to the group pension contract.”

c) The last paragraph of Article 6 has been amended as follows:

“Implementation principles for pension plans, and tariffs and technical standards relating to annuities shall be determined freely. The Minister may, where he deems necessary, subject the implementation principles, tariffs and technical standards to the approval of the Undersecretariat. Within the scope of this provision, the principles and procedures relating to the inquiries that have to be done by the company and Central Bank of the Republic of Turkey in order to find the cessionaries and the keeping of the said amount by the company for ten years and by the Central Bank of the Republic of Turkey for two years are determined by the Undersecretariat with the approval of the Board.”

ç) The paragraph below has been added to the end of the first paragraph of Article 17 and the last sentence of the current second paragraph has been amended as follows:

“The portion of fund shares in the individual pension account, whose amount corresponds to the multiplication of the minimum wage with the number of months that the participant has been present in the system, and to the amount of monthly annuity payments that do not exceed the minimum wage and which are made to the retirees who have retired from the system within the scope of Article 6 of this Law, except debts for maintenance, shall not be distressed, put in pledge or included in the bankrupt's estate. The actual gross minimum wage amount at the date of distress, pledge or bankruptcy shall be taken as the basis in implementing the provisions mentioned in this paragraph.”

“Principles relating to the fund portfolio limitations and the principles and procedures relating to the investment of the assets in the fund portfolio are determined by the Board with the consent of the Undersecretariat.”

d) The last sentence of the first paragraph of Article 18 has been amended as “Portfolio management agreements must be compatible with the minimum standards determined by the Board.”

e) The paragraph below has been added to Provisional Article 1:

“Provided that a decision be taken by the authorized bodies; the pension accumulations and amounts related to pension commitments in the associations, foundations, provident funds, professional institutions

or other companies with legal personality which engage in pension commitments towards their members or employees may be transferred partly or in full to annuities or to the private pension system on the condition that they be realized within the scope of the principles determined by the Undersecretariat and within five years following the enforcement of this paragraph. Operations relating to transfers, including the real estate sales aiming to make payments for accumulations and amounts related to pension commitments, shall be exempt from all kinds of taxes, duties and levies. This exemption also includes the income tax liability that may arise. Within the scope of this paragraph, no entrance fees shall be charged to those that are transferred to annuities or to the participants who sign a pension contract and no deduction shall be made on the transferred amounts.

The Undersecretariat shall perform the actuarial supervision of the pension operations performed by the associations, foundations, pension funds, professional institutions or other companies with legal personality which engage in pension commitments towards their members or employees.”

ARTICLE 42 - (1) The article below has been added as to follow Article 20 of Law No. 4632:

“Pension Monitoring Center

ARTICLE 20/A - The Undersecretariat may assign a

legal person established within the provisions of private law as the pension monitoring center in order to ensure that the private pension system operates safely and effectively, performs the operations related to forming an infrastructure regarding the monitoring and supervision of the operations of the companies and private pension intermediaries for the purpose of protecting the rights and interests of the participants, individual pension accounts, pension plans, consolidation of transactions, storage of the information belonging to the participants, informing the public and the participants, the production of statistics, the registry of private pension intermediaries and the private pension intermediary exam, and perform other tasks that may be assigned regarding life insurance and other insurance branches. The provisions that must be included in the articles of association of the pension monitoring center shall be determined by the Undersecretariat and the approval of the Undersecretariat shall be sought for any amendments to the articles of association. Pension companies and with the approval of the Undersecretariat insurance companies operating in the life insurance branch, other institutions and establishments may be shareholders of the pension monitoring center. Pension monitoring center shall be subject to the supervision of the Undersecretariat. The companies, institutions, establishments and persons falling under the scope of this Law shall transfer to the pension monitoring center the information and documents requested in order to ensure the performance of the duties assigned by this

Law. Working principles and procedures of the pension monitoring center shall be determined by the Undersecretariat.”

ARTICLE 43 - (1) After the phrase “Ministry of Finance Tax Inspectors” in the 8/a line of the Executive Compensation Tables No (IV) attached to Civil Servants Law No: 657 and dated 14.7.1965, “Insurance Supervisors and Insurance Supervisory Actuaries” phrase has been added.

ARTICLE 44 - (1) After the first paragraph of the Article 14 of Agriculture Insurances Law No: 5363 and dated 14.6.2005, the following paragraph has been added:

“Insurance companies shall not conclude insurance contracts outside the Pool system formed by this Law for the risks, areas and products covered by the Pool within the scope of the decisions of the Council of Ministers. Those insurance companies that violate this provision may be disqualified from the Pool system within the scope of the principles that shall be determined by the Board.”

ARTICLE 45 - (1) Insurance Supervision Law No: 7397 dated 21.12.1959 has been abolished.

