

No. 398/1995

Act on Foreign Insurance Companies

Issued in Helsinki on 17 March 1995

PART I SCOPE OF APPLICATION AND DEFINITIONS

Chapter 1. General Provisions

Section 1. *Scope of application*

Foreign insurance companies shall have the right to undertake insurance business in Finland as prescribed in this Act.

In addition, the rights of foreign insurance companies to undertake statutory insurance business in Finland are subject to the provisions of any other applicable statutes.

The provisions of this Act on foreign insurance companies shall also apply to other comparable foreign insurance undertakings.

Section 2. *Definitions*

For the purposes of this Act:

- 1) 'foreign EEA insurance company' refers to a foreign insurance company whose head-office country is a state that is part of the European Economic Area;
- 2) 'insurance company' from a third country' refers to a foreign insurance company whose head-office country is not a state that is part of the European Economic Area;
- 3) 'foreign life assurance company' refers to a foreign insurance company engaged in life assurance business;
- 4) 'foreign non-life insurance company' refers to a foreign insurance company engaged in non-life insurance business;
- 5) 'life assurance' refers to activity belonging to the classes of life assurance listed in the First Council Directive (79/267/EEC) on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance;
- 6) 'non-life insurance' refers to activity belonging to the classes of insurance listed in the First Council Directive (73/239/EEC) on the co-ordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance; (30.6.2000/637)

7) 'head-office country' refers to the country under whose law a foreign insurance company was established and where its statutory head office is registered, or where it keeps its central administration or has its main place of business; (30.6.2000/637)

8) 'service undertaking' refers to a corporation that provides for a foreign insurance company services that are linked to its main operation; and (30.6.2000/637)

9) 'ministry' or 'competent ministry' refers to the Ministry of Social Affairs and Health. (30.6.2000/637)

The Ministry of Social Affairs and Health issues further provisions on the classes of insurance referred to in paragraph 1 (5) and (6).

Section 3. *Activities remaining outside the scope of application of this Act*

This Act does not apply to:

- 1) reinsurance business;
- 2) activities covered by the Insurance Brokers Act (251/1993); or
- 3) such co-insurance referred to in the Council Directive (78/473/EEC) on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance in which a foreign EEA insurance company participates from a foreign place of business other than as the main insurer.

(Paragraph 2 has been repealed by Act 950/2000)

Section 4. *Agency and agent*

'Agency' refers to an agency or branch office of a foreign insurance company located in Finland and led by its general agent. An office run by the company's own staff and an independently operating individual with permanent authorization to act on behalf of the company in the manner of an agency shall also be considered an agency.

'General agent' refers to a natural or legal person who manages and administers a foreign insurance company's business activities in Finland and who is also empowered to represent the company in all legal relationships arising out of said business activities.

Section 5. *Freedom to provide insurance services*

Freedom to provide insurance services refers to a foreign EEA insurance company operating from a foreign place of business as referred to in paragraph 2 being free to conclude:

- 1) a non-life insurance contract relating to an insurance risk located in Finland as referred to in section 6;
- 2) a life assurance contract with a natural person permanently resident in Finland; or
- 3) a life assurance contract with a legal person to whose place of business in Finland the contract relates.

The 'foreign place of business of a foreign EEA insurance company' refers to both a place of business of the company located in its head-office country and an agency of the company located in some state that is part of the European Economic Area other than the company's head-office country or Finland.

Section 6. An insurance risk located in Finland

'An insurance risk located in Finland' refers to:

- 1) property located in Finland, if the object of insurance consists of real estate or a building, or a building with its movable property if the movable property is insured on the same policy as the building;
- 2) a vehicle registered in Finland when the object of insurance is a vehicle; or
- 3) a risk relating to travel or a holiday if the insurance contract relating to the risk has been concluded for a maximum period of four months and the insured party has taken out the policy in Finland.

In cases other than those referred to in paragraph 1 the risk shall be considered as located in Finland if the insured party has a permanent place of residence in Finland, or, in case the insured party is a legal person, if the insured party has a place of business in Finland to which the insurance policy relates.

PART II PROVISIONS ON FOREIGN EEA INSURANCE COMPANIES

Chapter 2. Commencement and Termination of Business Activities

Section 7. Notification of the establishment of an agency

Before a foreign EEA insurance company can undertake insurance business in Finland on the basis of right of establishment, the Insurance Supervision Authority must be provided with a notification from the supervisory authority in the insurance company's head-office country containing adequate information on the business activities, management and general agent of the agency the company intends to open in Finland. The opening of an agency in Finland shall be considered as the undertaking of insurance business on the basis of the right of establishment. (16.5.2002/359)

The notification must have appended to it a certificate from the insurance supervisory authority in the insurance company's head-office country indicating that, taking account of the planned business activities, the insurance company fulfils the minimum solvency requirements for insurance companies imposed by the Council Directives referred to in section 2, paragraph 1 (5) and (6).

Section 8. (16.5.2002/359) Response of the Insurance Supervision Authority

The Insurance Supervision Authority must within two months of receiving the notification referred to in section 7 notify the authority concerned of the conditions which must be fulfilled in the public interest in order to undertake insurance business in Finland.

Section 9. (16.5.2002/359) *Commencement of agency activities*

The agency of a foreign EEA insurance company is entitled to commence insurance business in Finland when the company has received notification from the insurance supervisory authority in its head-office country of the conditions referred to in section 8, nevertheless at the latest within two months of the supervisory authority in the head-office country notifying the insurance company of the sending of the information pertaining to the opening of an agency in Finland to the Insurance Supervision Authority.

Section 10. *Notification of the commencement of free provision of services*

Before a foreign EEA insurance company can undertake insurance business in Finland on the basis of the freedom to provide services the Insurance Supervision Authority must be provided with a notification from the supervisory authority in the insurance company's head-office country. (16.5.2002/359)

The notification from the supervisory authority in the insurance company's head-office country must have appended to it:

- 1) a certificate indicating that, taking account of the planned business activities, the insurance company fulfils the minimum solvency requirements for insurance companies imposed by the Council Directives referred to in section 2, paragraph 1 (5) and (6);
- 2) an account of the classes of insurance business the insurance company's authorization entitles it to undertake; and
- 3) an account of the risks the intended insurance business will cover.

Section 11. (16.5.2002/359) *Commencement of free provision of services*

A foreign EEA insurance company is entitled to begin the free provision of insurance services in Finland once it has received notification from the insurance supervisory authority in its head-office country that the authority has sent notification of the commencement of free provision of insurance services to the Insurance Supervision Authority.

Section 12. *Changes to the information provided*

In the case of changes to the information provided in the notifications referred to in section 7 or 10 by the insurance supervisory authority of the head-office country of a foreign EEA insurance company, the relevant provisions of sections 8 and 9 or section 11, respectively, shall be followed.

An insurance company must also inform the Insurance Supervision Authority of any changes in the information provided in the notification of the establishment of an agency at least one month in advance of the intended change. (16.5.2002/359)

Section 13. (16.5.2002/359) *Effects of withdrawing an insurance company's authorization*

If the authorization granted to a foreign EEA insurance company in its head-office country should be withdrawn, the insurance company must immediately inform the Insurance Supervision Authority thereof. In such cases, the Authority may issue more precise orders on the procedures for ending the company's activities in Finland. A foreign EEA

insurance company may no longer issue new insurance policies in Finland after its authorization has been withdrawn.

Chapter 3. Supervision

Section 14. Supervision of foreign EEA insurance companies

The responsibility of the supervisory authority in a foreign EEA insurance company's head-office country for financial supervision of the company shall also extend to financial supervision of the company's activities in Finland. Financial supervision shall be concerned particularly with the solvency of the insurance company, its technical provisions, the free assets representing the solvency margin over and above the technical provisions, and the resources it has available for providing insurance in insurance class 18 ('tourist assistance').

