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CAPTIVE INSURANCE ACT

Act 32 of 2015

P 6/16 (cio 29/1/16)
Amended 11/18 (cio 9/8/18); GN 115/2021 (cio 20/5/2021); GN 158/23 (cio 28/10/23); 13/2026 (cio 13/08/26)

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SCHEDULE

CAPTIVE INSURANCE ACT

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Captive Insurance Act.

2. Interpretation

In this Act –

“actuary” has the same meaning as in the Insurance Act;

"affiliated corporation" means a corporation which –

(a) in relation to another body corporate, stands as a parent or subsidiary corporation of that body corporate;

(b) is a parent or subsidiary of a corporation referred to in paragraph (a); or

(c) in relation to another body corporate, is a member of the same group of corporations by virtue of common ownership or control;

"Alternative Risk Transfer policy contract" or “ART policy contract” –

(a) means an insurance or reinsurance contract under the terms of which a person, in consideration for the payment of a premium, contracts to provide policy benefits where an event defined in the contract as a risk event, occurs; and

(b) includes a contract having one or more of the following features –

(i) a stated limit of exposure;

(ii) a lifetime of one year or more;

(iii) consideration of the time value of money;

(iv) loss containment provisions;

(v) coverage of risks relating to various classes of insurance business as defined in Part II of the First Schedule to Insurance Act;

(vi) potential profit sharing between parties;

“captive insurance agent” means any person approved as such by the Commission under section 9;

“captive insurance business**”** means the business of undertaking liability, by way of insurance or reinsurance, under a category specified in the Schedule;

“captive insurer**”** means a person carrying on a category of captive insurance business specified in the Schedule;

“Chief Executive” has the same meaning as in the Financial Services Act;

“Commission” means the Financial Services Commission established under the Financial Services Act;

“conservator” has the same meaning as in the Insurance Act;

“corporation” has the same meaning as in the Companies Act;

“Enforcement Committee” has the same meaning as in the Financial Services Act;

“external insurer” has the same meaning as in the Insurance Act;

“FSC Rules” has the same meaning as in the Financial Services Act;

“general insurance business" means insurance business, other than longterm insurance business, consisting of the classes specified in Part II of the First Schedule to the Insurance Act;

“Global Business Licence” has the same meaning as in the Financial Services Act;
[Inserted 11/18 (cio 9/8/18).]

“guidelines” has the same meaning as in the Financial Services Act;

“insurance manager” has the same meaning as in the Insurance Act;

“law practitioner” has the same meaning as in the Law Practitioners Act;

“licence” means a licence issued under section 7(4);

“long-term insurance business” means insurance business of any class specified in Part I of the First Schedule to the Insurance Act;

"management company" has the same meaning as in the Financial Services Act;

"Minister" means the Minister to whom responsibility for the subject of financial services is assigned;

"officer" has the same meaning as in the Financial Services Act;

"parent", in relation to a captive insurer, means a corporation, limited liability company, partnership or any other entity or individual that directly or indirectly owns, controls or holds, with power to vote, more than 50 per cent of the outstanding voting securities of a captive insurance business;

"policyholder" –

(a) means a person who enters into a contract of insurance; and

(b) includes a person entitled to be provided with or enforce the policy benefits under an insurance policy;

"relevant Acts" has the same meaning as in the Financial Services Act.

3. Application of Act

(1) This Act shall apply only to a captive insurer who is the holder of a licence.

(2) The Minister may, on the recommendation of the Commission, provide, by regulations, for any provision of this Act to apply to a captive insurer with modifications, adaptations and limitations and on terms and conditions not inconsistent with this Act.

(3) Where there is an inconsistency between this Act and any other enactment in relation to a captive insurer, this Act shall prevail to the extent of the inconsistency.

4. Administration of Act

(1) The Commission shall be responsible for the administration of this Act.

