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KENYA REINSURANCE CORPORATION ACT

NO. 7 OF 1997

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NO. 7 OF 1997

KENYA REINSURANCE CORPORATION ACT

[Date of assent: 1st October, 1997.]

[Date of commencement: 10th August, 1998.]

An Act of Parliament to facilitate the reconstitution of the Kenya Reinsurance Corporation into a public limited liability company, to provide for the transfer of the assets, liabilities and the business of the Kenya Reinsurance Corporation to the company, and for connected purposes

[Act No. 7 of 1997, L.N. 109/1998.]

1. Short title

This Act may be cited as the Kenya Reinsurance Corporation Act, 1997.

2. Interpretation

In this Act, unless the context otherwise requires—

“**appointed day**” means the date of commencement of this Act;

“**Company**” means the Kenya Reinsurance Corporation Limited;

“**Kenya Reinsurance Corporation**” means the Corporation established under Part XIII of the Insurance Act, (Cap. 487) (now repealed);

“**Kenya Reinsurance Corporation Limited**” means the public limited liability company by that name, incorporated pursuant to the provisions of section 3;

“**Minister**” means the Minister for the time being responsible for finance;

“**undertaking**” in relation to the Kenya Reinsurance Corporation means its existing business, assets and property vested in or held by it and all liabilities to which it is subject in respect of its business immediately before the appointed day.

3. Company to be successor of Kenya Reinsurance Corporation

(1) For the purpose of bringing the provisions of this Act into operation, the Kenya Reinsurance Corporation shall, in exercise of the powers conferred by section 30 of the Interpretation and General Provisions Act (Cap. 2), incorporate in its name a public limited liability company under the provisions of the Companies Act (Cap. 486).

(2) The Company shall be the successor of the Kenya Reinsurance Corporation and, subject to this Act, all rights, duties, obligations, assets and liabilities of the Kenya Reinsurance Corporation existing on the appointed day shall be automatically and fully transferred to the Company and any reference to the Kenya Reinsurance Corporation in any contract or document shall for all purposes be deemed to be a reference to the Company.

4. Trust property

(1) Any property or right vested in the Company by virtue of this Act which immediately before the appointed day, vested in the Kenya Reinsurance Corporation, either alone or jointly with any other person—

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- (a) as trustee or custodian trustee under any trust deed, settlement, covenant or under any other instrument; or
- (b) as executor or trustee of any person; or
- (c) as judicial trustee appointed by order of any court; or
- (d) in any other fiduciary capacity,

shall, on the appointed day, vest in the Company alone or jointly with such other person, upon the same trusts and subject to the same powers, provisions, liabilities and obligations.

(2) Any existing instrument or order of any court under or by virtue of which any property or right vested in Kenya Reinsurance Corporation in any capacity specified in subsection (1), including, in the case of a will, any grant of probate thereof, and any provision therein or any existing contract or arrangement for the payment or retention by the Kenya Reinsurance Corporation of remuneration for its services in any such capacity shall, on and after the appointed day, be construed and have effect, so far as the context permits, as if for any reference therein to the Kenya Reinsurance Corporation, there were substituted a reference to the Company.

5. Existing contracts, conveyances, etc.

Any existing contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments, whether analogous to the foregoing or not, entered into by, made with or granted or addressed to the Kenya Reinsurance Corporation whether alone or with any other person and whether as principal or agent shall, as from the appointed day, be binding and of full force and effect in every respect against or in favour of the Company as if, instead of the Kenya Reinsurance Corporation, the Company had been a party thereto, bound thereby or entitled to the benefit thereof and as if any reference, express or implied, to any director, officer or employee of the Kenya Reinsurance Corporation as respects anything to be done on or after the appointed day, were substituted a reference to the director, officer or employee of the Company who most nearly corresponds thereto.

6. Existing business

Without prejudice to the provisions of any other section of this Act, the following provisions shall have effect in relation to the business of the Kenya Reinsurance Corporation vested in the Company by virtue of this Act—

- (a) any account between the Kenya Reinsurance Corporation and a customer shall, on and after the appointed day, become an account between the Company and the customer, with the same rights and subject to the same obligations and incidents, including the rights of set-off as theretofore, and the account shall be deemed to be a single continuing account:

Provided that nothing in this paragraph shall affect any right of the Company or of the customer to vary the conditions or incidents subject to which the account is kept;

- (b) any existing instruction, direction, mandate, power of attorney, authority or consent given to or by the Kenya Reinsurance Corporation shall have effect, on and after the day, as if given to or by the Company;

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- (c) any security held by the Kenya Reinsurance Corporation for the payment of debts or liabilities, whether present or future, actual or contingent, of any person, which is transferred to the Company shall, on and after the appointed day, be held by and be available to the Company as security for the payment of such debts and liabilities to the Company, and where the moneys secured by the security include future advances or liabilities of such person, the security shall, as from that day, be held by and be available to the Company as security for future advances to that person by, and future liabilities of, that person to the Company to the same extent to which the same was held by or available to the Kenya Reinsurance Corporation immediately before the appointed day as security for future advances or future liabilities;
- (d) the Company shall, in relation to any security transferred or deemed to have been transferred to it and to the moneys thereby secured, be entitled to the same rights and priorities, and be subject to the same obligations and incidents, as the Kenya Reinsurance Corporation would have been entitled and subject to if the same had continued to be held by the Kenya Reinsurance Corporation;
- (e) any negotiable instrument or order for payment of money, whether drawn, given, accepted or endorsed before, on or after the appointed day, which is expressed to be drawn by or on, given by or to, or accepted or endorsed by the Kenya Reinsurance Corporation shall on or after the appointed day have effect as if it had been drawn by or on, or given by or to, or accepted or endorsed by the Company;
- (f) where, by the operation of the provisions of this Act, any right, liability or obligation becomes a right, liability or obligation of the Company, all other persons shall, on and after the appointed day, have the same rights, powers and remedies, and, in particular, the same rights and powers as to taking or defending any legal proceedings or any application to any authority, for ascertaining, perfecting or enforcing that right, liability or obligation as if it had at all times been a right, liability or obligation of the Company;
- (g) the custody of any documents, goods or other property held by the Kenya Reinsurance Corporation as bailee for any other person shall be transferred to the Company on the appointed day and the rights and obligations of the Kenya Reinsurance Corporation under any contract of bailment relating to such documents, goods or other property shall be transferred or deemed to be transferred to the Company on that day; and
- (h) any bank or other accounts, books of accounts, revenue accounts, balance sheets, audited accounts, profit and loss accounts, actuarial or other valuations, accounting records, or any other accountable documents held by or belonging to the Kenya Reinsurance Corporation immediately before the appointed day shall on and after the appointed day be held by and belong to the Company.

