



## SAINT LUCIA

# CHAPTER 12.08

# INSURANCE ACT

**Revised Edition**  
Showing the law as at 31 December 2008

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

### **INSURANCE ACT**

Act 6 of 1995 in force 15 August 1995 (Act 14 of 1996)

Amended by Act 14 of 1996 in force 7 September 1996

Amended by Act 28 of 2003 in force 12 January 2004

Amended by Act 3 of 2006 in force 6 February 2006

Amended by Act 21 of 2006 in force 27 March 2006

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Amended by S.I. 60/1997 in force 26 July 1997

Amended by S.I. 125/2002 in force 16 December 2002

### **REGISTRATION OF INSURANCE AGENTS, INSURANCE BROKERS AND INSURANCE SALESMEN REGULATIONS – Section 167**

Statutory Instrument 77/1995 in force 9 December 1995

### **INSURANCE COMPANIES (REGISTRATION) REGULATIONS – Section 167**

Statutory Instrument 78/1995 in force 9 December 1995

### **INSURANCE COMPANIES (ACCOUNTS AND FORMS) REGULATIONS – Section 167**

Statutory Instrument 79/1995 in force 9 December 1995  
Amended by S.I. 36/1996 in force 13 July 1996

**INSURANCE COMPANIES (REINSURANCE) REGULATIONS – Section 167**

Statutory Instrument 80/1995 in force 9 December 1995

**INSURANCE (ADMISSIBLE ASSETS AND VALUATION OF ASSETS) REGULATIONS – Section 167**

Statutory Instrument 81/1995 in force 9 December 1995

**INSURANCE (BROKERS' RETURNS FORMS) REGULATIONS – Section 167**

Statutory Instrument 126/2002 in force 16 December 2002

## CHAPTER 12.08

### INSURANCE ACT

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## INSURANCE ACT

(Acts 6 of 1995, 14 of 1996, 28 of 2003, 3 of 2006, 21 of 2006, 8 of 2008, S.I. 60/1997 and S.I. 125/2002)

AN ACT to regulate insurance business, the operation of pension fund plans and for related matters.

Commencement [15 August 1995]

### PART 1 PRELIMINARY

#### 1. SHORT TITLE

This Act may be cited as the Insurance Act.

#### 2. INTERPRETATION

In this Act—

“**actuary**” means—

- (a) a Fellow by examination of the Institute of Actuaries in England, of the Faculty of Actuaries in Scotland, of the Society of Actuaries in the United States of America or an actuary possessing such other qualifications as may be approved by the Minister; or
- (b) a person recognised by the Minister as having actuarial knowledge and experience;

“**admissible assets**” means such assets as may be prescribed to be admissible assets;

“**assets**” does not include goodwill;

“**association of underwriters**” means an association of individual underwriters organised according to the system known as Lloyd’s whereby every underwriting member of a syndicate becomes liable for a separate part of the sum secured by each policy subscribed to by that syndicate, limited or proportionate to the whole sum thereby secured;

“**carrying on insurance business**” includes the receipt of proposals for or the issuing of policies of insurance in Saint Lucia or the collection or receipt in Saint Lucia of premiums on policies issued in Saint Lucia by an insurer or through an insurance agent or as an insurance agent but does not include—

- (a) the collection or receipt in Saint Lucia of renewal premiums under a policy issued outside of Saint Lucia to a person resident outside Saint Lucia at the date of issue of the policy and who is temporarily resident in Saint Lucia; or

(b) the making of payments due under any such policy;

“**Chief Executive Officer**” means a person employed by an insurance company, who, subject to any directions of the directors of the company, is responsible for the conduct of the insurance business of the company;

“**class of insurance business**” means any class of insurance business specified in Schedule 1;

“**company**” means a body corporate which, whether incorporated under the Commercial Code of Saint Lucia or under any other law is registered under that Code and carries on or proposes to carry on insurance business in Saint Lucia;

“**court**” means a court of competent jurisdiction;

“**director**” means any person occupying the position of director, by whatever name called, of a company;

“**financial year**”, in relation to an insurer, means each period not exceeding 12 months at the end of which the balance of the accounts of the insurer is struck;

“**foreign company**” means a company which is not a local company;

“**foreign insurance broker**” means an insurance broker that is not a local insurance broker;

“**foreign insurer**” means an insurer that is not a local insurer;

“**general insurance business**” means any class of insurance business other than long-term insurance business;

“**industrial policy**” means a policy in respect of which the premiums are contracted to be paid weekly or fortnightly and are contracted to be received by means of collectors and includes—

- (a) a policy which at any time was an industrial policy; and
- (b) a paid-up policy, not being a policy expressed to be an ordinary policy granted in lieu of an industrial policy or of a policy referred to in paragraph (a);