(2) The Commission shall, in addition to its objects, functions and powers under the Financial Services Act and the relevant Acts, in administering this Act –

(a) have regard to the following regulatory objectives –

(i) maintaining a fair, safe, stable and efficient captive insurance business for the benefit and protection of policyholders;

(ii) promoting confidence in the captive insurance business;

(iii) ensuring fair treatment to policyholders;

(iv) ensuring that captive insurance activities are not used in furtherance of, or for a purpose connected with, a financial crime; and

(v) ensuring the orderly growth of the captive insurance business in Mauritius;

(b) discharge its functions in a manner which it considers most appropriate for the purpose of meeting the regulatory objectives set out in paragraph (a), taking into account –

(i) the need to balance the regulatory objectives;

(ii) the desirability of maintaining the good repute of Mauritius as a sound financial centre and enhancing its competitive position;

(iii) the duties and responsibilities of those who operate or administer captive insurance activities;

(iv) the need to use resources committed to supervision in an efficient and economic manner;

(v) the benefit of promoting public understanding of the captive insurance business; and

(vi) the best economic interests of Mauritius;

(c) have such powers as may be necessary to attain its objects and discharge of its functions under this Act, and shall, in particular, have the power –

(i) to request any information, record or document in relation to any activity of a captive insurer;

(ii) to carry out an on-site inspection on the business premises of a captive insurer and audit his books and records;

(iii) to order an officer to conduct an investigation into any activity of a captive insurer;

(iv) to appoint a conservator in relation to the business of a captive insurer; and

(v) to give such directions to the Chief Executive to achieve the objectives of this Act.

(3) The Commission or Chief Executive shall, in exercising a power specified in –

(a) subsection (2)(c)(i), (ii) or (iii), comply with the procedures set out in Part VIII of the Financial Services Act;

(b) subsection (2)(c)(iv), comply with section 106 of the Insurance Act.

(4) Sections 107 to 110 of the Insurance Act shall apply to a conservator appointed under subsection (2)(c)(iv).

5. Delegation of functions and powers

(1) The Commission may delegate to the Chief Executive such of its functions or powers under this Act as may be necessary, other than the power to make FSC Rules or issue guidelines, for the effective administration of this Act.

(2) The Chief Executive may delegate to an employee of the Commission any of the functions or powers specified in subsection (1) other than the power to order an investigation.

(3) A person shall, in the exercise of any power delegated under subsection (1) or (2), comply with such direction as the Commission or the Chief Executive may give.

(4) A delegated function or power, when discharged or exercised under this Act, shall be taken to have been discharged or exercised by the Commission or the Chief Executive, as the case may be.

6. Restrictions on captive insurance business

(1) No person shall carry out, or hold himself out as carrying out, captive insurance business in or from within Mauritius unless he –

(a) holds a licence; and

(b) is resident in Mauritius.

[Amended 11/18 (cio 9/8/18).]

(2) A corporation set up and organised under the laws of Mauritius shall not carry out, or hold itself out as carrying out, captive insurance business, without a licence.

[Amended 11/18 (cio 9/8/18).]

(3) Any person who contravenes subsection (1) or (2) shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

[S. 6 amended by s. 9 of Act 11 of 2018 w.e.f. 9 August 2018.]

PART II – LICENSING AND SCOPE OF CAPTIVE INSURANCE BUSINESS

7. Licensing

(1) An application for a captive insurance business licence shall be made to the Commission through a captive insurance agent in such form and manner as may be specified in FSC rules and shall be accompanied by –

(a) a business plan, including in respect of the proposed captive insurance business –

(i) a description in terms of intended classes of business and cover, limits of liability, details of reliance placed on reinsurers, outline of investment and dividend strategies;

(ii) the amount and liquidity of its assets relative to the risks to be assumed;

(iii) the overall soundness of its plan of operation; and

(iv) a projected balance sheet, profit forecast and statement of cash flows;

(b) the investment policy of the captive insurance business;

(c) information on the adequacy of the expertise, experience and character of the persons who will manage the captive insurance business;

(d) information on the adequacy of the loss prevention programmes of the policyholders of the applicant;

(e) a certified copy of the incorporation documents of the applicant;

(f) particulars of any substantial shareholder, director, captive insurance agent or of any person being proposed to act as an officer of the captive insurer; and

(g) a non-refundable prescribed fee.

(2) On receipt of an application, the Commission may require the applicant to provide such additional information or document as it may consider necessary to determine the application.

(3) The Commission may require an applicant to retain, at his own cost, external and independent legal, financial or examination services to review the qualifications of the applicant or of his captive insurance agent and make recommendations to the Commission.

