
NORWAY

ACT ON INSURANCE ACTIVITY

No. 39 of 10 June 1988

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*This translation is for informational purposes only.
Legal authenticity remains with the original Norwegian version.*

KREDITTILSYNET

(The Banking, Insurance and Securities Commission of Norway)

Act on Insurance Activity

(No. 39 of 10 June 1988, last amended on 1 January 2001)

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Part I Introductory provisions. Licence

Chapter 1 General provisions

Section 1–1 (introductory provisions)

Insurance activity may only be engaged in by insurance companies and pension funds. Pension funds may only write group pension insurance for employees at an enterprise for which the pension fund has been established.

The rules of this Act apply to insurance companies and their activity. The King may provide that this Act or parts of it shall apply to pension funds and may make further rules in this regard.

The term “insurance” and other terms carrying the same meaning may, in official names and marketing, only be used in business activity which is, or is operated in connection with, insurance activity.

Section 1–2 (separation of insurance classes)

Life insurance companies may only write life insurance. Kredittilsynet may authorise life insurance companies to write other insurance of persons.

Credit insurance companies may only write credit insurance. Kredittilsynet may make further rules about what insurance contracts are to be deemed credit insurance.

Non–life insurance companies may only write insurance which is not life insurance or credit insurance. Kredittilsynet may authorise life insurance companies to write life insurance in the form of pure risk insurance contracts of a maximum of one year’s duration and reinsurance in the field of life insurance.

Kredittilsynet decides in cases of doubt whether an insurance contract may or must be written by life insurance or credit insurance companies.

Under the remaining rules of this Act, credit insurance companies are regarded as non–life insurance companies and credit insurance as non–life insurance, unless otherwise provided.

Section 1–3 (professional secrecy)

Employees and elected officers of an insurance company are required to keep confidential any information they receive about the business or private circumstances of others, unless they are obliged by law to furnish such information. The same applies to others who perform assignments for insurance companies.

The professional secrecy pursuant to the first paragraph does not prevent the board of directors or someone authorised by the board of directors from giving other financial institutions information received by the company in its capacity as a financial institution. The same applies to the communication of health and claims information to another insurance

company, unless restrictions on the right to communicate such information are imposed by the King.

Section 1–3a (elected officers' and employees' trading for own account)

The Act on Securities Trading (no. 79 of 19 June 1997) sections 2a–1 to 2a–7 apply to elected officers' and employees' trading for own account.

Section 1–4 (the territorial extent of the Act)

This Act applies on the continental shelf and in Svalbard, unless otherwise required by Norway's obligations under international law.

Chapter 2 Licence

Section 2–1 (licence)

An insurance company may not carry on activity without authorisation from the King, who may attach conditions to such authorisation. An insurance company shall have its registered office and head office in Norway.

Authorisation shall be granted unless there is reason to assume:

- (1) that the company will not satisfy the requirements set by or pursuant to law,
- (2) that the initial capital is not in reasonable proportion to the planned activity, or
- (3) that authorisation will in other ways adversely affect the policyholders or groups of policyholders.

Authorisation is granted for one or more classes of insurance, or for part of a class. Authorisation may be limited to a particular geographical area, to particular customer groups or in other ways.

A decision on an application for authorisation under the first paragraph, cf. the third paragraph, shall be communicated to the applicant within six months of receipt of the application. If the application does not contain the information needed to decide whether authorisation should be granted, the time-limit shall be reckoned from the date when such information was received.

Section 2–2 (revocation of licence)

The King may revoke a licence or part of it where:

- (1) the board of directors or other bodies of the insurance company are guilty of gross or persistent infringement of their duties under law, regulations made pursuant to law, the conditions set pursuant to section 2–1 or the company's articles of association,
- (2) there has been misconduct on the part of the company's management, or other events that give reason to fear circumstances as referred to in section 2–1 second paragraph no. (1) and (3),
- (3) the insurance company no longer has a satisfactory financial basis, or
- (4) the insurance company no longer carries on activity in the class of insurance concerned.

For companies as referred to in section 2–4 first paragraph, authorisation may also be revoked where the conditions of section 12–1 second paragraph are no longer met.

Section 2–3 (application for licence)

An application for authorisation pursuant to section 2–1 for a new insurance company shall include a plan of operations for the company's first three years of operation. The plan of operations shall contain:

- (1) an overview of the kind of insurance products the company will offer,
- (2) information on the company's capital base,
- (3) budget for establishment and administrative expenses
- (4) information on what principles the company will employ for calculating premiums,
- (5) information on how the company intends to arrange the reinsurance cover, and
- (6) a forecast for the financial position after three years' operation.

The application shall be accompanied by:

- (1) the company's articles of association,
- (2) a certified copy of the memorandum of association, and
- (3) a certified copy of the minutes of the statutory meeting.

Kredittilsynet may request further information, and make further rules concerning the content of applications for licences.

Section 2–4 (foreign and foreign-owned insurance companies)

Foreign insurance companies may be granted a licence to carry on activity in Norway under the rules of chapter 12.

The negotiating of insurance contracts with insurance companies which are not authorised to carry on activity in Norway is prohibited. The prohibition does not encompass non-life insurance concerning industrial and other commercial risks. The King may make further rules on the activities of insurance intermediaries.

The King may lay down regulations stipulating the extent to which the provisions of the preceding paragraphs shall apply in respect of insurance companies whose head offices are in another state in the European Economic Area, and make further rules for the activity of such companies in Norway.