Otherwise supervision of the activities of foreign EEA insurance companies in Finland is the responsibility of the Insurance Supervision Authority. (29.1.1999/80)

Section 15. (16.5.2002/359) Jurisdiction in Finland of the authority of the head-office country

The supervisory authority of a foreign EEA insurance company's head-office country is entitled to inspect the activities of an agency of a foreign EEA insurance company in Finland either directly or through its representative on notification of its intention to the Insurance Supervision Authority. The Authority is entitled to participate in the inspection.

The Insurance Supervision Authority has the power on the request of the insurance supervisory authority of a foreign EEA insurance company's head-office country to seize the company's assets in Finland or prohibit the company from assigning or pledging such assets, if the insurance company does not in the opinion of the supervisory authority of its head-office country fulfil the technical provisions and solvency requirements applicable in said country.

Section 16. (16.5.2002/359) The right of the Ministry of Social Affairs and Health and the Insurance Supervision Authority to receive information and conduct inspections

Foreign EEA insurance companies shall furnish the Ministry of Social Affairs and Health and the Insurance Supervision Authority with information on themselves and their activities in Finland needed for carrying out the duties prescribed in this Act within a reasonable period of time as determined by the said authorities.

The Insurance Supervision Authority is entitled to inspect the business and other activities of the Finnish agency of a foreign EEA insurance company. The Authority is entitled to conduct said inspections on the agency's premises.

On special grounds, the Insurance Supervision Authority is entitled to seize documentary material needed in conducting its inspection. The company is entitled to receive on request a copy of such documents free of charge.

Section 17. Coercive measures

If a foreign EEA insurance company fails to abide by the law or by the provisions and regulations issued by the competent ministry or the Insurance Supervision Authority under this Act or by the ministry responsible for the police action under the Act on Preventing and Clearing Money Laundering (68/1988), if the company has conducted itself contrary to good insurance practices, or if there is evidence of abuses in the company's activities, the Insurance Supervision Authority may issue a warning to the company, request the company to remedy the matter concerned within a set period of time, or prohibit the company from continuing a procedure judged defective by the competent ministry or the Insurance Supervision Authority. (29.1.1999/80)

If the company fails to comply with the request or prohibition referred to in paragraph 1, the Insurance Supervision Authority must inform the insurance supervisory authority in the company's head-office country thereof. (16.5.2002/359)

If the action taken by the insurance supervisory authority in the foreign EEA insurance company's head-office country turns out to be inadequate and the company continues its defective practices, the Insurance Supervision Authority may, having informed the insurance supervisory authority in the company's head-office country, impose a conditional fine to back up its request or prohibition, seize the company's assets in Finland or prohibit the company from issuing new insurance policies in Finland until the matter has been remedied. In such cases, the order for the payment of the conditional fine shall be issued by the Provincial State Office of the locality in which the agency of the foreign EEA insurance company is located, or if the company has no agency in Finland, by the Provincial State Office of Southern Finland. (16.5.2002/359)

If the activities of a foreign EEA insurance company should pose a danger to insured benefits, the Insurance Supervision Authority may take the actions referred to in paragraph 3 without abiding by the procedures referred to in paragraphs 1 and 2 and without giving advance notification to the insurance supervisory authority in the company's head-office country. (16.5.2002/359)

PART III PROVISIONS ON INSURANCE COMPANIES FROM THIRD COUNTRIES

Chapter 4. Commencement of Business Activities

Section 18. *The right to undertake insurance business in Finland*

An insurance company from a third country shall not be entitled to undertake insurance business in Finland without authorization from the Ministry of Social Affairs and Health.

For the conduct of its business in Finland, such a company must open an agency here headed by a general agent approved by the Insurance Supervision Authority. (16.5.2002/359)

Section 19. *Authorization*

An insurance company from a third country must be granted authorization to operate in Finland if the account received of the intended insurance business gives reason to expect that the company will in conducting its business abide by sound and prudent business

principles, and if the company's general agent meets the conditions imposed on the general agent in section 24.

Authorizations shall be issued according to classes of insurance and groups of classes. On the request of the applicant, the authorization may be restricted to part of an insurance class.

If the application for authorization concerns insurance other than general liability insurance for carriers belonging to the non-life insurance class 10, the application must contain the names and addresses of the claims representatives appointed under section 14a of the Third Party Motor Liability Insurance Act (279/1959) for every other EEA state.

An insurance company from a third country must apply to the Ministry of Social Affairs and Health for an extension to its authorization if it intends to expand its business into classes of insurance or groups of classes not mentioned in its existing authorization.

Section 20. Documents to be appended to the application for authorization

An insurance company from a third country must append to its authorization application the following documents and accounts:

- 1) its articles of association or other comparable statutes plus a list of the members of the Board of Directors and the senior management of the company;
- 2) an account of the insurance business undertaken by the company in its head-office country;
- 3) a statement from the insurance supervisory authority in the company's head-office country indicating whether the company has been prohibited during the previous three years from issuing new insurance policies or whether other serious coercive measures have been taken against the company during said period;
- 4) a plan of the company's proposed business activities in Finland (scheme of operations);
- 5) an application for approval of the company's general agent as required under section 25;
- 6) an account establishing that the documents given on the company's behalf have been drawn up in accordance with the laws of its head-office country and issued by a person authorized to do so; and
- 7) a statement confirming that the agency has assets at its disposal corresponding to the basic capital assets required under section 28 and that the security required under section 29 has been duly lodged.

The company must provide any additional information requested by the Ministry of Social Affairs and Health. On special grounds, the Ministry may grant exceptions to the provisions contained in paragraph 1.

Applications for an extension to an existing authorization must be accompanied by any additional information required by the Ministry.

The Ministry of Social Affairs and Health issues further provisions on the scheme of operations.

Section 20a. (29.1.1999/80) *Requesting an official statement*

The competent ministry must request an official statement from the Insurance Supervision Authority in the case of an application for authorization or an extension to existing authorization by an insurance company from a third country.

Section 21. *Right of appeal*

The Ministry of Social Affairs and Health must reach a decision on whether to grant or refuse authorization within six months from the lodging of the application and receipt of the documents, statements and accounts needed to decide the application.

If no decision has been given by the end of the period stipulated in paragraph 1, the applicant is entitled to lodge an appeal. In such a case the appeal shall be considered as an appeal against a rejection of the application. Such an appeal may be lodged until a decision has been issued on the application. The Ministry must inform the appellate authority of the issuing of a decision on the application. The lodging and processing of an appeal referred to in this paragraph shall otherwise be subject, as applicable, to the Administrative Judicial Procedure Act (586/1996). (4.5.2001/363)

Section 22. (16.5.2002/359) *Commencement of business activities*

The general agent must immediately inform the Insurance Supervision Authority of the commencement of business activities and the address of the company's agency in Finland.

Section 22a (4.5.2001/363) *Allowed business activities*

An insurance company from a third country shall not pursue in Finland any other trade than insurance business and the activities associated with insurance business defined in section 22b (*associated activities*).

Section 22b (4.5.2001/363) *Pursuit of business other than insurance business*

Besides its primary activities an insurance company from a third country may act in Finland as the representative of an undertaking that pursues business other than insurance business as well as market and sell on account of that undertaking the services and products provided by it to customers, if the undertaking is:

- 1) a credit institution, investment firm, fund management company or undertaking for collective investment in transferable securities (UCITS) that is subject to public supervision within the European Economic Area;
- 2) other financial institution within the European Economic Area than that referred to in subparagraph 1;
- 3) an undertaking that provides products or services included in risk management, inspection, loss prevention or comparable activity; or

4) an undertaking whose services or products complement those insurance products that the company sells either on its own account or as the representative of another insurance undertaking.