(4) Where the Commission is satisfied that the applicant is able to comply with the requirements of this Act, it may, subject to such conditions as it may determine, issue to the applicant a captive insurer licence.

(5) A captive insurer shall pay such annual fee as may be prescribed in FSC Rules.

(6) Any person who, for the purpose of making an application for a licence –

(a) makes a representation or statement which he knows to be false in a material particular; or

(b) recklessly makes a representation or statement which is false in a material particular,

shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 2 years.

(7) A captive insurance agent shall notify the Commission of any material change in the information submitted under this section within 15 days of that change, whether that change occurs before or after the issue of the licence.

8. Permissible classes of captive insurance business

(1) A captive insurer may insure –

(a) a contract of insurance or reinsurance pertaining to general insurance business;

(b) an ART policy contract; and

(c) any other class or type of insurance business as may be prescribed.

(2) No captive insurer shall provide, on a direct basis, any insurance purporting to cover risks in respect of which there is a compulsory insurance requirement under any other enactment.

(3) Subject to this Act, a captive insurance business may consist of 100 per cent reinsurance on risks ceded by any other insurer in the same manner as for direct insurance underwriting.

(4) For the purpose of subsection (3), the reinsurance of risks under a contract of insurance shall be treated as insurance business of the class to which the contract would belong if it were entered into by the reinsurer.

(5) Every captive insurer shall comply with this Act, guidelines and any licensing condition restricting the type of business or activity which he may conduct.

(6) A captive insurer shall insure risks corresponding only to the category specified in the second column of the Schedule for which he is licensed.

8A. Conduct of business

(1) A captive insurer shall conduct its core income generating activities in, or from within, Mauritius.

(2) A captive insurer may hire the services of an insurance manager licensed by the Commission to manage its business in, or from within, Mauritius.

(3) In this section –

"core income generating activities" includes predicting and calculating risk, insuring and reinsuring against risk and providing related services.

[S. 8A inserted by s. 9 of Act 11 of 2018 w.e.f. 9 August 2018.]

PART III – MANAGEMENT OF CAPTIVE INSURANCE

9. Captive insurance agent

(1) A captive insurer shall, at all times, have a captive insurance agent in Mauritius who shall be responsible for –

(a) filing an application for a licence with the Commission;

(b) filing with the Commission such document as may be required under this Act or the relevant Acts;

(c) filing with the Commission such other document as may be required under any other enactment;

(d) receiving or forwarding, as the case may be, any communication, notice or summons from, or to, the Commission; and

(e) maintaining records of the captive insurer.

(2) Service of process by or on a captive insurer shall be sufficient where it is made by or on his captive insurance agent.

(3) No person other than an actuary, an insurance manager, a law practitioner, a management company, a public accountant or such other person as may be prescribed shall act as a captive insurance agent.

(4) No person shall be appointed as or continue to act as a captive insurance agent where –

(a) in the case of a natural person, he is –

(i) a minor;

(ii) a bankrupt;

(iii) a person with any mental impairment; or

(iv) a person who has been convicted of an offence involving fraud or dishonesty by a Court in Mauritius or elsewhere;

(b) in the case of a body corporate, it is the subject of any proceedings, in Mauritius or elsewhere, which may result in it being wound up or otherwise dissolved.

(5) A captive insurer shall ensure that its captive insurance agent is of appropriate integrity and has adequate knowledge, experience, skill and competence for carrying out his functions.

(6) An actuary, an insurance manager, a law practitioner, a management company, a public accountant or such other person as may be prescribed may apply to the Commission for approval to act as captive insurance agent.

(7) Any application for approval under subsection (6) shall be made in such form and manner as the Commission may determine and shall be subject to such fees as may be specified in FSC Rules.

(8) The Commission may give its approval to an applicant to act as a captive insurance agent on such terms and conditions it may determine, where it is satisfied that the applicant is fit and proper and complies with all requirements of this Act.

(9) A captive insurer shall notify the Commission of the appointment of a new captive insurance agent within 15 days of such appointment.

10. Governance

(1) Every captive insurer shall –

(a) ensure that his governance structure provides effective oversight of the activities of his business taking into consideration the nature, scale and complexity of the business being conducted;

(b) establish adequate internal controls and adopt strategies, policies, processes and procedures in accordance with principles of sound corporate governance and risk management;

(c) maintain his registered office in Mauritius; and

(d) have a board of directors composed of not less than 3 directors at least one of whom shall be resident in Mauritius.