Part II Provisions of company law

Chapter 3 General rules on insurance companies

Section 3–1 (forms of business organisation)

Insurance companies must be organised as private limited companies, public limited companies or mutual companies.

Unless otherwise provided in or pursuant to this Act, the rules of the Act relating to Private Limited Companies and the Act relating to Public Limited Companies apply respectively to private limited insurance companies and public limited insurance companies. The Act relating to Private Limited Companies section 3–5 first paragraph third sentence and section 8–1 second paragraph and the Act relating to Public Limited Companies section 3–5 first paragraph third sentence and section 8–1 second paragraph do not apply to insurance companies.

Unless otherwise provided in or pursuant to this Act, the Act relating to Private Limited Companies Act does not apply to mutual insurance companies.

Section 3–2 (articles of association)

An insurance company's articles of association shall be approved by the King and may not be amended without the King's approval.

The articles of association of a life insurance company shall contain rules for determining dividend on the share or guarantee capital, and for the right, if any, to retain profits belonging to the insurance company.

Section 3–3 (registration)

An insurance company shall be registered with the Register of Business Enterprises no later than six months after authorisation pursuant to section 2–1 has been granted.

The registrar of companies shall verify that the company is authorised under section 2–1 to carry on activity, and that its articles of association are approved under section 3–2.

The Act relating to Private Limited Companies section 2–20 applies correspondingly to mutual insurance companies.

Section 3–4 (name)

An insurance company's name must contain the word "insurance" or other words or expression with the same meaning. Moreover, the form of organisation must be clear from the company's name.

Section 3–5 (special rules for groups of companies)

An insurance company may only form part of a group of companies under the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 (a) or (b) provided

- (a) the parent company, the companies forming the group or other holding company is not a credit insurance company, and
- (b) the parent company, the companies forming the group, and in the event all other companies in the group to which the insurance company belongs, individually and as a whole meet the conditions of section 7–1 and section 7–2 of this Act. The King may make regulations to the effect that the group as a whole must also comply with other rules laid down in or pursuant to this Act.
- (c) the group has been established by authorisation pursuant to the Act on Financing Activities and Financial Institutions section 2a–3.

The shares of insurance companies that are subsidiaries of foreign insurance companies may only be owned by financial institutions.

Section 3–6 (merger, demerger etc.)

Merger and demerger of insurance companies and companies which own an insurance company in conformity with the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 may not take place without authorisation from the King. The disposal of substantial portions of the company's assets is regarded as equivalent to demerger. The King decides in cases of doubt whether a disposal encompasses substantial portions of the company's assets.

Acquisition of shares of an insurance company which is already authorised to carry on activity under section 2–1 requires the King's approval where the acquisition entails that the company will become a wholly-owned subsidiary in a group as referred to in the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1. The same applies where the acquisition entails that the insurance company will become a subsidiary of a foreign insurance company.

Section 3–7 (increase of capital base)

Unless authorised by the King, the capital base may not be increased by other means than retained profits. Such conditions as are suited to safeguarding the interests to be protected by this Act and the Act on Financing Activities and Financial Institutions (no. 40 of 10 June 1988) may be attached to the authorisation.

Section 3–8

Transfer of a company's insurance portfolio or of parts of it requires authorisation from the King in cases where the insurance portfolio is acquired in accordance with either the rules on the right of establishment or the rules on the freedom to provide services pursuant to the EEA Agreement, and it is desired to transfer the insurance portfolio to an insurance company whose head office is in the European Economic Area.

The King makes further rules concerning transfers under the first paragraph, including rules on:

- (a) necessary confirmations, authorisations etc. from supervisory authorities in other EEA states
- (b) the company's duty to inform the policyholders
- (c) the policyholders' right to cancel the insurance contract
- (d) publication of the transfer.

The first and second paragraphs of this section apply correspondingly to the transfer of an insurance portfolio from the branch of an insurance company whose head office is not in an EEA state to an insurance company established in Norway or in another EEA state.

Chapter 4 Special rules on mutual insurance companies

Section 4–1 (formation)

A mutual insurance company may be formed by one or more founders. The founders shall draw up, date and sign a document containing draft articles of association and provisions as referred to in section 4–4.

At least half of the founders shall be resident in Norway and shall have lived here for the past two years, unless the King makes an exception in the individual case. The state and Norwegian municipalities and Norwegian limited liability companies, associations and foundations are regarded as equivalent to persons residing in Norway. The provision of the first sentence does not apply to citizens of states that are party to the EEA Agreement when they are resident in such a state. Neither does the first sentence apply to legal persons as referred to in the EEA Agreement Article 34 second paragraph that is established in accordance with the legislation of one of the EU member states or an EFTA state, and whose registered office (as provided by its articles of association), main administration or main undertaking is within the territory of an EU or EFTA state.

Section 4–2 (guarantee fund)

The guarantee fund (guarantee capital) may consist of subordinated loan capital. The loan may be granted by a private limited company or a public limited company that is founded for this purpose, by another company or by other parties.

Loan capital as referred to in the first paragraph may also be raised by issuing negotiable primary capital certificates conferring the right of representation at the general meeting, cf. section 4–3 no. 2. The King may provide that certain rules of the Act relating to Private Limited Companies shall apply to primary capital certificates. Resolutions regarding repayment of primary capital certificates issued under this paragraph are not valid unless authorised by the King. The King may make further rules restricting the right to own primary capital certificates, including rules restricting foreigners' right (for the purpose of the present Act) to own primary capital certificates.