In addition to what is provided in paragraph 1, an insurance company from a third country may agree that another undertaking than that referred to in paragraph 1 may use the organisation and distribution channels of the insurance company from a third country in marketing its own products and services if:

- 1) the undertaking belongs to the same group of companies or the same financial consortium as the insurance company; or
- 2) the undertaking belongs to such a financial grouping with an insurance company from a third country with which the undertaking operates in a uniform way on the market and with which it has firm economic co-operation contacts.

The associated activities referred to in paragraphs 1 and 2 must be consistent with the nature of the insurance activities pursued by the insurance company in Finland, and their extent may not be essential in comparison to the insurance business. The associated activities may not endanger the solvency of an agency nor the interests covered by the insurance policies.

Section 22c (4.5.2001/363) *Scheme of operations and prohibition of other business activities*

An insurance company from a third country must draw up a scheme of operations in respect of the activities referred to in section 22b, paragraphs 1 and 2. The scheme of operations must be forwarded to the Insurance Supervision Authority for approval before the commencement of the said activity. The Insurance Supervision Authority may issue more detailed regulations on the content of the scheme of operations.

The Insurance Supervision Authority may prohibit an insurance company from a third country from carrying on associated activities referred to in section 22b, paragraphs 1 and 2, or restrict their scope if it is evident on the basis of the scheme of operations that the activity does not fulfil the requirements laid down in section 22b, paragraph 3, or if the agency of the insurance company from a third country has not adequate prerequisites for managing the activity appropriately in view of the extent of the intended activity, quality of the product or service concerned, expertise required of the personnel, or comparable circumstances. The Authority may later prohibit the agency of an insurance company from a third country from carrying on associated activities or restrict their scope if the activities no more fulfil the requirements laid down in section 22b, paragraph 3, or if there is evidence of serious deficiencies or abuses in the activities.

Chapter 5. General Agent

Section 23. *The responsibilities of a general agent*

The business activities of an insurance company from a third country in Finland shall be managed and administered by a general agent who is also empowered to represent the company in all legal relationships arising out of said business activities. The general agent

is also entitled to recruit, lead and take responsibility for other representatives needed to undertake the company's insurance business in Finland.

Section 24. Conditions imposed on the general agent

A general agent must have a place of domicile in Finland. A legally incompetent or bankrupt person, or a person prohibited from engaging in business may not serve as a general agent. A general agent must be of good reputation and must have such general familiarity with the insurance business as is necessary taking into account the type and extent of the insurance business undertaken by the insurance company from a third country represented by the general agent.

The general agent may also be a Finnish corporation, which must then appoint as its representative a natural person who fulfils the conditions stipulated in paragraph 1.

Section 25. (16.5.2002/359) Application for approval of a general agent

The Insurance Supervision Authority approves the authorized general agent of an insurance company from a third country on application by the company. The application must have appended to it the letter of authorization given to the general agent and evidence to establish that the general agent fulfils the conditions stipulated in section 24.

The Insurance Supervision Authority will, if necessary, issue further regulations on the authorization and the evidence referred to in paragraph 1.

Section 26. Substitute general agent

An insurance company from a third country is entitled to accredit a substitute to take care of its general agent's duties when the general agent is prevented from doing so. The provisions of this Act applying to a general agent shall be applied in similar manner to a substitute general agent.

Section 27. (16.5.2002/359) Temporary general agent

If an insurance company from a third country lacks a general agent or substitute general agent in Finland who fulfils the conditions stipulated in section 24, the Insurance Supervision Authority must appoint a temporary general agent to serve as general agent until the company has accredited a new general agent approved by the Ministry, or until the impediment on the existing general agent has ceased to apply. The company must pay the temporary general agent a fee decided by the Authority.

Chapter 6. Solvency and the Pursuit of Business Activities

Section 28. The basic capital assets of an agency

For the purpose of its direct insurance business in Finland, an insurance company from a third country must at all times have in Finland assets of at least:

- 1) EUR 2,400,000 for undertaking life assurance business and insurance business belonging to the non-life insurance classes 10-16; and
- 2) EUR 1,200,000 for undertaking other insurance business. (30.12.1998/1206)

The minimum assets referred to in paragraph 1 above are referred to in this Act as the basic capital assets of an agency.

After a company has operated in Finland for a period of three years, the Insurance Supervision Authority may on application and bearing in mind the extent and type of the company's business approve a smaller level of basic capital assets than those stipulated in paragraph 1, but to the value of at least half the figure stipulated there. The Authority is empowered to revoke or amend its approval referred to here. (16.5.2002/359)

The euro-denominated figures provided in paragraph 1 are subject to alteration by Decree in line with changes in the general level of prices.

Section 29. (16.5.2002/359) *Security*

At least half of an agency's basic capital assets must be deposited as security on terms determined by the Insurance Supervision Authority in a Finnish deposit bank or a branch of a foreign credit institution established in Finland which is approved by the Authority.

During the period in which the company is operating the value of the security must always be at least equal to the minimum amount of solvency margin referred to in section 30, paragraph 2 or paragraph 3.

The security must consist of securities or commitments which are suitable as assets covering the technical provisions and which comply with the more precise regulations issued by the Insurance Supervision Authority. An insurance company from a third country is authorized to exchange or redeem such securities or commitments in a manner determined by the Authority. The company must ensure that the value of the security does not fall below the minimum level referred to in paragraphs 1 and 2.

The company may use its security assets only to settle such debts arising out of insurance contracts which relate to its direct insurance business in Finland.

Section 30. *An agency's solvency margin*

The term 'agency's solvency margin' refers to the amount by which the assets of an agency are to be considered to exceed the debts and other similar liabilities of the agency. The provisions of the Insurance Companies Act concerning solvency margin shall otherwise apply to the solvency margin of an agency, as applicable. The Insurance Supervision Authority issues, if necessary, further regulations on calculation of the solvency margin of an agency. (16.5.2002/359)

The minimum permitted amount of solvency margin defined on the basis of the direct insurance business undertaken in Finland by a non-life insurance company from a third country shall be calculated according to the provisions of Chapter 11, section 2, of the Insurance Companies Act (1062/1979), and the guarantee fund according to the provisions of Chapter 11, section 3, of the same Act. The minimum guarantee fund shall nevertheless be equal to half the requirements set in Chapter 11, paragraph 2 (1) - (4), of the Insurance Companies Act.

The minimum permitted amount of solvency margin defined on the basis of the direct insurance business undertaken in Finland by a life assurance company from a third

country shall be calculated according to the provisions of Chapter 11, section 4, of the Insurance Companies Act, and the guarantee fund according to the provisions of Chapter 11, section 5, of the same Act. The minimum guarantee fund shall nevertheless be equal to half the requirements set in Chapter 11, section 5, paragraph 2, of the Insurance Companies Act.

Section 31. Arranging an agency's solvency

The solvency margin, reinsurance and other factors affecting the solvency of the Finnish agency of an insurance company from a third country must be arranged in such a way as to secure the insured benefits, taking into account probable fluctuations in income and costs and other estimable factors of uncertainty.

The Ministry of Social Affairs and Health issues further provisions on how to apply paragraph 1.

Section 32. (16.5.2002/359) Permission for exceptions to the capital requirements

If an insurance company from a third country is authorized to undertake insurance business in some other state that is part of the European Economic Area, the Insurance Supervision Authority may on application by the company make an exception to the requirements provided in sections 28-31, if the insurance supervisory authority in the other EEA state is responsible for supervising the solvency of the company's direct insurance business throughout the entire European Economic Area.

Section 33. (20.12.1996/1088) Technical provisions

An insurance company from a third country must calculate its technical provisions in respect of its direct insurance business in Finland. These shall comprise a provision for unearned premiums and a provision for claims outstanding as prescribed in Chapter 10, section 2, paragraphs 2-6, of the Insurance Companies Act.

Section 34. (16.5.2002/359) Cover for technical provisions

The technical provisions must be covered as prescribed in Chapter 10, sections 3 and 3a, of the Insurance Companies Act. The assets covering the technical provisions must however be located in Finland.