(2) A captive insurance agent of a captive insurer may act as its resident director.

(3) No appointment of a director or officer of a captive insurer shall take effect unless the Commission approves the appointment in accordance to section 24 of the Financial Services Act.

(4) A captive insurer shall conduct his board meetings –

(a) at its registered office in Mauritius;

(b) in the presence of the resident director; and

(c) in accordance with sound governance principles.

(5) The board of directors of a captive insurer may set up such subcommittees as it may determine to ensure that the business is being conducted according to sound corporate governance principles.

(6) Every captive insurer shall keep and maintain, at the office of his captive insurance agent, accurate documents and records, in the English or French language, of the insurance business and of its accounts for examination by the Commission.

(7) (a) The Commission may, where necessary, by reason of the nature, scale and complexity of the business of a captive insurer, direct the captive insurer to comply with such additional corporate governance requirements as it may determine.

(b) The Commission shall not issue a direction referred to in paragraph (a) unless it –

(i) notifies the captive insurer of the proposed additional corporate governance requirements, and the reason for complying with those additional requirements; and

(ii) gives the captive insurer a reasonable opportunity to make representations to the Commission.

(8) Every captive insurer shall maintain its business in a financially sound condition by generally conducting his affairs so as to be, at all times, in a position –

(a) to meet its liabilities as they arise; and

(b) to maintain a solvency margin of such value and comply with such prudential requirements as may be prescribed.

11. Investments

(1) The board of directors of a captive insurer shall –

(a) be responsible for the formulation and approval of the investment policy, strategy and objectives of the captive insurer; and

(b) in respect of the captive insurer, take account of –

(i) the analysis of its asset and liability relationship;

(ii) its overall risk tolerance;

(iii) its long-term risk-return requirements; and

(iv) its liquidity requirements and solvency position.

(2) The Minister may make such regulations as may be necessary in respect of the investments of a captive insurer.

(3) The Commission may make such FSC Rules as may be necessary in respect of the investments of a captive insurer.

12. Reports and statements

(1) Subject to subsection (2), a captive insurer shall, within 6 months of the end of the financial year, submit to the Commission an annual report consisting of –

(a) audited financial statements prepared in accordance with international accounting standards;

(b) a certification of solvency prepared by a person approved by the Commission in accordance with such requirements as may be prescribed;

(c) a management report detailing the activity of the captive insurance business, including but not limited to, underwriting, reinsurance and investments together with written confirmation that the information set out in the application for the licence, as modified by any subsequent changes approved by the Commission, remains accurate; and

(d) such other information as may be prescribed.

(2) On application made to that effect, the Commission may, on such terms and conditions as it may determine, authorise a captive insurer –

(a) to file its annual report based on a financial year that is consistent with the financial year of the parent and, if an alternative date is granted, the annual report shall be filed not later than 31 December of a given year;

(b) to use a generally accepted accounting principle for the preparation of its financial statements; and

(c) to select any currency acceptable to the Commission for its reporting purposes.

13. Captive insurer holding a Global Business Licence

[Amended 11/18 (cio 9/8/18).]

(1) Where a captive insurer holds a Global Business Licence, it shall comply with all applicable requirements imposed by the relevant Acts or guidelines issued under the relevant Acts**.**

[Amended 11/18 (cio 9/8/18).]

(2) The provisions of this Act shall continue to apply up to 30 June 2021 to the holder of a valid Category 1 Global Business Licence, issued on or before 16 October 2017, as if the provisions of this Act have not been amended on the commencement of this subsection.

[Added 11/18 (cio 9/8/18).]

(3) The provisions of this Act shall continue to apply up to 31 December 2018 to the holder of a valid Category 1 Global Business Licence, issued after 16 October 2017, as if the provisions of this Act have not been amended on the commencement of this subsection.

[Added 11/18 (cio 9/8/18).]

[S. 13 amended by s. 9 of Act 11 of 2018 w.e.f. 9 August 2018.]