Section 4–3 (articles of association)

The articles of association shall, in addition to the items referred to in section 5–1 first paragraph, state:

1. Items specified in the Act relating to Private Limited Companies section 2–2 first paragraph no. 1, 2, 3, 6 and 7.
2. The rules for membership, composition of the general meeting and voting rights at the general meeting.
3. The number of insurance contracts and the total of sums insured that needs to be written in order for the company to commence activities.
4. The rules for the members' mutual liability.
5. The rules for dissolving the company.
6. The rules for allocation of the annual profit and for covering any deficit.
7. The rules for when the general meeting shall be held.
8. The rules for who shall convene the general meeting, and how this shall be done.

Section 4–4 (memorandum of association)

The memorandum of association shall in addition state:

1. The classes of insurance.
2. When the statutory meeting must be held in order for writing of insurance contracts to be binding on the members.
3. The size of a guarantee fund, if any.
4. What portion of the guarantee fund shall, in the event, be paid up immediately and the rules for the guaranteeing company's obligation to make further payments to the guarantee fund.
5. The rules for payment of interest on and repayment of the guarantee fund, if any.
6. Rules, if any, to the effect that the guaranteeing company shall be entitled to exert influence on or supervise the insurance company.
7. Who shall pay the expenses of establishment, and, in the event, compensation to persons for work done in connection with the establishment.

Provisions not set forth in the memorandum of association may not be invoked against the company.

Section 4–5 (invitation to take out insurance)

The provision of section 2–1 on the licensing requirement shall not prevent the enrolment of members where such enrolment is for the purpose of forming a mutual insurance company. The company incurs no insurance liability, nor may premiums be collected, until the company is duly registered.

Section 4–6 (notice of the statutory meeting)

The founders summon the members to the statutory meeting which shall be held no later than six months after the memorandum of association has been signed. If this time-limit is exceeded, enrolment is not binding.

Section 4–7 (statutory meeting)

The decision to form the company is taken at the statutory meeting.

The enrolment list shall be made available to the enrolled members for at least one week prior to the statutory meeting at the venue stated in the notice of the meeting.

At the statutory meeting the founders shall present the memorandum of association and the list of enrolled members.

If the number of written insurance contracts and the total of written sums insured fall short of the figure required by the memorandum of association, cf. section 4–3 no. 3, no decision to form the company may be taken. In such case the amounts that have been paid in shall be refunded without delay.

Before a decision to form the mutual insurance company can be taken, the statutory meeting shall have considered and decided any proposal that may have been put forward to amend the

articles of association or the memorandum of association. The statutory meeting may nonetheless not adopt a decision that conflicts with the memorandum of association in cases as referred to in section 4–3 no. 2, 3, 4 and 5 and section 4–4 no. 1, 3, 4 and 5.

A proposal to form the company is deemed to be adopted when it is supported by a majority of the votes cast and by at least two-thirds of the capital represented at the statutory meeting. In the absence of such majority, formation of the company cannot take place.

Once the company is formed, the general meeting shall appoint a control committee and, in the event, a committee of representatives or board of directors.

Section 4–8 (apportionment of profits and deficits)

Unless otherwise provided in the articles of association, profits and deficits shall be apportioned on persons who were members in one and the same accounting period, in proportion to an estimated prepaid premium.

The articles of association of a life insurance company may provide that the members shall not be liable for the company's obligations, but that deficits shall instead be apportioned by means of a pro rata reduction of insurance claims.

Section 4–9 (liability towards third parties)

The members' liability for the company's obligations may only be invoked by the company.

The company's claim for contributions from the members when apportioning deficits may not be transferred, pledged as security or distrained on for debt.

Section 4–10 (co-operation)

Mutual companies may through co-operation agreements form group entities based on common company bodies established in articles of association, and the articles of association may in such case deviate from the rules of this Act and of the Act on Financing Activities and Financial Institutions.

Chapter 5 The bodies of the company

Section 5–1 (board of directors)

An insurance company shall have a board of directors of at least three members. The employees of the company shall be represented on the board of directors. The King may make further rules in this respect. A majority of the board of directors shall be persons who are not employed by the company or by companies in the same group, cf. Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1. The chairman shall be appointed from among this majority. The articles of association shall contain rules concerning alternates.

The members of the board of directors are elected by the committee of representatives. If the company does not have a committee of representatives, the members of the board of directors

are elected by the general meeting. The right to elect that accrues to the committee of representatives or the general assembly may be transferred by the articles of association to others, but not to the board of directors or members thereof.

The rules of this section also apply to a company which owns a private limited insurance company or a public limited insurance company under the rules of the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 litra a. In such cases the first paragraph fourth and fifth sentence does not apply to the owned company. The King may authorise the owned insurance company to have the same board of directors as the owning company.

Section 5–2 (managing director)

An insurance company shall have a managing director (manager).

Section 5–3 (application of the Act relating to Private Limited Companies to mutual companies)

The rules of the Act relating to Private Limited Companies sections 6–1 to 6–3 and sections 6–6 to 6–34 apply correspondingly to mutual insurance companies unless otherwise provided by the present Act.

Section 5–4 (committee of representatives)

At insurance companies with more than 50 employees a committee of representatives shall be elected comprising 12 members, or a higher number divisible by 3 which shall be stipulated by the general meeting.