The security referred to in section 29 may not be used to cover the technical provisions.

The assets covering the technical provisions must be retained as prescribed by the Insurance Supervision Authority.

Section 34a (16.5.2002/359) Investment plan

The general agent of an insurance company from a third country must draw up a plan for the investment of an agency's assets (investment plan).

The Insurance Supervision Authority issues more detailed regulations on the drawing up of the investment plan.

Section 35. Bases of calculation

The terms of the Insurance Companies Act in respect of the bases of calculation shall apply to insurance companies from a third country.

Section 36. *Unit-linked insurance*

Where applicable, the provisions of the Insurance Companies Act concerning unit-linked insurance shall also apply to the activities of foreign insurance companies engaged in class 3 life assurance business in Finland.

Section 37. *Actuaries*

An insurance company from a third country shall use an actuary for drawing up actuarial calculations and analyses. The provisions of Chapter 18, section 8, of the Insurance Companies Act shall apply to said actuary.

Chapter 7. Supervision

Section 38. (29.1.1999/1980) *Supervision of insurance companies from a third country*
Supervision of insurance business undertaken by insurance companies from a third country is the responsibility of the Insurance Supervision Authority.

Section 39. (16.5.2002/359) *Reports to be forwarded to the Insurance Supervision Authority*

An insurance company from a third country must prepare an annual report on the activities and state of its agency drafted according to the form prescribed by the Insurance Supervision Authority, provide an account of the calculation of its technical provisions in accordance with the regulations issued by the Authority, and, in the case of a life assurance company, furnish a report on its insurance business. The annual report must have appended to it a statement confirming that the basic capital assets, the deposited security and the cover for the technical provisions meet the requirements provided in sections 28, 29 and 34. The company's general agent shall deliver the above documents to the Authority by a date to be set by the Authority.

Section 39a (16.5.2002/359) *Audit*

The agency of an insurance company from a third country shall have at least one auditor and one deputy auditor. As the auditor and deputy auditor may only be appointed an approved auditor referred to in section 2, paragraph 2, of the Auditing Act (936/1994). At least one auditor and one deputy auditor must however be an auditor or audit firm authorised by the Central Chamber of Commerce.

The Insurance Supervision Authority must order an auditor for an agency if:

- 1) no approved auditor or deputy auditor has been appointed for it in accordance with this Act or the Auditing Act;
- 2) the auditor has not the competence referred to in section 10 of the Auditing Act; or
- 3) the auditor is not independent in the manner referred to in section 23 or 24 of the Auditing Act.

The provisions of Chapter 9, section 3a of the Insurance Companies Act shall apply, as appropriate, to the auditor's responsibility for notifying the Insurance Supervision Authority of circumstances and decisions concerning an insurance company.

The provisions of the Auditing Act shall otherwise apply, as appropriate, to the audit of an agency.

The Insurance Supervision Authority is entitled to issue instructions for carrying out the audit of an agency.

Section 40. (16.5.2002/359) *An agency's annual accounts*

In its accounting and preparation of the annual accounts the agency of an insurance company from a third country must comply with the Accounting Act (1336/1997), subject to the provisions of this Act concerning accounting and annual accounts, and the Accounting Decree (1339/1997), subject to the provisions of this Act concerning accounting and annual accounts or the provisions of the Ministry of Social Affairs and Health Decree issued under section 40a or 40b or regulations issued by the Insurance Supervision Authority in virtue of the said sections.

Chapter 3, section 1, paragraphs 3 – 5, section 2, paragraph 2, section 9, paragraphs 1- 4, section 11 and section 13, paragraph 1, Chapter 4, sections 1, 3 and 4, section 5, paragraphs 3 – 5, and section 7, Chapter 5, section 2, section 3, paragraph 2, section 4, section 12, paragraph 2, sections 13, 16, 17 and 20, and Chapters 6 and 7 of the Accounting Act shall not apply to the preparation of the annual accounts by agencies.

Apart from the provisions of this Act, the preparation of the annual accounts by agencies shall be subject to, as applicable, Chapter 10, section 4, sections 4a – 4e and section 10 of the Insurance Companies Act and Chapter 11, section 6 a, section 9, paragraphs 2 and 6, and section 9a of the Finnish Companies Act. What is laid down in the said provisions concerning shares and share capital shall apply, as appropriate, to guarantee shares and guarantee capital and other partnership shares and the share capital formed by them.

Section 40a (16.5.2002/359) *Annual accounts documents and registration of annual accounts*

The documents relating to the annual accounts of the agency of an insurance company from a third country must be explicit, and the annual accounts must form a unified whole. To verify the annual accounts, balance sheet specifications and specifications of the notes on the accounts must be prepared; further provisions on these will be issued by Decree of the Ministry of Social Affairs and Health. The Insurance Supervision Authority may issue more detailed regulations on the specifications.

The annual accounts must be submitted to the auditors within four months from the closing of the financial period.

The agency must report the annual accounts and the auditor's report to the Patent and Registration Authority for registration within six months from the closing of the financial period.

Section 40b. (16.5.2002/359) *More detailed provisions and regulations on annual accounts, and exceptions*

Due to the special nature of the insurance business, provisions on the format of the profit and loss account and balance sheet, the notes on them and the information to be provided

in the annual report of the agency of an insurance company from a third country will be issued by Decree of the Ministry of Social Affairs and Health.

Due to the special nature of the insurance business, the Insurance Supervision Authority shall issue more detailed regulations on the preparations of annual accounts by agencies.

The Insurance Supervision Authority may issue instructions and statements on the application to agencies of the provisions of this Act, the Decree of the Ministry of Social Affairs and Health referred to in paragraph 1 and the Accounting Act and Accounting Decree concerning accounting and annual accounts.

On special grounds, the Insurance Supervision Authority may upon the application of an agency grant a temporary exception from the provisions and regulations referred to in paragraph 3, if such an exception is necessary in order to achieve a correct and adequate picture of the results of an agency's operations and financial status.

If a Decree, regulation, instruction, statement or exception referred to in this section will have important implications for the general application of the Accounting Act or Decree, the Ministry or the Insurance Supervision Authority must seek the opinion of the Accounting Standards Board before issuing said Decree, regulation, instruction, statement or exception.

On special grounds, the Insurance Supervision Authority may in individual cases grant temporary exceptions from section 40a, paragraph 2, and in respect of the forms to be followed in drawing up the profit and loss account, the balance sheet, the notes on the accounts and the precise content of the annual report as well as section 6 of Chapter 3 of the Accounting Act

Section 41. Reports to be provided by the general agent

The general agent must without delay provide to the Insurance Supervision Authority:
(16.5.2002/359)

- 1) the name of the company and any changes to its articles of association or other comparable statutes;
- 2) a copy of the company's annual accounts for each financial period;
- 3) details of any coercive measures taken against the company by the insurance supervisory authority in its head-office country; and
- 4) details of any change in the address of the agency or the name, nationality or place of domicile of the general agent.

The general agent must provide the Ministry of Social Affairs and Health and the Insurance Supervision Authority within a reasonable period of time set by them any information on the company and its activities in Finland, in addition to the information referred to in paragraph 1, which is necessary for the carrying out of the functions stipulated in this Act. (16.5.2002/359)

Section 42. (16.5.2002/359) *Conditional imposition of a fine on the general agent*

The Insurance Supervision Authority is empowered to oblige the general agent to forward to the Authority the documents and information referred to in sections 22 and 39-41. The Authority is empowered to impose a conditional fine to back up the obligation.

The order for the payment of the conditional fine shall be issued by the Provincial State Office of the locality in which the agency is located or, if the company has no agency in Finland, by the Provincial State Office of Southern Finland.