“**insurance agent**” means any individual, firm or company appointed by an insurer or an insurance agent to solicit applications for insurance or negotiate insurance on its behalf and if authorised to do so by the insurer, to effectuate and countersign insurance contracts but does not include an individual who is an employee of the insurer;

“**insurance broker**” means any individual who or any firm or company which for compensation as an independent contractor in any manner solicits, negotiates or procures insurance or the renewal or continuance of it on behalf of existing or prospective policy holders;

“**insurance business**” means the business of the undertaking of liability under policies to make good or indemnify the insured against any loss or damage

including liability to pay damages or compensation contingent upon the happening of a specified event;

“**insurance fund**” in relation to a company means a fund maintained by a company in accordance with section 88;

“**insurance salesman**” means an individual who is contracted by an insurer or an insurance agent to solicit applications for insurance or negotiate insurance on behalf of an insurer, or an insurance agent but shall not include a *bona fide* salaried employee of an insurer, insurance agent or insurance broker who is employed at its principal office or branch of it;

“**insurer**” means a company carrying on insurance business and, except where otherwise stated, includes an association of underwriters;

“**local company**” means—

- (a) a company incorporated in Saint Lucia or a member State with not less than 51% of its issued share capital held by citizens of Saint Lucia or nationals of member States; or
- (b) any company incorporated in a country other than Saint Lucia, which country the Minister specifies by order published in the Gazette;

“**local insurance broker**” means an insurance broker that is either—

- (a) an individual who is a citizen of Saint Lucia;
- (b) a firm in which the partners holding the majority interest are citizens of Saint Lucia; or
- (c) a local company;

“**local insurer**” means an insurer that is a local company or is an association of underwriters incorporated in Saint Lucia;

“**local policy**” means in relation to—

- (a) long term insurance business, a policy issued or effected by a company registered under this Act, on the life of a person resident in Saint Lucia;
- (b) property insurance business, a policy issued or effected by a company registered under this Act on property situated in Saint Lucia; and
- (c) any other class of insurance business, a policy issued or effected by a company registered under this Act where the risks covered by the policy are ordinarily situated in Saint Lucia at the time the policy was issued;

“**long term insurance business**” includes insurance business of all or any of the following classes—

- (a) ordinary long term insurance business;
- (b) industrial life insurance business;
- (c) in relation to any insurer, insurance business carried on by the insurer as incidental only to any of the classes of business referred to in paragraphs (a) and (b);

“**member State**” means a member State of the Caribbean Community or the Organisation of Eastern Caribbean States listed in Schedule 6;

“**Minister**” means the Minister to whom responsibility for the subject of finance is assigned;

“**mutual company**” means a company whose capital is owned by the policy holders of that company;

“**national of a member State**” means a company or other legal entity constituted in a member State and which that member State regards as belonging to it, if that company or other legal entity has been formed for gainful purposes and has its registered office and central administration, and carries on substantial activity within the member State and is substantially owned and effectively controlled by a person who:

- (a) is a citizen of a member State;
- (b) has a connection with a member State of a kind which entitles that person to be regarded as belonging to or, if it be so expressed, as being a native or resident of that member State for the purposes of the laws of that member State relating to immigration;

and for the purposes of this definition, a company or other legal entity is:

- (i) substantially owned if more than 50% of the equity interest in the company or entity is beneficially owned by a person mentioned in paragraphs (a) and (b),
- (ii) effectively controlled if the persons mentioned in paragraphs (a) and (b) have the power to name a majority of its directors or are otherwise legally entitled to direct its actions;

“**officer**” includes the Chief Executive Officer, the manager, secretary, treasurer, actuary of that body or any other person designated as an officer of a company by its articles of association, its bye-laws or any rules regulating its operation;

“**paid-up value**” means the reduced face amount of insurance which the insured buys with the cash surrender value;

“**paid-up policy**” means a policy on which no further premium payments are to be made;

“**person**” means any individual, firm, partnership or company;

“**policy**” means a valid insurance contract whatever the form in which the rights and obligations of the parties to the contract are expressed and includes a sinking fund policy, but does not include an insurance contract in which—

- (a) a person or a member of a class of persons declared to be exempt from this Act by order made under section 166 assumes the obligations of the insurer; or

- (b) a person assumes the obligations of an insurer in a class of insurance business declared to be exempt from this Act by order made under section 166;

“**policy holder**” means the person who for the time being has the legal title to the policy and includes any person to whom a policy is assigned;

“**premium income**” means the gross premiums less refunds collected by an insurer in Saint Lucia during its financial year;

“**prescribed securities**” means the securities listed in Schedule 2;

“**principal office**” means the office notified to the Registrar in accordance with section 17;