Two thirds of the members with alternates shall be elected by the general meeting. The elected members shall together reflect the company's interest groups, customer structure and role in society. The articles of association shall contain further rules in this respect. The articles of association may transfer the right to elect to others.

One third of the members with alternates are elected by and from among the employees in accordance with rules made by the King.

The King may grant an exemption from the requirement that the company shall have a committee of representatives. In such case the company's board of directors shall as far as possible be composed in accordance with the rules of this section.

The committee of representatives shall perform the tasks required of a corporate assembly under the Act relating to Public Limited Companies sections 6–35 to 6–40, unless the company's articles of association give the committee of representatives further competence.

The rules of the first, second, third and fifth paragraphs also apply to a company which owns a private limited insurance company or a public limited insurance company under the rules of the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 litra a.

Section 5–5 (control committee)

An insurance company shall have a control committee with at least three members and one alternate. Members and alternates are elected by the general meeting. One member of the committee shall satisfy the requirements set for judges under the Act on the Courts of Justice (no. 5 of 13 August 1915) section 54 second paragraph. The election of this member shall be approved by Kredittilsynet. Kredittilsynet may grant exemption from the provisions of the two previous sentences.

Co-operating companies may have a common control committee.

The rules of this section also apply to a company which owns a private limited insurance company under the rules of the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 (a). In such cases the King decides whether the first paragraph shall apply to the owned company.

The members of the control committee may not be chairman or deputy chairman of the committee of representatives, member of the board of directors, alternate to the board of directors, the company's auditor or employee of the insurance company, or be closely related or related by marriage to any of these as referred to in the Act on Public Administration section 6.

Section 5–6 (tasks and powers of the control committee)

The control committee shall oversee the activities of the insurance company, and ensure that it complies with laws, regulations and terms and conditions, as well as with articles of association and resolutions of the company's decision-making bodies. The control committee may take up any company matter whatsoever for consideration.

The control committee may at any time demand access to the company's records and documents, and request that elected representatives and employees shall furnish such information as the committee considers necessary for it to discharge its duties.

The committee of representatives adopts instructions for the control committee. The instructions shall be approved by Kredittilsynet.

Section 5–7 (the control committee's duty to furnish reports)

The control committee shall keep a record of its meetings. The record shall be made known to the board of directors.

The control committee shall submit a report to the committee of representatives at least once a year.

Should the committee become aware of material acts of negligence, errors or irregularities of substantial significance or scope or is of the opinion that the company has incurred major losses, it shall take the matter up with Kredittilsynet without delay.

Section 5–8 (general meeting)

At the general meeting of private limited insurance companies and public limited insurance companies and of companies which own a private limited insurance company or a public limited insurance company in accordance with the rules of the Act on Financing Activities and Financial Institutions section 2–2 second paragraph no. 1 (a), the restrictions on voting rights set out in the Act on Financing Activities and Financial Institutions section 2–4 shall apply.

Kredittilsynet takes the place of the probate court in the exercise of powers as referred to in the Act relating to Private Limited Companies section 5–8 second paragraph and section 5–12 first paragraph third sentence and the Act relating to Public Limited Companies section 5–8 second paragraph and section 5–12 second paragraph. The provisions of the Act relating to Private Limited Companies concerning the general meeting apply correspondingly to mutual companies.

Chapter 6 Auditing and investigation**Section 6–1 (auditing and investigation)**

The committee of representatives elects one or more registered public accountants or state authorised public accountants, and approves the remuneration of the public accountant.

Kredittilsynet takes the place of the probate court in the exercise of powers pursuant to the Act relating to Private Limited Companies and the Act relating to Public Limited Companies sections 5–25 to 5–27 and section 7–3. The rules of the Act relating to Private Limited Companies chapter 7 and sections 5–25 to 5–27 and the Act on Auditing and Auditors apply correspondingly to mutual companies.

Part III The activities of insurance companies**Chapter 7 Regulation of the activities of the companies****Section 7–1 (prohibition of other activities)**

An insurance company may only carry on insurance activities and activities naturally associated with insurance activities.

The provision of the first paragraph does not prevent an insurance company from temporarily carrying on or participating in the operation of other activities to the extent necessary to cover claims or deal with a claim settlement. Kredittilsynet may require the company to cease such activity within a stipulated period.

The King may make further rules concerning the type of activity insurance companies may engage in and make general or individual exceptions from the provision of the first paragraph.

Section 7–2 (ownership interests in and influence on other companies)

An insurance company may not own, or by voting represent, more than 15 per cent of the shares or interests in a company carrying on activities which pursuant to section 7–1 may not be carried on by insurance companies. However, the prohibition does not apply where the overall value of such investments is less than the assets of the insurance company that remain after deduction of technical provisions covering the insurance liabilities, provided that the financial risks related to the investment are limited to the value of the investment in question.

The King may in special cases make exceptions from the provisions of this section and attach conditions to such exception.

The provisions of this section do not apply to right of insurance companies to own shares or interests in financial institutions. Investment firms, estate agencies, undertakings which manage securities funds and foreign financial institutions are also regarded as financial institutions.

Section 7–3 (capital adequacy requirements)

An insurance company shall have a capital ratio which at all times constitutes at least 8 per cent of the company's assets and the company's off-balance sheet commitments, calculated in accordance with principles for risk-weighting.

The King may stipulate:

- (a) a minimum capital base
- (b) rules for the basis of calculation
- (c) items eligible for inclusion in the capital base
- (d) a percentage other than that referred to in the first paragraph to bring Norwegian provisions into line with international standards.