Section 43. (17.11.2000/950) *Inspection*

The Insurance Supervision Authority is empowered to inspect the business and other activities in Finland of insurance companies from a third country and their subsidiary corporations. Where there is special reason, the Authority has the right to seize documents needed to carry out said inspections. The company is entitled to receive on request a copy of such documents free of charge.

The Insurance Supervision Authority may appoint a special expert to carry out the inspection. The expert's fee shall be confirmed by the Authority and paid from the funds of the company concerned in a manner determined by the Authority.

Section 44. (16.5.2002/359) *Coercive measures*

If an insurance company from a third country fails to abide by the law, the terms of its authorization, articles of association or other comparable rules, or provisions or regulations issued under this Act or a decision issued by the Ministry of Social Affairs and Health or the Insurance Supervision Authority under this Act, if the company has conducted itself contrary to good insurance practice, or if there is evidence of abuses in the company's activities, the Insurance Supervision Authority has the authority to issue a warning to the company, request the company to remedy the matter concerned within a stipulated period of time, or prohibit the company from continuing a procedure judged defective by the Ministry or the Insurance Supervision Authority.

The Insurance Supervision Authority may impose a conditional fine to back up the request or prohibition referred to in paragraph 1. The order for the payment of the conditional fine shall be issued by the Provincial State Office of the locality in which the agency is located, or if the company has no agency in Finland, by the Provincial State Office of Southern Finland.

If the request or prohibition referred to in paragraph 1 is not complied with, the Insurance Supervision Authority may ban the insurance company from a third country from issuing any new policies until the failure to comply has been corrected.

Section 45. *Restriction or withdrawal of authorization*

The competent ministry is empowered, after having first sought the opinion of the Insurance Supervision Authority, to restrict or withdraw the authorization of an insurance company from a third country if: (29.1.1999/80)

1) the company does not commence business activities in Finland within 12 months of being granted authorization;

- 2) the company gives notice of its intention to cease undertaking insurance business in Finland;
- 3) the company has ceased its activities in Finland for a period in excess of six months after being granted authorization;
- 4) the company fails to comply with a request or prohibition referred to in section 44 and it has committed a serious breach of its obligations;
- 5) the company has been unable, within the time allowed, to take the measures contained in the restoration plan or short-term finance scheme referred to in section 46;
- 6) such changes have taken place in the circumstances prevailing when the authorization was granted that authorization would no longer be granted under the new circumstances; or
- 7) the company no longer fulfils the conditions of admission.

Section 46. (16.5.2002/359) *The restoration plan and the finance scheme*

If the solvency margin of the Finnish agency of an insurance company from a third country falls below the minimum solvency margin referred to in section 30, paragraph 2 or paragraph 3, the company must without delay provide a restoration plan for its agency to the Insurance Supervision Authority for its approval.

If the solvency margin of the Finnish agency of an insurance company from a third country falls below the guarantee fund referred to in section 30, paragraph 2 or paragraph 3, the company must without delay provide a short-term finance scheme for its agency to the Insurance Supervision Authority for its approval.

Section 47. (16.5.2002/359) *Right to seize assets*

The Insurance Supervision Authority has the power to seize the assets of an insurance company from a third country or prohibit the company from assigning or pledging such assets, if:

- 1) the company's authorization has been withdrawn;
- 2) the company no longer meets the requirements for covering the technical provisions referred to in section 34;
- 3) the solvency margin of the Finnish agency of the company falls below the guarantee fund referred to in section 30, paragraph 2 or paragraph 3;
- 4) the solvency margin of the Finnish agency of the company falls below the minimum solvency margin referred to in section 30, paragraph 2 or paragraph 3, and the Authority has reason to believe the financial situation of the agency will continue to deteriorate, or the Authority considers that the agency is in danger of entering such a condition; and

5) the company has failed to comply with a request issued by the Authority under this Act to supplement the basic capital assets of the agency or the security which it has lodged on behalf of the agency.

Chapter 8. Termination of Activities

Section 48. Application for withdrawal of authorization

If an insurance company from a third country intends to stop undertaking insurance business in Finland, it must apply to the Ministry of Social Affairs and Health to withdraw its authorization.

If the company's authorization in its head-office country is withdrawn, its authorization in Finland must similarly be withdrawn.

Section 49. (16.5.2002/359) Appointment of liquidators

If the authorization of an insurance company from a third country has been withdrawn or has otherwise expired, the company must immediately appoint a liquidator to replace its general agent and take care of winding up the company's Finnish insurance business. The Insurance Supervision Authority has also the right to appoint one liquidator. The Authority has also the right to appoint an interim liquidator until the company has appointed its own liquidator.

The provisions of this Act in respect of the general agent and the temporary general agent shall apply, as appropriate, to the liquidator and interim liquidator.

If the liquidators have not within one year of the withdrawal of the company's authorization produced a plan for transferring its insurance portfolio in accordance with section 66, or if its insurance business has in some other way not been wound up within the said period, the Insurance Supervision Authority has the right to set a date for the termination of policies other than those referred to in the Third Party Motor Liability Insurance Act (279/1959), the Patient Injuries Act (585/1986) and the Employment Accidents Insurance Act (608/1948), and a date for the transfer of the insurance portfolios for the classes of insurance referred to in said acts and their corresponding assets from special receivership to be administered by the Finnish Motor Insurers' Centre, the Finnish Patient Insurance Centre and the Federation of Accident Insurance Institutions. The provisions in Chapter 16a, section 9, of the Insurance Companies Act and section 68, paragraph 2, of this Act on the transfer of the insurance portfolio shall apply as appropriate to the transfer of the insurance portfolio and corresponding assets. Otherwise the appropriate provisions of Chapter 15, section 14 of the Insurance Companies Act shall apply.

Section 50. (16.5.2002/359) Account of the liquidation proceedings

On completing their task the liquidators must without delay prepare an account of the liquidation proceedings and forward it to the Insurance Supervision Authority.

Section 51. Repayment of security

When the company has demonstrated that it has met its obligations referred to in section 29, paragraph 4, or is otherwise legally freed from said obligations, it is entitled to repayment of the assets deposited as security under section 29.

Section 52. Surrendering the assets of an insurance company from a third country into bankruptcy

The assets of an insurance company from a third country can be surrendered into bankruptcy on the decision of the company's general agent or, when the company's authorization has been withdrawn or otherwise expired, on the decision of the liquidators.

During the period of bankruptcy the bankrupt company shall be represented by its general agent or by the liquidators appointed before the declaration of bankruptcy.

It is nevertheless possible during the period of bankruptcy to appoint a new general agent or new liquidators.

When the company's assets have been surrendered into bankruptcy, the court must immediately notify the Insurance Supervision Authority of this fact and of the set date of appearance. If requested by the Authority, the court must also appoint the Authority's candidate to be a trustee and receiver in addition to the above-mentioned liquidators.
(16.5.2002/359)

Section 53. Preferential claim to assets recorded as cover for technical provisions

When the Finnish authorization of an insurance company from a third country has been withdrawn or otherwise expired, the policyholders and other holders of claim deriving from insurance contracts shall share similar preferential claim to assets recorded as cover for technical provisions as the holder of a pledge on movable property. The provisions of this section shall not apply to reinsurance.

The preferential claim provided in paragraph 1 above shall not weaken the rights of a holder of a registered mortgage on the assets.

Section 54. (16.5.2002/359) Special receivership

The provisions of section 29, paragraph 4, and section 53 on the use of assets deposited as security and preferential claim to assets recorded as cover for technical provisions shall apply even if the assets of the insurance company from a third country have been surrendered into bankruptcy. However, the Insurance Supervision Authority must in such a case order the assets deposited as security and the assets recorded as cover for technical provisions to be placed under a separate receivership from the administration of the rest of the bankrupt's estate. A sufficient amount of the company's other assets must also be immediately transferred into the separate receivership such that its total assets shall equal the technical provisions referred to in section 33 plus the estimated costs of liquidation.

