

CONSULTATION PAPER

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Review of the Age of Capacity to Enter into an Insurance Contract

MAS

Monetary Authority of Singapore

PREFACE

1 Section 58 of the Insurance Act (Cap. 142) ("IA") sets out the minimum age for a person to own an insurance policy. Currently, under this section, only individuals above the age of 10 may enter into a contract of insurance. However, a person below the age of 16 would also require written parental consent to own an insurance policy. Section 58 is silent on all other dealings relating to an insurance policy (e.g. assignment, delegation, taking out of policy loan).

2 MAS proposes to expand the scope of section 58 to encompass not only policy ownership but all dealings relating to the policy. We also propose to remove the minimum age requirement for entering into an insurance policy. Finally, we propose to raise the age at which an individual can enter into an insurance contract without parental consent to 18, to align with the age of contractual capacity under the Civil Law Act (Cap. 43) ("CLA"). This would mean that any person under the age of 18 would be able to own and deal with an insurance policy with parental consent, while any person above that age would be able to do so independently.

3 MAS invites interested parties to submit their views and comments on the recommendations set forth in this consultation paper. Electronic submission is encouraged. Written comments should be submitted to:

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10 Shenton Way
MAS Building
Singapore 079117
Fax: (65) 6229 9694
Email: sectionfiftyeight_10@mas.gov.sg

All comments and feedback should reach MAS by 8 February 2010.

4 Please note all submissions received may be made public unless confidentiality is specifically requested for all or part of the submission.

1 DEALING WITH AN INSURANCE POLICY

1.1 Section 58 of the IA deals with the capacity of a person to enter into a contract of insurance. This section prescribes the age at which an individual can enter into an insurance contract notwithstanding the common law age of majority (generally 21 years old in Singapore). Under section 58, anyone above the age of 10 can own an insurance policy, but he would also require parental consent if he is below the age of 16. Besides the ability to own an insurance policy, a person below the common law age of majority would also be able to surrender it. This is because the surrender of a policy is simply deciding not to carry on with the contract of insurance.

1.2 The exemption from the age of majority to enter into an insurance contract conferred by section 58 does not, however, extend beyond ownership and surrender of the insurance policy. This is because all other dealings relating to a policy (e.g. assignment, delegation, taking out of policy loan) would involve the formation of a secondary contract between the policy owner and a third-party. For instance, assignment of a policy would involve the formation of a contract between the policy owner and the assignee. Since these secondary contracts are not covered by section 58, they are not exempted from the age of majority.

1.3 A person may thus be able to own an insurance policy but, if he is below the age of majority, he would not be able to deal with it in any way other than to surrender it. There is no good reason for adopting this policy position. To date, no prudential or social concerns over persons below the common law age of majority owning insurance policies have surfaced.

1.4 In light of the above, MAS proposes to amend section 58 so that any person allowed to own a policy will also be allowed to deal with that policy in all respects, subject to the same conditions. In other words, if the person requires parental consent to own a policy, such consent should similarly be required for him to deal with the policy. This in line with the practice in other jurisdictions with the legislative equivalent of section 58 (for more details on the legislative framework of various countries relating to the capacity to enter into an insurance contract, please refer to [Annex 1](#)).

2 MINIMUM AGE OF CAPACITY TO ENTER INTO AN INSURANCE CONTRACT

2.1 As mentioned above, section 58 currently allows only persons who have attained the age of 10 years to own insurance policies. Additionally, if the person is below the age of 16, the consent of a parent or guardian is required in writing before he can own a policy.

2.2 However, as there have been no prudential or social concerns thus far over persons below the common law age of majority owning insurance policies, it should not be an issue to allow persons even below the age of 10 to own insurance policies as long as parental consent is obtained. The requirement for written parental consent should provide sufficient safeguard against minors inadvertently purchasing, surrendering or dealing with insurance policies, or doing so in a manner detrimental to either themselves or the third-parties with whom they are dealing.

2.3 Removing the minimum age of capacity to enter into an insurance contract will also eliminate unnecessary complexity from section 58, which currently makes reference to two separate ages – 10 (the minimum age to own an insurance policy) and 16 (the age at which parental consent is no longer required). While other jurisdictions continue to retain a minimum age, there seems to be no compelling reason to do so, and the requirement for parental consent should provide sufficient safeguard.

2.4 Hence, MAS proposes to remove the minimum age of capacity to enter into an insurance contract, provided written consent from the policy owner's parent or guardian is obtained for policy owners below the age of contractual capacity.

3 AGE OF INDEPENDENT CAPACITY TO ENTER INTO AN INSURANCE CONTRACT

3.1 While section 58 currently allows a person who has attained the age of 16 years to own an insurance policy without needing to obtain parental consent, the age of

contractual capacity has been lowered from 21 years old (the *de facto* common law age of majority) to 18 by amendments to the CLA which came into effect on 1 March 2009¹.

3.2 Among jurisdictions with equivalent legislation to section 58, the rationale for the choice of 16 years old as the age of independent capacity to enter into an insurance contract is unclear. Those jurisdictions without equivalent legislation to section 58 have also experienced no issues arising from aligning the age of capacity to enter into an insurance contract with the age of contractual capacity for all other types of contracts.

3.3 As such, there does not seem to be any compelling reason to distinguish the age at which a person may own insurance policies without parental consent from the age at which he may do so in respect of all other types of contracts. It seems unnecessarily complicated to have two different ages of capacity in the law – 16 years old for insurance policies (set out in the IA) and 18 years old for all other contracts (set out in the CLA).

3.4 If the age of independent capacity to enter into an insurance contract were to be increased from 16 to 18 years to align with the age of contractual capacity, persons between the ages of 16 and 18 years who would have been able to independently purchase insurance policies previously would now have to seek parental consent. There are, however, likely to be only a small number of individuals between the age of 16 and 18 who would desire to own an insurance policy without having to seek consent from their parent(s).

3.5 Given the above considerations, MAS proposes to align the age of capacity to enter into an insurance contract with the age of contractual capacity for all other types of contracts. In other words, the minimum age at which a person can own an insurance policy without parental consent will be raised from 16 to 18 years.

4 CONCLUSION

4.1 The changes to section 58 proposed by MAS are intended to streamline the legislative framework governing the age of capacity to enter into an insurance contract. First, we propose to expand the scope of section 58 to encompass not only policy

¹ A policy owner is defined as the individual who automatically has the right to exercise all privileges under the contract. In most cases, the policy owner is also the life assured (i.e. the person whose life is covered by the policy), but in some cases the two may differ (e.g. where a parent, as the policy owner, buys a policy on the life of his child, the life assured).

ownership but all dealings relating to the policy, such that any person capable of owning a policy will also be allowed to deal with that policy in all respects, subject to the same conditions. Second, we propose to do away with the minimum age of capacity to enter into an insurance contract, recognising that the interests of both parties should be sufficiently safeguarded by the requirement for written parental consent below the age of 18. Finally, we propose to align the age of contractual capacity in respect of insurance policies (governed by the IA) with that for all other types of contracts (governed by the CLA) at 18 years old.

Annex 1

| | Singapore (existing) | Australia | Malaysia | Canada | Hong Kong | India | UK | Singapore (proposed) |
|--------------|---------------------------------|------------------|-----------------|---------------|------------------|--------------|-----------|---------------------------------|
| 0-10 | N | N | N | N | N | N | N | Y* |
| 10-16 | Y* | Y* | Y* | N | N | N | N | Y* |
| 16-18 | Y | Y | Y | Y | N | N | N | Y* |
| 18+ | Y | Y | Y | Y | Y | Y | Y | Y |

* With written parental consent.



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