The King may in special cases and for a limited period consent to an insurance company employing a lower capital ratio than stipulated.

Kredittilsynet supervises the solvency of insurance companies. Should a company fail to meet the capital adequacy requirements, the King may order the company to cease writing new insurance. The King may also order the company to take certain measures in order to comply with the capital adequacy requirements.

An insurance company shall at all times have sufficient capital to cover the solvency margin in respect of the company's overall business. The King may lay down regulations governing the calculation of the solvency margin, the capital that is eligible to meet the requirement and other conditions with a bearing on the implementation of the solvency margin requirement. The third and fourth paragraphs apply correspondingly.

Section 7–4 (asset management)

An insurance company shall provide for proper asset management. In order to fulfil its insurance obligations, an insurance company shall ensure that assets covering the technical provisions are at all times appropriately and satisfactorily invested with reference to the

nature of the company's insurance obligations and in the interest of safety, risk diversification, liquidity and yield.

The King may make further rules concerning the asset management.

Should Kredittilsynet find that an insurance company has invested its capital contrary to law or regulations or in an otherwise unsatisfactory or evidently detrimental manner, Kredittilsynet may order the company to alter the investment within a stipulated period.

Section 7-5 (allocation of expenses, losses, revenues and funds etc.)

An insurance company shall allocate its expenses, losses, revenues and all funds etc, in a reasonable manner between classes of insurance, insurance contracts and insured parties. The same applies to companies within the same group.

Kredittilsynet shall supervise the allocation referred to in the first paragraph. Where Kredittilsynet deems the allocation to be unreasonable, Kredittilsynet may order the company to undertake a new allocation. Kredittilsynet may also establish further rules for the allocation.

Section 7-6 (premiums)

An insurance company shall employ premiums which are in reasonable proportion to the risk it assumes and to the financial situation of the company. The premiums shall be sufficient to ensure fulfilment of the insurance contracts entered into. Kredittilsynet shall supervise the premiums to ensure that they serve this purpose.

The King may make further rules concerning the duty of an insurance company to notify Kredittilsynet about the technical calculation basis for life and pension insurance premiums and concerning what items such notification shall contain. The King may also make further rules concerning interest rates and other elements of calculation which the company may include in the calculation basis for prudential purposes.

The King may establish rules requiring an insurance company to separate the risk element, the savings element and the expenses element when calculating the premiums.

The King may prohibit the use of premiums which the King deems to be unsatisfactory or unreasonable.

Section 7-7 (insurance terms and conditions)

An insurance company shall employ insurance terms and conditions that are reasonable and satisfactory. Kredittilsynet shall supervise that the insurance terms and conditions employed meet this requirement. Kredittilsynet may prohibit the use of terms and conditions which Kredittilsynet deems to be unsatisfactory or unreasonable.

Section 7–8 (right to transfer accumulated funds on a life insurance contract or an individual or occupational pension insurance contract to a new insurance company)

A life insurance or pension contract may by notification to the company be cancelled for transfer of the accumulated funds to another company or pension fund. Once the contract has terminated a request may be made to effect transfer of the accumulated funds linked to the contract to another life insurance company or, in the case of group pensions, to a pension fund supervised by Kredittilsynet. Even if the contract is not cancelled, a request may, upon notification to the company as referred to above, be made to effect transfer of part of the accumulated funds provided that Kredittilsynet approves the transfer.

An employee who is a member of a group pension scheme is entitled upon termination of his employment to have a portion of the accumulated funds transferred for use in, and to secure, corresponding pension rights pertaining to a new employment.

The King makes further rules concerning the conditions attached to the right of transfer under the first and second paragraph and concerning the implementation of such right, including rules concerning notice of termination and rules for securing beneficiaries' rights and the rights of the insured parties under group insurance. Kredittilsynet makes further rules concerning calculation of the amounts which may be transferred to another company or pension fund and concerning what portion of the accumulated funds shall be retained to cover obligations to groups or persons not affected by the transfers.

Section 7–9 (management and use of means in premium funds and pension adjustment funds)

The King may make rules concerning management and use of premium funds and pension adjustment funds for occupational pensions and premium funds for individual pensions.

Section 7–10 (keeping of accounts, statements of account)

In life and pension insurance the company shall establish and keep an account for each insurance contract which shall contain the accounting for the insurance contract and the position as at 31 December in the individual year. The company shall send the policyholder a statement of the account each year.

Kredittilsynet makes further rules in this respect.

Chapter 8 Profits in life insurance, requirements as to provisions in life and non-life insurance etc.

Section 8–1 (profits in life insurance)

The capital that is accumulated in a life insurance company shall, unless otherwise provided by the articles of association, cf. section 3–2, revert to the policyholders or the persons entitled to the benefits under the insurance contracts.

Kredittilsynet shall supervise reversion pursuant to the first paragraph, and may prohibit the company from making reversions that Kredittilsynet deems liable to affect the financial soundness of the company.

The capital referred to in the first paragraph shall be distributed annually among the individual contracts. Accumulated and future profits shall be distributed in accordance with the contribution of the individual contract to the creation of the profits and in accordance with the premium basis and calculation basis specified for the individual contract. Means intended for the contingency fund shall not be distributed unless otherwise provided pursuant to section 8–4. Kredittilsynet makes further rules on how the distribution shall be effected, and on the keeping of accounts for the individual contracts.