PART IV – TRANSFER, AMALGAMATION AND INSOLVENCY

14. Transfer and amalgamation

Part VI of the Insurance Act and any other relevant Acts relating to transfer and amalgamation shall apply to the transfer and amalgamation of a captive insurance business insofar as these provisions are applicable.

15. Insolvency and winding up

Part VII of the Insurance Act and any other relevant Acts relating to insolvency and winding up shall apply to the insolvency and winding up of a captive insurance business insofar as these provisions are applicable.

PART V – SUSPENSION OR REVOCATION OF LICENCE

16. Power to suspend or revoke licence

(1) The Chief Executive may suspend, or the Enforcement Committee may revoke, a licence where a captive insurer –

(a) is insolvent or has its capital impaired;

(b) fails to meet capital and solvency margin requirements;

(c) refuses or fails to submit an annual report required under this Act or any other report or statement required by law or by a direction of the Commission;

(d) fails to comply with the provisions of its constitution, bylaws or other organisational document;

(e) fails to submit to or pay the cost of an investigation or any legal obligation related thereto;

(f) makes use of methods that, although not otherwise specifically prohibited by law, nevertheless render its operation detrimental or its condition unsound with respect to the public or its policyholders; or

(g) otherwise does any unlawful act.

(2) Subject to subsection (3), where a licence is suspended, the licensee shall cease to carry out the activity authorised by the licence, but shall remain subject to the obligations of a licensee and to the directions of the Commission until the suspension of the licence is cancelled.

(3) Notwithstanding subsection (2), a captive insurer whose licence is suspended may, continue to carry out such activities as the Chief Executive may authorise and on such conditions as he may impose.

(4) Notwithstanding the revocation of a licence, a captive insurer shall continue to be subject to the terms and conditions under which the licence was issued, and to the directions of the Commission for the orderly dissolution and discharge of its liabilities.

(5) The powers of the Chief Executive or the Enforcement Committee under this section are without prejudice to the powers of the Commission, Chief Executive or Enforcement Committee under any other enactment.

(6) In suspending a licence under subsection (1), the Chief Executive shall follow the procedure set out under section 27 of the Financial Services Act.

(7) The Enforcement Committee shall, in revoking a licence under subsection (1), follow the procedure set out under section 53 of the Financial Services Act.

PART VI – MISCELLANEOUS

16A. Power to extend time limit

Where, upon written application made by a captive insurer, the Commission is satisfied that the captive insurer was unable to comply with the provisions governing time limits of this Act, the FSC Rules and guidelines due to a just or reasonable cause, the Commission may, by notice to the captive insurer, extend the time limit to such time and on such conditions as it may determine.

Added by [Act No. 13 of 2026]

17. Regulations

(1) The Minister may make such regulations as he thinks fit for the purposes of this Act.

(2) Any regulation made under subsection (1) may –

(a) amend the Schedule;

(b) make such provision as may be necessary or expedient to remove any difficulty which arises in giving effect to this Act;

(c) provide that a provision of the Insurance Act or the relevant Acts shall be applicable to such categories of captive insurance business as the Minister may, in consultation with the Commission, determine;

(d) provide for –

(i) norms and standards that will be applicable to any category of captive insurance business;

(ii) any restriction to the business or activity of any category of captive insurance business; or

(iii) such other matter as may be required for attaining the purposes of this Act.

18. Rules and guidelines

Without prejudice to its powers under any other enactment, the Commission may, in FSC Rules or in guidelines issued under this Act, provide for –

(a) norms and standards that will be applicable to any category of captive insurance business;

(b) any requirement in the Insurance Act or any other relevant Act to be applicable to any category of captive insurance business;

(c) any restriction to the business or activity of any category of captive insurance business; or

(d) such other matter as may be required for attaining the purposes of this Act.

19. Transitional provisions

(1) Every external insurer carrying on a category of captive insurance business immediately before the coming into operation of this Act shall apply for a licence within 12 months of the coming into operation of this Act.

(2) This Act shall not affect –

(a) any proceedings started for the winding up of an existing captive insurer immediately before the coming into operation of this Act;

(b) any regulatory action commenced by the Commission under the relevant Acts;

(c) any other proceedings pending in any Court against an existing captive insurer.

