

Would you start a new life assurance company in South Africa?

Barriers to entrepreneurship

If you were a South African entrepreneur would you consider investing your skills and savings in a new life assurance company? Although life assurance companies are usually well known worldwide for their employment and capital creating nature, would you risk running a company which today must comply with no less than 43 Acts of Parliament?

Of these, 15 have appeared in the past 24 months. This is a 54% increase in regulation in just two years!

Apart from having to comply with approximately 125 special and other directives regularly issued and re-issued by the Financial Services Board, you will come to know that each of the 43 Acts have their own "Regulations", and each of these are frequently revised simply by means of notices in the Government Gazette, issued every working week.

Perils of doing business begin...

Whilst considering establishing this new generator of capital and employment, consider the imponderable nature of the so-called "Four Fund" method of taxing life offices, recently revised to confiscate even more of your corporate and policyholders profits. Even your statutory actuary will have difficulty explaining it to you.

Then you might consider the fact that if the Registrar of Insurance takes a personal dislike to you, he may declare you not "fit and proper" to be a director. (There is nothing in the Act which defines "fit and proper". This is left entirely to the discretion of the civil servants as they change from time to time!)

...before you start selling...

Moreover, if the Registrar of Insurance takes a dislike to your new product, new advertising campaign or new marketing strategy, he may decide to declare it to be an "undesirable practice" and close your business down. Indeed, he may even apply for your liquidation, even if you are perfectly solvent. (The Insurance Acts do not define "undesirable practice" and permit the sequestration of "offenders" whether they be solvent or not!)

If you would like to appeal the decision of the Registrar, you must appeal to his very own "Appeal Board". Similarly, soon, your newly licensed agents and brokers will also be obliged to appeal bad decisions to an "Ombudsman" who works for and is paid by the FSB, with no right of further appeal! (Financial Advisory Bill).

...and continue afterwards while...

Since you are considering investing in a new life business, you may like to consider the fact that two Government ministries (Ministries of Finance and Health) are about to enter into a legal contest as to the meaning of the contents of the Medical Schemes Act. At present, the Department of Health considers that this Act forbids insurance companies from selling traditional "Hospital Cash" insurance products and is actively seeking to prosecute and punish those insurers who do. (The FSB disagrees!)

You may also consider that there is presently a Directive (No.134) which suggests that every one of your new employees (including the cleaners!) sign an employment contract which says *inter alia* that

they *and their relatives* will not buy or sell any shares (JSE listed or not!) without prior approval in writing from your newly-appointed “Compliance Officer”.

When it comes to underwriting your risks, you should be particularly careful not to fall foul of the “Promotion of Equality and Prevention of Unfair Discrimination Act” which may have the effect of preventing you from refusing to insure AIDS sufferers and jailing you if you do!

...new perils emerge unexpectedly.

Furthermore, now that Government has decided to refuse to assist their employees with payroll deduction premium payment facilities, you will have to think carefully about whether or not it would be in your interest to insure the lives of the poorer members of the civil service.

Of course, you are working for government – like it or not.

When you employ staff, you would be well advised to avoid employing too many skilled persons for fear of falling foul of the Employment Equity Act. You should also remember to deduct from them the correct amount of PAYE tax for transmission to the Receiver of Revenue each month, together with a further amount for “Skills Development” charges and Unemployment Insurance levies.

Whilst conducting your business, you will have to remember to notify the Authorities every time a new client cannot explain where his premiums come from (Prevention of Organised Crime Act) and to pay the VAT or Stamp Duty on the policy when he has bought it.

And when you say “goodbye” to clients...

When paying out the proceeds of your policies to their beneficiaries, to stay out of trouble you had better ensure that you comply with the provisions of The Income Tax Act, The Long Term Insurance Act, The Matrimonial Property Act, The Divorce Act, The Wills Act, The Administration of Estates Act and The Intestate Succession Act.

Naturally, when drawing up your business plan, you will remember to factor in the costs of this compliance. They could easily exceed 30% of your total operating expenses. If your new life office was ALSO to decide to become a member of the Life Offices’ Association, it would have to comply with a further 20 “Entrenched Agreements”.

...you may be stopped!

Then, if despite these frightful obstacles, you succeed in building up a profitable business, you may decide to sell it to a foreign investor. Not without some very careful manoeuvring you won’t! You will need the blessings of the Registrar of Insurance, the trade unions, the Reserve Bank, the Competitions Commissioner and possibly even the Minister of Finance.

Carpe Diem?

If all of this holds no fear for you, then investing your savings and endeavours in a new South African life assurance company could be just the thing for you!

Further reading

Reekie, W Duncan (1997) *Industrial Policy: A Critique*, Free Market Foundation Monograph No. 16, Johannesburg.

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