Section 8–2 (insurance fund in life insurance)

An insurance company shall include in its annual balance sheet an insurance fund to cover the company's obligations under its life insurance contracts. This fund shall also include provisions with a view to additional benefits over and above the contractual obligations, cf. section 8–1.

The insurance fund shall as a minimum constitute the difference between the capital value of the company's future obligations as referred to in the first paragraph and the capital value of the future net premiums (prospective method of calculation). For unit linked insurance contracts without a guaranteed interest rate, where calculations by a prospective method cannot be utilised, allocations to the insurance fund shall comprise the value of the investment portfolio to which the insurance contract is assigned.

Deductions may be made in respect of reinsured risk in accordance with further rules made by Kredittilsynet.

The King may lay down further regulations concerning the insurance fund.

Section 8–3 (changes in the reserve basis in life insurance)

Where the company changes the basis for calculation of the capital value such that the company is compelled to increase its technical provisions for previously written insurance, Kredittilsynet may give the company a deadline for meeting the new requirement for technical provisions. The new requirement shall be met in accordance with a plan to be notified to Kredittilsynet.

Section 8–4 (contingency fund in life insurance)

An insurance company shall include a contingency fund in its annual balance sheet for the purpose of meeting unforeseeable losses. The King may lay down further regulations concerning the contingency fund.

Section 8–5 (life insurance benefits in wartime)

Should Norway enter into war, the King may decide that benefits pursuant to life insurance contracts shall only be paid in part. The King may also make other necessary changes in life insurance contracts in order to cover a life insurance company's losses due to war.

Section 8–6 (technical provisions etc., in non–life insurance)

The King lay down regulations concerning technical provisions in non–life insurance, including fluctuation provisions and other provisions to cover risk factors arising out of the insurance activity.

Section 8–7 (actuary)

A life insurance company shall employ an actuary to make the necessary technical calculations and investigations. The actuary shall be approved by Kredittilsynet.

The King may make further rules concerning approval and concerning the responsibilities, rights and duties of the actuary. The King may also make rules concerning actuarial qualifications for non–life insurance companies, and on the right to employ a body corporate as actuary.

Part IV Guarantee schemes and rules for winding up

Chapter 9 Guarantee schemes

Section 9–1 (guarantee scheme of non–life insurance companies)

All companies with a licence to carry on direct non–life insurance, except credit insurance, are required to be members of the guarantee scheme of non–life insurance companies.

The members are obliged to contribute to the guarantee scheme in proportion to their direct premium income in Norway during the last three financial years. Over a period of three years a member may not be charged contributions higher than 1.5 per cent of its direct premium income in Norway during the last three financial years.

Kredittilsynet makes rules for the members' annual provisions to the guarantee scheme.

Section 9–2 (board)

The guarantee scheme shall have a board of five members with personal alternates, all of whom are appointed by the King. A decision by the board is valid when at least three board members vote in favour.

Kredittilsynet has the right to call a meeting of the board when it is deemed necessary. Kredittilsynet is required to call a meeting of the board without delay when there is reason to fear that a member of the guarantee scheme will not be in a position to fulfil its obligations under the insurance contracts.

The expenses associated with the guarantee scheme are apportioned in accordance with the rules that apply to the apportionment of expenses on insurance supervision.

Section 9–3 (activities of the guarantee scheme)

The board decides the call for contributions from the members, and decides how the contributions shall be used to prevent or reduce losses for the parties insured under the insurance contracts. Conditions may be set for assisting a company.

The decisions of the board may be appealed to or reversed by the King under the provisions of the Act on Public Administration chapter VI.

The guarantee scheme succeeds to claims of the insured parties on the company to the extent that such claims are covered by the guarantee scheme. The board decides the application of means received as a result of claims being paid.

Section 9–4 (life and credit insurance companies)

The King may lay down regulations concerning guarantee scheme for life insurance companies and credit insurance companies.

Chapter 10 Winding up and merger

Section 10–1 (winding up of an insurance company)

A resolution to wind up or dissolve an insurance company must be approved by the King. This does not apply where the company's licence is withdrawn. In such case the board of directors is obliged to initiate winding up without delay.

After a resolution as referred to in the first paragraph first sentence is approved, writing of new and renewal of older insurance contracts shall not take place.

Kredittilsynet takes the place of the probate court in the application of the rules of the Act relating to Private Limited Companies and the Act relating to Public Limited Companies chapter 16. The Act relating to Private Limited Companies chapter 16 applies correspondingly to mutual companies.

Section 10–2 (obligation to wind up a mutual company)

If the insurance portfolio of a mutual insurance company falls below the level stipulated in the articles of association pursuant to section 4–3 no. 3, the board of directors is obliged without delay and at a maximum of 14 days' notice to call a meeting of the company body that is authorised to decide that the company shall be winded up.

If winding up is not decided upon, and the insurance portfolio remains below the stipulated level three months after the company body held its meeting, the board of directors is obliged to initiate winding up. Writing of new and renewal of older insurance contracts shall not take place after winding up is decided or has been initiated.

Section 10–3 (transfer of the insurance portfolio)

The winding up board may enter into an agreement with another insurance company on transfer of the entire insurance portfolio. Such agreement must be approved by Kredittilsynet. Sections 11–9 and 11–10 apply correspondingly.

Section 10–4 (conversion to another form of business organisation)

Contracts entered into with an insurance company prior to conversion to another form of business organisation are binding on the insurance company and its co-contracting parties after conversion.