7. Legal proceedings, etc.

(1) No existing legal or arbitration proceedings or application to any authority by or against the Kenya Reinsurance Corporation shall abate, be discontinued or be in any way prejudiced by reason only of the provisions of this Act, but the same

may be prosecuted or continued by or against the Company and any judgment or award obtained by or against the Kenya Reinsurance Corporation and not fully satisfied before the appointed day shall thereafter be enforceable by or against the Company.

(2) In any legal or arbitration proceedings concerning any right or liability transferred to or vested in the Company by this Act, a certificate under the hand of the manager of a branch of the Company that such right or liability has been so transferred to or vested in the Company shall be *prima facie* evidence of that transfer or vesting.

8. Employees and pension schemes

(1) Any person who is employed by the Kenya Reinsurance Corporation immediately before the appointed day shall on that day become an employee of the Company on the same terms and conditions of service as his existing terms and conditions and subject to any subsisting notice of termination, resignation or variation, and such employment with the Kenya Reinsurance Corporation and the Company shall be deemed to be continuous.

(2) Any reference to the Kenya Reinsurance Corporation in any trust deed or rules constituting or relating to any pension scheme or provident or superannuation fund of which persons employed by the Kenya Reinsurance Corporation are members shall, on and after the appointed day, be construed and have effect as if the same were a reference to the Company but so that, for the purpose of ascertaining and calculating any right to benefits under such scheme or fund, service with the Kenya Reinsurance Corporation up to the appointed day shall be taken into account as if it were service with the Company.

(3) The operation of any of the provisions of this section shall not of itself give rise to a claim by any person to benefit under any scheme or fund referred to in subsection (2).

9. Evidence of books, documents, etc.

On and after the appointed day, all documents, records and admissions which would, before the appointed day, have been evidence in respect of any matter for or against the Kenya Reinsurance Corporation shall be admissible in evidence for or against the Company.

10. Exemptions of taxes, duties, etc.

Notwithstanding the provisions of any other written law, no corporation or other tax, no stamp or other duty and no registration fee, filing fee, reinsurance licence fee or any other fee, shall be charged or become payable on account of any transfer or vesting of any property effected by this Act or on account of anything done under section 11.

11. Duties of public officers

Every public officer having the power or duty to effect or amend any entry in any register relating to property, or to issue or amend any certificate or other document effecting or evidencing title to property shall, upon request made by or on behalf of the Company or the owner of such property, and without making any charge or receiving any fee or other payment therefore, do all such things as are by law necessary to complete the transfer of any property effected by this Act.

12. Application of Cap. 487 to the company

(1) The provisions of the Insurance Act (Cap. 487) shall, subject to subsection (2), be applicable to the Company.

(2) The provisions of Parts IV, XII and XIV of the Insurance Act shall not apply to the Company.

13. Amendment of section 2 of Cap. 487

The Insurance Act is amended in section 2—

- (a) by repealing the definitions of “Corporation”, “Kenya Reinsurance Corporation”; and
- (b) by inserting the following new definitions in proper alphabetical sequence—

“**Company**” means the Kenya Reinsurance Corporation Limited;

“**Kenya Reinsurance Corporation Limited**” has the meaning assigned to it in section 2 of the Kenya Reinsurance Corporation Act, 1997.

14. Amendment of section 20 of Cap. 487

Section 20 of the Insurance Act is amended, in subsection (3)—

- (a) by inserting the word “Limited” immediately after the words “Kenya Reinsurance Corporation”;
- (b) by deleting the word “corporation” appearing at the end of the subsection and inserting the word “company”.

15. Repeal of Part XIII of Cap. 487

The Insurance Act is amended by repealing Part XIII.

16. Amendment of section 145 of Cap. 487

Section 145 of the Insurance Act is amended—

- (a) in subsection (1), by inserting the word “Limited” immediately after the words “Kenya Reinsurance Corporation”;
- (b) in subsection (2), by deleting the word “Corporation” and inserting the word “Company”.

17. Amendment of section 146 of Cap. 487

The Insurance Act is amended in section 146 by deleting the word “Corporation” wherever it occurs and inserting the word “Company”.

18. Amendment of section 148 of Cap. 487

The Insurance Act is amended in section 148 by deleting the word “Corporation” wherever it occurs and inserting the word “Company”.

19. Amendment of section 149 of Cap. 487

Section 149 of the Insurance Act is amended in paragraph (b) by deleting the word “Corporation” and inserting the word “Company”.

20. Amendment of section 157 of Cap. 487

Section 157 of the Insurance Act is amended in subsection (1)(h) by inserting the word "Limited" immediately after the words "Kenya Reinsurance Corporation".