The Insurance Supervision Authority must at the same time appoint one or more executors to administer the special receivership. The assets of the special receivership shall be used to pay the executors a fee approved by the Authority. The provisions of this Act in respect of liquidators shall apply as appropriate to the executors.

Once the winding-up of the special receivership has been completed, any remaining assets must be transferred to the bankrupt's estate.

Section 55. Issuing new policies

An insurance company from a third country whose authorization in its head-office country or in Finland has been withdrawn or otherwise expired, or whose assets have been transferred into bankruptcy, shall no longer be authorized to issue new insurance policies in Finland.

PART IV COMMON PROVISIONS ON ALL FOREIGN INSURANCE COMPANIES

Chapter 9. Undertaking Insurance Business in Finland

Section 56. (4.5.2001/363) *Acting as representative*

When acting as the representative referred to in section 22b an insurance company from a third state shall clearly inform their customers which of the undertaking's product or service is concerned and that the company does not carry on activities on its own account and will not be party to the contract that will possibly be concluded on the product or service being negotiated.

What is provided in paragraph 1 shall correspondingly apply to a foreign EEA insurance company if it acts in Finland as the representative of an undertaking carrying on business other than insurance business.

(Paragraphs 2 and 3 have been repealed by Act 950/2000)

Section 57. *Separation of life assurance and non-life insurance business*

A foreign life assurance company may not undertake any insurance business in Finland other than life assurance, non-life insurance belonging to the insurance classes 1 and 2 referred to in section 2, paragraph 1 (6), and reinsurance on these classes of non-life insurance and life assurance. Such a life assurance company must keep its non-life insurance business separate from its life assurance business.

A foreign non-life insurance company may not undertake any insurance business in Finland other than non-life insurance. However, a foreign non-life insurance company which undertakes only non-life insurance belonging to insurance classes 1 and 2 and reinsurance on these classes of insurance is also entitled to simultaneously undertake life assurance business and related reinsurance. Once such a company has begun to undertake life assurance business, the provisions of this Act concerning foreign life assurance companies shall apply.

A foreign EEA insurance company whose authorization in its head-office country allows it to undertake both life assurance and non-life insurance business is similarly entitled to undertake both life assurance and non-life insurance business in Finland.

The provisions of this Act concerning foreign non-life insurance companies shall also apply to insurance companies from a third country whose authorization in their head-office country allows them to undertake both life assurance and non-life insurance business.

Section 58. *Applicable legislation* (repealed by Act 412/1999)

Section 59. *Good insurance practices*

A foreign insurance company operating in Finland must observe good insurance practices.

Section 60. (4.5.2001/363) *Marketing*

A foreign insurance company's marketing and the supervision of it and its insurance terms and conditions shall be correspondingly subject to the provisions of Chapter 14a, section 7 and sections 9-13 of the Insurance Companies Act. In addition, a foreign insurance company must include in its marketing information its name, company form, head-office country, the address of its head office and the address of the place of business or agency with which the insurance contract is to be drawn up.

Section 61. *Promoting competition*

In order to safeguard sound and effective economic competition from harmful restrictive business practices, the provisions of Chapter 14a of the Insurance Companies Act shall be applied as appropriate to the activities of foreign insurance companies.

Section 62. *Payment for insurance inspection*

The responsibility of foreign insurance companies to contribute to the costs of supervising insurance institutions is subject to separate provisions.

Section 63. *Taxation of insurance premiums and payment for fire protection.*

The responsibility to pay tax on insurance premiums and to pay for fire protection is subject to separate provisions.

Chapter 10. Transfer of insurance portfolio

Section 64. (16.5.2002/359) *The right of a foreign insurance company to transfer its insurance portfolio*

A foreign insurance company (*the assigning company*) engaged in insurance business in Finland referred to in this Act is entitled with the consent of the Insurance Supervision Authority to transfer the insurance portfolio of insurance contracts included within said insurance business to a Finnish or foreign insurance company (*the acquiring company*) in the cases legislated for in this Chapter.

The Insurance Supervision Authority must give its consent to the transfer of the insurance portfolio unless the action would damage the benefits covered by the policies and unless the action can be considered to endanger the sound development of insurance business and if the other conditions for the transfer of insurance portfolio provided in this Chapter have been met. The Authority has the right to attach to its consent conditions which it considers necessary to secure the interests covered by the policies or the sound development of insurance business.

Section 65. *Transfer of the portfolio of a foreign EEA insurance company*

Without prejudice to the provisions of Chapter 16a, section 14, of the Insurance Companies Act, a foreign EEA insurance company is entitled to transfer to a Finnish insurance company or another foreign EEA insurance company the insurance portfolio of insurance contracts agreed on the basis of the right of establishment or the free provision

of services. The insurance supervisory authority of the head-office country of the foreign EEA insurance company is responsible for deciding whether to authorize the transfer of portfolio. (19.6.1997/612)

On request by a foreign EEA insurance company, Insurance Supervision Authority shall consent to the transfer of the insurance portfolio if, in the case of a non-life insurance contract, the risk covered by the insurance contract is located in Finland; if, in the case of a life assurance policy, the policyholder is permanently resident in Finland; or if, in the case of the policyholder of the life assurance policy being a legal person, the place of business to which the life assurance policy relates is located in Finland. (16.5.2002/359)

If the acquiring company is a Finnish insurance company, the Insurance Supervision Authority must also provide the authority responsible for supervising the insurance business of the assigning company with a statement as to whether the acquiring company has, taking account of the transfer of portfolio, adequate solvency margin. (16.5.2002/359)

The Insurance Supervision Authority must decide on the consent referred to in paragraph 2 or provision of the statement referred to in paragraph 3 within three months of receiving a request from the authority responsible for supervising the insurance business of the foreign EEA insurance company concerned, under threat that it shall otherwise be understood as having consented to the transfer of the insurance portfolio or confirmed the adequacy of the insurance company's solvency margin. (16.5.2002/359)

Section 66. (16.5.2002/359) *Transfer of the portfolio of an insurance company from a third country*

Without prejudice to the provisions of Chapter 16a, section 14, of the Insurance Companies Act, an insurance company from a third country is with the consent of the Insurance Supervision Authority entitled to transfer to a Finnish insurance company or a foreign EEA insurance company or an insurance company from a third country which has an agency in Finland the portfolio of insurance contracts entered into by its Finnish agency.

Before giving its own consent, the Insurance Supervision Authority must first procure the consent of the insurance supervisory authority in the other state that is part of the European Economic Area in which the risk covered by a non-life insurance contract as referred to in Chapter 2a, section 10, of the Insurance Companies Act is located; or, in the case of a life assurance policy, in which the policyholder is permanently resident; or, in the case of the policyholder of the life assurance policy being a legal person, in which the place of business to which the life assurance policy relates is located.

If the acquiring company is a foreign EEA insurance company, the Insurance Supervision Authority must, before giving its own consent, procure from the insurance supervisory authority in the company's head-office country confirmation that the acquiring company has, taking account of the transfer of portfolio, adequate solvency margin.

If the acquiring company is another insurance company from a third country with an agency in Finland, and supervision of the solvency of the acquiring company's direct insurance business throughout the whole European Economic Area is the responsibility of

the insurance supervisory authority in some other EEA state than Finland, the Insurance Supervision Authority must procure from this authority confirmation that the acquiring company has, taking account of the transfer of portfolio, adequate solvency margin.

Section 67. (16.5.2002/359) Time allowed for giving consent or confirmation

If the Insurance Supervision Authority does not receive a reply from the insurance supervisory authorities of the states that are part of the European Economic Area from whom the Authority has requested confirmation or consent under section 66 within three months of the arrival of said request at the authority to whom it was addressed, the authority in question shall be considered to have confirmed the adequacy of the acquiring company's solvency margin or correspondingly to have given its consent to the transfer of the insurance portfolio.