Section 10–5 (merger and demerger)

A mutual insurance company may transfer assets, rights and obligations in their entirety to another mutual insurance company provided that the members become members of the acquiring company.

Kredittilsynet takes the place of the probate court in the exercise of authority as referred to in the Act relating to Private Limited Companies section 13–15 and section 14–7, cf. section 13–15. The rules of the Act relating to Private Limited Companies chapter 13 and 14 and section 4–26 apply correspondingly to mutual insurance companies.

Chapter 11 Public administration of insurance companies

This chapter has been replaced by chapter 4 of the Act of 6 December 1996 on guarantee schemes for banks and public administration etc., of financial institutions.

Part V Miscellaneous provisions

Chapter 12 Activities of foreign insurance companies in Norway

Section 12–1 (branches of foreign companies)

A foreign insurance company may carry on insurance activity in Norway through a branch. The provisions of sections 3–1 to 3–7 inclusive, chapters 4, 5 and 10 and sections 7–3 and 8–6 do not apply to branches of foreign companies.

A licence pursuant to the first paragraph may only be granted to a foreign insurance company that is licensed to carry on insurance activity in its home state and is subject to satisfactory supervision in that state. Before the insurance company commences operations in Norway through a branch, a satisfactory co-operation on supervision shall have been established between the supervisory authorities in the home state of the insurance company and Kredittilsynet.

A foreign company which does not fulfil the requirements of section 1–2 in its home state may establish two or more branches in Norway in accordance with section 1–2. Each of these

must satisfy the conditions of sections 12–2 to 12–8. A company whose head office is in another state within the European Economic Area and which carries on activity in Norway as a non-life insurance company may also write credit insurance.

Section 12–2 (general agent)

The company shall designate an authorised agent (a general agent) to manage the branch in Norway. The general agent represents the company in its external dealings, and is authorised to bind the company vis-à-vis third parties and to receive notices of legal action on behalf of the company. The general agent shall be resident in Norway.

A company may only have one general agent within each of those insurance classes which, pursuant to section 1–2, cf. section 12–1 third paragraph, must be operated by separate branches. A general agent may however utilise sub-agents.

A Norwegian limited liability company may be a general agent if all its board members are residents in Norway. A company of another type may be a general agent if all its liable partners are residents in Norway.

Section 12–3 (Norwegian law)

Unless otherwise provided by or pursuant to law, the foreign company shall in all legal matters arising out of the activities of the branch be subject to Norwegian law and to the decisions of Norwegian courts. The company's legal venue is the locality where the branch has its registered place of business.

Section 12–4 (capital requirements in non-life insurance)

A foreign non-life insurance company with a branch in Norway shall possess such capital in Norway as is defined under rules made by the King.

Section 12–5 (capital requirements in life insurance)

A foreign life insurance company with a branch in Norway shall possess such capital in Norway as is defined under the rules of section 8–2 second to last paragraph, section 8–3 and section 8–4. The King may make rules regarding minimum capital requirements in Norway.

Section 12–6 (depositing, public administration, liquidation)

The capital which a foreign insurance company is required to hold in Norway under sections 12–4 and 12–5 shall be deposited with a Norwegian bank and managed in accordance with the rules applying to similar Norwegian insurance companies. The bank concerned is responsible for ensuring that such capital is not released or disbursed without Kredittilsynet's approval.

If the foreign company become subject to insolvency proceedings in its home state or if Kredittilsynet otherwise has reason to believe that the company will not fulfil its obligations pursuant to insurance contracts entered into via the branch in Norway as they fall due, the rules of chapter 11 apply correspondingly insofar as they are applicable to the company's capital in Norway.

Upon closure of the branch the deposited amount may not be released until the company has met all its known obligations pursuant to insurance contracts entered into via the branch. Before the amount is released an invitation shall be published in the Norwegian Gazette calling on potential rights holders to come forward within a time limit set by Kredittilsynet.

The rules of this section do not apply to companies whose head office is in another state in the European Economic Area. The King may make further rules on depositing, on branch closure and on the procedure to be followed in insolvency cases in the case of a company whose head office is in another state in the European Economic Area and which carries on activity through a branch in Norway.

Section 12–7 (application for licence)

In addition to what follows from chapter 2, an application for licence for a foreign branch shall be accompanied by the following:

- (1) Evidence that the designated representative possesses the prerequisites referred to in section 12–2.
- (2) An official confirmation that the company is legally established in its home state including details of how long it has operated the notified activity in its home state, and of whether the supervisory authorities of the home state have had cause to comment on the company's conduct of insurance business over the last three years.
- (3) The company's accounts and annual reports for the last three financial years.
- (4) A statement from the highest body of the company that it undertakes to be bound by Norwegian law and the decisions of Norwegian courts in legal matters arising out of the insurance activities in Norway.
- (5) The original authorisation for the general agent. The authorisation shall state that the general agent is also the correct recipient of notices of legal action to be brought before Norwegian courts.
- (6) A copy of the company's articles of association.
- (7) A list of the company's board members.
- (8) A statement that the company is willing to fulfil the capital requirements.

Kredittilsynet may require the enclosures referred to above to be translated into Norwegian by a certified translator.

The branch shall be notified to the Register of Business Enterprises in accordance with the rules applying for registration of foreign enterprises.

The King may lay down regulations stipulating the extent to which the provisions of this section and the provisions of chapter 2 shall apply to companies whose head office is in another state in the European Economic Area, and may make further rules for the activities of such companies in Norway.

