

Enquiries: GMT Kirsten

Circular: PI/STI/3/2007

**TO: ALL REGISTERED SHORT-TERM INSURANCE COMPANIES,
BROKERS AND AGENTS, AND MOTOR VEHICLE
COMPANIES.**

RE: MOTOR PLANS

Introduction

Products are currently provided to the motor vehicle market where a party undertakes to assume obligations under motor vehicle maintenance and service plans, guaranteeing repair or replacement of the vehicle's drive train and/or payment of scheduled services for a time period connected to either calendar years or kilometres driven.

The Short-term Insurance Act, No. 4 of 1998 (the Act) makes provision that any party who intends to carry on business as a short-term insurer or reinsurer in any class of short-term insurance business in Namibia must apply to the Registrar for registration in respect of that particular class of short-term insurance business. Hence unregistered entities may not carry out insurance business in Namibia.

The Registrar's view is that maintenance or service plans as they are commonly referred to, essentially is an insurance product when regard is had to the underlying contract where a contracting party undertakes in return for a lump sum or periodic payments from the other contracting party to pay for the repair or replacement of the drive train of the vehicle concerned or to pay for the scheduled services of the vehicle for a fixed period of time. The insurable interest is one of general liability of one contracting party to pay for repairs or replacement of the vehicle's drive train, or payment to a motor dealer for scheduled services of the vehicle, of the other party.

Maintenance or service plans hence resort under the Miscellaneous class of insurance business, particularly, General Liability insurance as set out in Schedule 1 to the Act.

General liability insurance refers to the "effecting and carrying out short-term insurance contracts against risks ... of the person insured incurring liability to third parties".

Purpose of Circular

The purpose of the Circular is to make known the Registrar's view on motor vehicle maintenance and service plans and to ensure that consumers do not subscribe to policies not underwritten by a registered short-term insurer so that the products concerned are provided to the public in terms of the Act and that all persons, legal and natural, who provide these products or advice on thereon are registered with the Registrar: Short-term Insurance.

Registration requirements

It is important to note that all people who provide advice on these products must be registered under the Act as:

- An agent representing one underwriter
- A broker representing a prospective or actual policyholder.

All persons offering this product must be a registered insurer meeting the requirements of the Act.

Current products

The products which are currently underwritten as required by the Act are:

- Motorsure which is underwritten by Guard Risk Ltd.
- Motorite which is underwritten by Hollard Ltd.
- Optimum Vehicle Solutions underwritten by Guard Risk Ltd.

The commission payable on these products, which is not classified as motor vehicle policies, are:

- Not more than 20% to brokers
- Not more than 15% to agents

It has to be pointed out that in terms of section 60 of the Act a person has a free choice in respect of the registered insurer with, and the insurance agent or insurance broker through, whom the policy is to be taken out. If the person is not offered such free choice, it may be construed as conditional selling which is an offence under the Act.

THUS DATED AND SIGNED THIS 27 DAY OF September 2007.

A handwritten signature in cursive script, appearing to read 'Lily Brandt', with a small dot at the end.

Lily Brandt
REGISTRAR
SHORT-TERM INSURANCE