(2) Law Relating to Reinsurance No: 1160 dated 25.6.1927 has been abolished.

(3) The third paragraph of Article 107, Article 108 and the first and the second paragraphs of the additional

Article 8 of Highway Traffic Law No: 2918 dated 13.10.1983 have been abolished.

PART XII

Provisional and Final Provisions

PROVISIONAL ARTICLE 1 - (1) All of the liabilities, assets, claims and obligations of the Highway Traffic Guarantee Insurance Account are transferred to the Account within a month after the entry into force of this Law. Actions and enforcement proceedings related to the Highway Traffic Guarantee Insurance Account shall continue in relation to the Account.

PROVISIONAL ARTICLE 2 - (1) Regulations relating to the implementation of this Law shall be issued by the Ministry that the Undersecretariat is attached to, within one year after the entry into force of this Law.

(2) Until the entry into force of regulations provided in this Law enter, the provisions of the current regulations which are not contrary to this Law shall continue to be implemented.

(3) Until the first paragraph of Article 12 of this Law about freedom of tariff and the fourth paragraph of Article 17 about the opportunity to block or establish mortgage over the minimum guarantee fund assets enter into force, the related provisions of Insurance Supervision Law No: 7397 abolished by this Law shall continue to be implemented.

PROVISIONAL ARTICLE 3 - (1) Those that do not make necessary changes to comply with branch arrangements that shall be determined according to Article 5 of this Law within a year after the entry into force of this Law, shall not conclude new insurance contracts or make addendum, extension or renewal which may increase the risk.

(2) Mixed companies that had not transferred their portfolio relating to life assurance before the entry into force of this Law, have to transfer the said portfolio within a year after the entry into force of this Law. If there are one or more insurance companies which agree to take over the portfolio of the companies, partly or in full, which do not perform this obligation, the portfolio shall be transferred by the Minister ex-officio. The companies, their portfolio has not been transferred yet shall not conclude new insurance contracts or make addendum, extension or renewal which may increase the risk in the life assurance branch until the transfer operation is completed.

PROVISIONAL ARTICLE 4 - (1) The sixth paragraph of Article 20 of this Law shall be in force for the persons who have been assigned by the Insurance Supervision Law No: 7397 abolished by this Law, and actions and enforcement proceedings against these persons.

PROVISIONAL ARTICLE 5 - (1) The earthquake claim reserves kept according to Article 25 of the Insurance Supervision Law No: 7397 abolished by this

Law shall be transferred to precautionary reserve funds within three months after the entry into force of this Law.

PROVISIONAL ARTICLE 6 - (1) The loss adjuster and broker licenses given before the entry into force of this Law are valid until they are changed by the Undersecretariat. Those who do not change their licenses within a year after the coming into force of this Law shall not continue professional activity. Loss adjusters have to register in the Register within four months after the entry into force of this Law to continue loss adjusting activity.

PROVISIONAL ARTICLE 7 - (1) Insurance agents have to take certificate of conformity from the Undersecretariat and register in the Register within a year after the entry into force of this Law. Those who do not comply with this obligation shall not continue insurance agency activities.

PROVISIONAL ARTICLE 8- (1) Even if they have enjoyed amnesty, excluding crimes committed by imprudence before the Turkish Criminal Code No: 5237, those who have been sentenced to heavy imprisonment, or imprisonment more than five years, or imprisonment or heavy pecuniary penalties more than once for violation of insurance regulations notwithstanding the type of the punishment decided, those who have been convicted of infamous offences such as simple or qualified embezzlement, corruption, bribery, theft, fraud, breach of trust, fraudulent bankruptcy, gross misconduct as well as smuggling offences, fraudulent

acts in public procurements and purchases and sales, money laundering, revealing secrets of the state or tax evasion or attempt to tax evasion, shall not be a founder in the insurance or reinsurance companies, act as insurance agent, broker or loss adjuster and be a shareholder or employed in legal persons established for this purpose.

(2) The provisions of the first paragraph shall be applied to the references made to the qualifications of the founders of the insurance and reinsurance companies in this Law.

PROVISIONAL ARTICLE 9 - (1) As long as the money currency in circulation is named as New Turkish Lira according to the Law Relating to the Currency of the Republic of Turkey No: 5083 and dated 28.1.2004, this phrase shall continue to be used instead of Turkish Lira.

Entry into Force

ARTICLE 46-(1)

a) The first paragraph of Article 12 about freedom of tariff and the fourth paragraph of Article 17 about the opportunity to block or establish mortgage over the minimum guarantee fund assets shall enter into force three months after the publication of this Law,

b) The other provisions of this Law shall enter into force at the date of publication.

Enforcement

ARTICLE 47 - (1) The provisions of this Law will be executed by the Council of Ministers.