Section 12–8 (appointment of a new general agent)

If the general agent loses any of the prerequisites prescribed in section 12–2, or for any reason becomes unable to discharge his duties, or ceases to act as general agent, Kredittilsynet shall designate another person to receive notices of legal action on behalf of the company, and to otherwise legally represent the company in regard to obligations already

entered into. This person acts ad interim until the impediment to the agent has ceased, or until Kredittilsynet has approved another agent. Kredittilsynet makes arrangements for this to be announced in the Norwegian Gazette. Until such announcement has been made, each and every policyholder is entitled to remit to Kredittilsynet any insurance premiums due.

Chapter 13 Excepting provisions

Section 13–1 (state)

The provisions of this Act do not apply to schemes managed by the state.

Section 13–2 (livestock insurance)

With the exception of section 2-1 the provisions of this Act do not apply to livestock insurance administered by abattoirs or dairies. They shall however submit each year a statement of their activities to Kredittilsynet. Kredittilsynet may, if required in the interest of the policyholders, decide that such schemes shall also be subject to this Act or parts thereof.

Section 13–3 (funeral funds and provident funds)

The provisions of this Act do not apply to funeral funds and provident funds which provide a maximum benefit equal to the basis amount of the National Insurance Scheme. These organisations may however be instructed by Kredittilsynet to submit a statement of their activities to Kredittilsynet. Kredittilsynet may, if required in the interest of the persons entitled to the benefits, decide that such schemes shall also be subject to this Act or parts thereof.

Section 13–4 (small mutual insurance companies)

The King may grant small mutual insurance companies full or partial exception from the provisions of this Act.

Section 13–5 (marine insurance associations)

The provisions of this Act do not apply to insurance associations which are regulated by the Act on Coastal Marine Insurance Associations (no. 2 of 3 July 1953).

Section 13–6 (reinsurance)

The King may grant full or partial exception from the provisions of this Act to companies whose activity is confined to reinsurance.

Section 13–7 (war risk at sea)

The King may grant full or partial exception from the provisions of this Act to companies whose activity is confined to insurance of war risk at sea.

Section 13–8 (other exceptions)

The provisions of sections 3–5, 5–1 first paragraph and 5–8 first paragraph do not apply to insurance companies whose articles of association confine them to writing direct insurance for a specified group of policyholders, in the event with reinsurance in addition. The King may also except such companies from other provisions of this Act.

Kredittilsynet decides in cases of doubt whether a company comes under the first paragraph.

The King may also in other cases except certain companies from parts of this Act when called for by special considerations.

Chapter 14 Penal provisions

Section 14 (criminal liability)

Elected officers or employees of institutions which are subject to this Act who wilfully or negligently contravene the Act or provisions or orders issued pursuant thereto or who otherwise contravene rules in force for the activity in question or who assist in such contravention, are punishable by fines, or in particularly aggravating circumstances by imprisonment not exceeding one year, unless a severer penal provision is applicable to the offence.

Where an order made by Kredittilsynet is not complied with, the Ministry in question may provide that the persons and/or the institution, the parent company of the institution or the parent company in the group of which the institution is part, which are/is bound by the order, shall pay a recurring daily fine until the circumstance is rectified. The fine may be collected by distraint.

Chapter 15 Commencement and transitional provisions

Section 15–1 (commencement)

This Act comes into force with effect from the date decided by the King.

Section 15–2 (activities operated at the time of commencement)

The Act is applicable to activities operated at the time the Act comes into force.

Changes of an organisational or other nature which are necessitated by the provisions of this Act must be completed within one year of commencement of this Act. Where approval of the authorities is required, an application must be submitted within the time limit referred to. The same applies to applications for exception from the provisions of the Act.

A non-life insurance company which at the commencement of the Act fails to fulfil the equity capital requirement of section 7–3, may until further notice count technical provisions as equity capital for the purposes of section 7–3, to the extent that such provisions exceed the

minimum requirement according to regulations issued pursuant to section 8–6. Such a company may not increase its technical provisions further than necessary under the regulations referred to as long as the equity capital requirement under section 7–3 is not fulfilled.

A company which at commencement of the Act exceeds the limit in section 7–4 first paragraph for investments in shares and interests, is obliged, within the time limit stated in the second paragraph, to reduce its holding to the level in effect on 1 January 1986. Otherwise no company is obliged to sell shares or interests in order to fall below the level stated in section 7–4 first paragraph. However, where a company which exceeds the limit sells shares or interests after the commencement of the Act, a maximum of 25 per cent of the proceeds of the sale may again be placed in shares or interests.

A company which at the commencement of the Act exceeds the limit on total credit to a single customer, cf. the Act on Financing Activity and Financial Institutions section 2–10, is not obliged to undertake extraordinary termination of contracts in order to fall below the limit stated in that provision.

Section 15–3 (application of the licensing rules)

The rules of chapter 2 are applicable to applications for licence decided after the commencement of the Act.

The rules of chapter 2 are also applicable to insurance companies which prior to the commencement of the Act carried on insurance activity without a licence. Applications must be submitted within the time limit stated in section 15–2 second paragraph. The company may continue its previous activity until the application is decided.

Section 15–4 (further rules and extended time limit)

The King may make further rules concerning transitional arrangements.

Where there are cogent reasons in favour and no weighty reasons against, Kredittilsynet may after receipt of an application extend the time limit for complying with the requirements of the Act.

Section 15–5 (repeal of and amendments to other Acts)