Section 68. Procedure to be applied in the transfer of portfolios

If the acquiring company is a Finnish insurance company, the provisions of Chapter 16a, sections 3-9, 11 and 12, of the Insurance Companies Act shall apply as appropriate. (19.6.1997/612)

The provisions of Chapter 16a, section 9, of the Insurance Companies Act on the transfer of insurance portfolio shall apply as appropriate in the case of the transfer of insurance portfolio referred to in section 66. However, the public notice referred to in Chapter 16a, section 9, paragraph 2 of the Insurance Companies Act shall be issued at the assigning company's expense. The assigning company shall nevertheless be under no obligation to inform its shareholders of the above-mentioned public notice. The documents relating to the transfer of the insurance portfolio must be kept available for inspection at the Insurance Supervision Authority until the end of the allotted time referred to in Chapter 16a, section 9, paragraph 2, of the Insurance Companies Act. (16.5.2002/359)

The acquiring company must give public notice of the transfer of insurance portfolio referred to in section 65 or 66 in the Official Gazette and in at least one newspaper in the area where the assigning company's Finnish agency is located, and in any other way considered necessary by the Insurance Supervision Authority, within one month of the transfer of the portfolio if, in the case of a non-life insurance contract, the risk covered by the insurance contract is located in Finland; if, in the case of a life assurance policy, the policyholder is permanently resident in Finland; or if, in the case of the policyholder of the life assurance policy being a legal person, the place of business to which the life assurance policy relates is located in Finland. The notice must include mention of the policyholder's right to cancel the insurance contract referred to in Chapter 16a, section 12, paragraph 1, of the Insurance Companies Act. If the assigning company does not have an agency in Finland, notice of the transfer of insurance portfolio must be posted in addition to the Official Gazette in at least one newspaper published in Finland and in any other way considered necessary by the Authority. (16.5.2002/359)

The provisions applying to the transfer of insurance portfolios shall also apply to the transfer of part of an insurance portfolio.

Chapter 11. Miscellaneous Provisions

Section 69. (29.1.1999/80) Public notice in the Official Gazette

The Insurance Supervision Authority must publish in the Official Gazette at a foreign insurance company's expense public notice of a decision:

- 1) to prohibit the issuing of new insurance policies by the company; and
- 2) to prohibit the assigning or pledging of the company's assets in Finland.

Section 70. *Maintaining a register of foreign insurance companies*

The Insurance Supervision Authority shall maintain a register of foreign insurance companies operating in Finland. The register contains: (16.5.2002/359)

- 1) the name and head-office country of the company;
- 2) if the company has a general agent, the agent's full name, nationality and place of domicile, and if the general agent is a Finnish corporation, the name and registered place of domicile of said corporation and the full name, nationality and place of domicile of the corporation's appointed representative;
- 3) if the company has an agency, its address;
- 4) the date of issue of authorization for an insurance company from a third country to operate in Finland;
- 5) the classes of insurance pursued by the company in Finland according to its authorization or notice;
- 6) cancellation or restriction of the authorization issued in Finland to an insurance company from a third country, the reason and date; and
- 7) the date of cancellation of the authorization of a foreign EEA insurance company in its head-office country.

Foreign insurance companies must immediately inform the Insurance Supervision Authority of any changes to the information entered on them in the register.
(16.5.2002/359)

Access to information entered in the register and related documents shall be open to all without restriction.

Section 71. (29.1.1999/80) *The language of documents*

If a document or statement to be presented under the provisions of this Act to the competent ministry or the Insurance Supervision Authority has been prepared in a language other than Finnish or Swedish, it must have appended to it a legally valid Finnish translation if the Ministry or the Insurance Supervision Authority should so request.

Section 72. (29.1.1999/80) *Insurance statistics*

The competent ministry and the Insurance Supervision Authority are entitled to publish statistics on the activities, position and development of foreign insurance companies in

Finland, provided the statistics on all the companies have been prepared on the same principles.

Section 73. The general agent's liability for damages

The general agent of a foreign insurance company is liable to compensate the company for any damages which the agent has deliberately or negligently caused by his or her actions. The same shall also apply to any damages the agent may have caused a policyholder, an insured party, or any other person by contravening the provisions of this Act, the company's articles of association or other regulations.

The provisions of Chapters 2 and 6 of the Damages Act (412/1974) shall apply to the reduction of compensation and the distribution of liability for damages between two or more persons. (16.5.2002/359)

An action against the company cannot be raised, unless the action is based on a punishable act, after the passage of three years from the end of the calendar year in which the decision was taken or the measure initiated on which the action is based.

Section 74. Place of litigation

Without prejudice to provisions elsewhere in the law, civil litigation relating to the insurance business of a foreign insurance company in Finland and in which the company is itself the defendant can be heard in the court of the locality in which the company's agency is located.

If a foreign insurance company has an agency in Finland, a summons addressed to the company shall be considered served when it has been served on the general agent. If the general agent is a corporation, the summons shall similarly be considered served when it has been served on the corporation's appointed representative.

Section 75. (16.5.2002/359) Operating on behalf of an insurance company in Finland

If the Insurance Supervision Authority has reason to suppose that somebody is pursuing business activities referred to in this Act in Finland on behalf of a foreign insurance company without providing the notification referred to in section 7 or section 10 or without the authorization referred to in section 18, paragraph 1, the Authority must investigate the matter and if necessary request the person concerned to provide the statement referred to in sections 7 and 10, apply for authorization, alter his or her operations in the manner indicated by the Authority, or cease operations, all the foregoing within a set time period.

Section 76. (4.5.2001/363) Undertaking unauthorized insurance business

Anyone who:

1) pursues insurance business in Finland on behalf of a foreign insurance company without providing the notification referred to in section 7 or section 10, or without the authorization referred to in section 18, paragraph 1, or contrary to the provisions of section 22a or section 57; or

2) issues new insurance policies contrary to the provisions of section 13, section 17, paragraph 3, or section 55, or in contravention of a prohibition issued by the Insurance Supervision Authority under section 44, paragraph 3;

shall be judged according to the provisions of the Insurance Companies Act on the unauthorized pursuit of insurance business.

Before bringing charges for the unauthorized pursuit of insurance business, the public prosecutor must first procure a statement from the Insurance Supervision Authority. In hearing such a criminal case, the court must provide an opportunity for the Authority to be heard.

Section 77. (16.5.2002/359) *Insurance company crime*

Anyone who in contravention of a prohibition issued by the Insurance Supervision Authority under section 15, paragraph 2, section 17, paragraph 3, or section 47, should transfer or pledge the company's assets in Finland shall be judged according to the provisions of the Insurance Companies Act on insurance company crime.

Section 78. *Insurance company misdemeanours*

Anyone who should contravene the provisions of this Act on the preparation of annual accounts or an account of liquidation proceedings shall be judged according to the provisions of the Insurance Companies Act on insurance company misdemeanours.