20. – 21 –

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SCHEDULE
[Section 2]

In this schedule –

"insurable interest" means the risk arising from a contractual relationship between a third party and the parent or an affiliated corporation in which the parent has an ownership of not less than 20 per cent;

"owner", in relation to a multi-owner captive insurance business, means a person that owns shares or interests carrying voting rights;

"ownership" means –

(a) the owning, controlling or holding, directly or indirectly, of shares or interests carrying voting rights; or

(b) such other form of ownership as the Commission may determine.

CATEGORIES OF CAPTIVE INSURANCE BUSINESS

SN	Category	Description of related business (mandatory activity)	Description of unrelated business (optional activity)	Limitations to unrelated business
1.	Pure captive insurance business	In relation to general insurance business and ART policy contracts, the business of undertaking liability with respect to the risks of the parent and of any entity in which the ownership of the parent exceeds 50 per cent	In relation to general insurance business and ART policy contracts, the business of undertaking liability with respect to the risks of entities in which the ownership of the parent is not less than 20 per cent nor more than 50 per cent	Limitation to unrelated business – the gross written premium originating from the unrelated business shall not exceed 10 per cent of the total gross written premium* or such other amount as may be specified in FSC Rules, whichever is lesser
2.	Class 1 third party captive insurance business	The related business under pure captive insurance business	The unrelated business under pure captive insurance business or The business of undertaking long-term insurance business with respect to the parent or entities in which the ownership of the parent exceeds 50 per cent or both	Limitations to unrelated business – (a) the gross written premium originating from the unrelated business under pure captive insurance business shall not exceed 50 per cent of the total gross written premium* or such other amount as may be specified in FSC Rules whichever is lesser (b) the gross written premium originating from the business of undertaking insurance long-term business with respect to the parent or entities in which the parent has not less than 50

				per cent ownership shall not exceed 10 per cent of the total gross premium* or such other amount as may be specified in FSC Rules, whichever is lesser (c) the technical provisions in respect of the business of undertaking long-term insurance business with respect to the parent or entities in which the parent has not less than 50 per cent ownership or such other amount as may be specified in FSC Rules
3.	Class 2 third party captive insurance business	The related business under pure captive insurance business	The unrelated business under Class 1 third party captive insurance business or The business of undertaking liability with respect to the risks of any person in which the parent or affiliated corporation has no ownership, but to whom the parent or affiliated corporation is related by virtue of an insurable interest	Limitation to unrelated business – (a) the gross written premium originating from the business of undertaking liability with respect to the risks of any person in which the parent or affiliated corporation has no ownership, but to whom the parent or affiliated corporation is related through an insurable interest, shall not exceed 50 per cent of the total gross written premium* or such other amount

				as may be specified in FSC Rules
			or	whichever is the lesser
			both	(b) the limitations of unrelated business under Class 1 third party captive insurance business apply
4.	Class 3 third party captive insurance business	The business of undertaking liability with respect to the risks linked with the core product or service of the parent and entities in which the ownership of the parent exceeds 50 per cent, subject to such limitation or restriction as may be specified in FSC Rules	Unrelated business is not allowed under Class 3 third party captive insurance business	Not Applicable
5.	Multi-owner pure captive insurance business	The business of undertaking liability with respect to the risks of the owner, or risks related to or arising out of the business or operations of the owner, provided that the owner shall be an entity of a common industry, or shall be related in such other manner as the Commission may determine	Unrelated business is not allowed under multi-owner pure captive insurance business	Not Applicable

Notes

1. The descriptions and limitations set up above shall be applicable per cell where the captive insurer is structured as a Protected Cell Company under the Protected Cell Companies Act, and the parent, in this case, shall be the parent of the cellular shareholder.

2. Subject to 8(2) of this Act, captive insurance business, in relation to an accident and health policy as defined under the Insurance Act, may be carried out provided that the person insured is an employee or the declared dependant of an employee of the parent of the captive insurer.

3. The categories of captive insurance business mentioned in the above table, do not include the business of an international organisation referred to in Part V of the International Organisations and Conferences (Privileges and Immunities) Act.

* as reported in the returns of the current financial year in respect of related business under pure captive insurance business

[Sch. repealed and replaced by reg. 3 of GN 115 of 2021 w.e.f. 20 May 2021; reg 3 of GN 158 of 2023 w.e.f. 28 October 2023.]

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