Section 79. (30.6.2000/637) *Confidentiality*

Anyone who in carrying out duties in the service of a foreign insurance company or its holding company or service undertaking, or as a member or deputy member of these bodies or commissioned by a foreign insurance company, or in the service or as a member of an insurance board or comparable body or as an expert commissioned by it, or in virtue of paragraphs 2-5 should gain knowledge of the financial position of a foreign insurance company, its customer or some other party, or of their state of health or other personal circumstances, or some business or professional secret shall not divulge this knowledge to a third party unless the party for whose benefit this obligation of confidentiality is provided gives express approval for the divulgence of the said knowledge or unless otherwise provided in the law. (25.1.2002/50)

In addition to what is provided in the Act on the Openness of Government Activities (621/1999) the Ministry of Social Affairs and Health and the Insurance Supervision Authority have the right to divulge confidential insurance information to the following parties:

- 1) prosecution and pre-trial investigation authorities for the purposes of preventing and solving a crime;
- 2) the Financial Supervision Authority and to any other Finnish authority supervising the financial markets;
- 3) authorities supervising the insurance or financial operations of an EEA state or, if the information to be divulged is confidential information referred to in paragraph 1 in some other state than an EEA state, to the insurance supervisory authority of the non-EEA state;
- 4) the auditor of an insurance company;

- 5) authorities of Finland or another EEA state responsible for participating in the liquidation or bankruptcy proceedings of an insurance company or in other comparable proceedings;
- 6) authorities of Finland or another EEA state responsible for the supervision of the bodies participating in the liquidation or bankruptcy proceedings of an insurance company or in other comparable proceedings;
- 7) authorities of Finland or another EEA state responsible for the supervision of the persons carrying out the statutory audit of insurance undertakings, credit institutions, investment firms or other financial institutions;
- 8) independent actuaries of an EEA state that carry out legality control of insurance companies, and to the bodies responsible for the supervision of these actuaries;
- 9) authorities or bodies of another EEA state that are under the law responsible for monitoring the compliance with the Community law and for investigating crime; and
- 10) the Central Bank of Finland or another EEA state and to any other body with similar duties in the capacity of financial authority, as well as to another authority responsible for the supervision of payment systems.

In addition to what is provided in the Act on the Openness of Government Activities and in paragraph 2 the Ministry of Social Affairs and Health and the Insurance Supervision Authority are entitled to divulge to each other and use the confidential information referred to in paragraph 1 only:

- 1) to check that the conditions for starting insurance business have been met;
- 2) to supervise the activities of foreign insurance companies; and
- 3) to impose coercive measures.

Notwithstanding the provisions of paragraph 1, a foreign insurance company is entitled to divulge confidential information to:

- 1) another insurance company for the purpose of arranging reinsurance;
- 2) an insurance company's service undertaking or to the party carrying out a duty commissioned to it by the insurance company;
- 3) an insurance institution or a holding company belonging to the same group of companies or to the same financial consortium as the insurance company concerned for the purposes of handling claims, concluding insurance contracts and managing other tasks necessary for the pursuit of insurance business; what is provided in this sub-paragraph concerning divulgence of knowledge does not apply to the divulgence of sensitive information referred to in section 11 of the Personal Data Act (523/1999); (25.1.2002/50)

- 4) those in the service of or members of an insurance board or comparable body for the purpose of processing matters brought to it for consideration;
- 5) another insurance company or liable party for the purpose of realising the insurance company's right of recovery, as well as to another insurance company for the purpose of investigating what is the liability of different insurance institutions for one and the same occurrence of an insured event; (25.1.2002/50)
- 6) other insurance institutions in regard to offences against an insurance company and damages notified to it because of vital interests relating to prevention of crime against other insurance institutions, as prescribed in more detail by the Data Protection Board under section 43, paragraph 3, of the Personal Data Act; (25.1.2002/50)
- 7) by permission of the Ministry of Social Affairs and Health for historical or scientific research or for compiling statistics only if it is obvious that the divulgence of the information does not violate the interests for the protection of which the obligation of confidentiality has been laid down; the permission can be issued for a fixed period and must have appended to it the regulations necessary for protecting public and private interests; the permission may be cancelled when considered justified;
- 8) Finnish prosecution and pre-trial authorities for the purposes of preventing and solving a crime and to the authorities or bodies referred to in paragraph 1; information relating to a person's state of health may, however, only be passed on to the Finnish prosecution and pre-trial investigation authorities for the purposes of preventing, solving and prosecution of a fraud offence committed against an insurance or pension institution;
- 9) keeper of a register containing credit information about delayed insurance claims of parties other than consumers; (25.1.2002/50) and
- 10) an undertaking belonging to the same group of companies as the foreign insurance company or to the same financial or insurance cluster referred to in the Act on Supervision of Financial and Insurance Clusters (44/2002) for the purposes of managing customer service and other contacts with customers, marketing and risk management of the cluster; what is provided above in this sub-paragraph concerning divulgence of information does not apply to the divulgence of sensitive information referred to in section 11 of the Personal Data Act. (25.1.2002/50)

In addition to what is provided in paragraph 4, a foreign insurance company may pass on such information in its customer register that is necessary for marketing and customer service and other contacts with customers to such undertakings that belong to the same financial consortium with the foreign insurance company. What is provided above in this paragraph concerning divulgence of information does not apply to the divulgence of sensitive information referred to in section 11 of the Personal Data Act. (25.1.2002/50)

The provisions of paragraph 4 concerning insurance companies apply, as appropriate, to the Motor Insurers' Centre, the Patient Insurance Centre and the Environmental Insurance Centre. The provision of paragraph 4 (4) concerning the right of an insurance company to pass on information, applies, as appropriate, to the insurance board or body referred to in paragraph 4 (4).

In situations referred to in paragraph 4 an insurance company may only pass on such information as is necessary for carrying out the duties concerned.

Further provisions on the implementation of paragraphs 4 – 6 of this section may be issued by Decree of the Ministry of Social Affairs and Health, as necessary.

Section 80. (30.6.2000/637) Unauthorized divulgence of confidential insurance information

The penalty for infringing the obligation of confidentiality provided in section 79, paragraph 1, shall be judged under Chapter 38, section 1 or 2, of the Penal Code unless the act is punishable under Chapter 40, section 5, of the Penal Code or unless a more severe penalty is provided for it elsewhere in the law.

Sections 81-83 have been repealed by Act of 30.1.1998/75.

Section 84 (16.5.2002/359) Appeal

Decisions issued by the Ministry of Social Affairs and Health or the Insurance Supervision Authority under this Act can be appealed to the Supreme Administrative Court in the order laid down in the Administrative Judicial Procedure Act (586/1996). Acceptable grounds for appeal shall be that the decision is contrary to the law.

An appeal against a decision issued by a Provincial State Office in virtue of this Act on payment of a conditional fine shall be lodged to the Supreme Administrative Court as provided in the Administrative Judicial Procedure Act.

Decisions issued by the Ministry of Social Affairs and Health or the Insurance Supervision Authority under section 13, section 15, paragraph 2, section 16, section 17, paragraph 1, 3 or 4, section 41, section 43, paragraph 1, section 44, paragraph 1 or 3, section 45, section 47, section 49, paragraph 1, or section 54 can be enforced irrespective of any appeal.

Section 85. Exceptions due to international agreements

Exceptions may be enacted to the provisions of this Act by Decree where this is necessary under the terms of an international agreement or a reciprocal agreement with a foreign country.

In respect of co-insurance and tourist assistance, the Ministry of Social Affairs and Health is entitled to grant such exceptions to the provisions of this Act or issue more detailed provisions as are necessitated by the Agreement on the European Economic Area.

(Section 85a has been repealed by Act 359/2002)

Section 86. Further provisions

Further provisions on the implementation of this Act are issued by Decree as necessary.

Section 87. Entry into force

This Act enters into force on April 1, 1995.

When this Act comes into force the provisions of the Act on Operations of Foreign Insurance Companies in Finland (635/89) and the Act on the Free Provision of Insurance Services (1488/92) in respect of other foreign insurance companies than the foreign EEA non-life insurance companies referred to in section 3, paragraph 2, of this Act shall no longer apply.

After the date referred to in paragraph 1 the provisions of this Act shall apply to other foreign insurance companies than those referred to in paragraph 2 which prior to the entry into force of this Act were granted authorization under the Act on Operations of Foreign Insurance Companies in Finland or the Act on the Free Provision of Insurance Services to undertake insurance business in Finland.

When this Act enters into force any application for authorization by an insurance company from a third country which is still pending must be amended to conform with the requirements of this Act.

Any foreign insurance company other than companies referred to in paragraph 2 which is operating in Finland when this Act enters into force shall continue to enjoy the right to undertake insurance business provided by authorization entered in the licence register referred to in the Act on Operations of Foreign Insurance Companies in Finland or enjoyed under the Act on the Free Provision of Insurance Services.