“**principal representative**” means a person appointed by a foreign company under section 17;

“**Registrar**” means the Registrar of Insurance designated under section 5;

*[The next page is page 14A]*



“**superannuation allowances**” includes payment of a lump sum on retirement;

“**underwriter**” includes any person named in a policy as liable to pay or contribute towards the payment of the sum secured by the policy;

“**underwriting liabilities**”, in relation to a member of an association of underwriters, means the liabilities of the insurance business of the member calculated in accordance with formulae fixed by the governing body of the association and approved—

- (a) in the case of an association constituted in Saint Lucia, by the Minister; and
- (b) in the case of an association constituted in a country outside Saint Lucia, by the authority in whom is vested the administration of the law relating to associations of underwriters in that country.

*(Amended by Act 21 of 2006)*

### **3. CLARIFICATION OF CARRYING ON BUSINESS**

For the purpose of this Act, a person shall not be treated as carrying on insurance business in Saint Lucia if the only reason for so treating such a person is the fact that the risk covered by a policy of insurance issued by such person is situated in Saint Lucia.

### **4. APPLICATION OF ACT**

- (1) This Act applies to—
  - (a) all insurers, whether or not established in Saint Lucia, which carry on in Saint Lucia any class of insurance business;
  - (b) privately administered pension fund plans whether administered by individual trustees or by trust corporations;

*[The next page is page 15]*





- (2) A body corporate incorporated under the Commercial Code which carries on insurance business in any part of the world other than Saint Lucia shall, for the purposes of this Act, be deemed to be a company carrying on such business within Saint Lucia.
- (3) For the purposes of this Act, the reinsurance of liabilities under insurance policies shall be treated as insurance business of the class and type to which the policies would have belonged if they had been issued by the reinsurer, and all the provisions of this Act shall apply to such reinsurance except that a company or an association of underwriters carrying on such reinsurance shall not be required to make in respect of such reinsurance any deposit as required by section 80.

## **PART 2 ADMINISTRATION**

### **5. REGISTRAR OF INSURANCE**

- (1) For the purposes of this Act there shall be a Registrar of Insurance who shall be responsible for the general administration of the Act.
- (2) The Minister shall designate an officer in the Ministry of Finance to be the Registrar of Insurance.
- (3) In the exercise of his or her powers and the performance of his or her duties, the Registrar shall comply with any directions given to him or her in writing by the Minister.

### **6. REGISTRAR MAY SECURE SERVICES OF PERSONS**

The Registrar may obtain the services of, an actuary or any competent person for the purpose of carrying out any survey, investigation, inquiry or functions under this Act.

### **7. DELEGATION BY REGISTRAR**

- (1) The Registrar may delegate on such terms and conditions as he or she thinks fit, to any person employed in the Ministry of Finance, any of his or her powers or duties under this Act except the power conferred on him or her by this section.
- (2) Any delegation under subsection (1) shall be revocable at any time by the Registrar and no delegation shall prevent the exercise of such powers or duties by the Registrar.

### **8. ANNUAL REPORT OF REGISTRAR**

- (1) The Registrar shall, on or before the last day of June in each year or such later date in the year as the Minister may specify, prepare and submit to the Minister a report containing—

- (a) statements on the working of this Act during the previous year; and
  - (b) printed copies or summaries of the documents lodged with the Registrar under sections 26, 57, 95, 151 and 152.
- (2) The Registrar may attach to any printed copies or summaries furnished under subsection (1)(b) such comments on the document as the Registrar considers necessary, together with a copy of any correspondence relating to the document.
- (3) The Minister shall within 4 months of receipt of the report submitted to him or her under subsection (1) cause a copy of the report to be laid in the House of Assembly.

### **PART 3**

#### **REGULATION OF INSURANCE COMPANIES**

##### *Registration*

#### **9. NON-APPLICATION**

This Part does not apply to a privately administered pension fund plan or to an association of underwriters.

#### **10. RESTRICTION ON CARRYING ON INSURANCE BUSINESS**

- (1) Subject to this Act, a person shall not carry on insurance business in Saint Lucia, unless that person is a company, or an association of underwriters, and registered under this Act.
- (2) Every company registered to carry on insurance business in Saint Lucia immediately before the commencement of this Act, shall be deemed to have been registered under this Act.
- (3) A company which contravenes this section commits an offence and is liable on summary conviction to a fine of \$40,000.

#### **11. CONTRACTS WITH NON-REGISTERED INSURERS**

- (1) The Registrar may, in special circumstances, grant approval for insurances to be placed with non-registered insurers where he or she is satisfied that it is not possible to obtain similar protection from an insurer registered under this Act.
- (2) Any person who desires to enter into an insurance contract with a non-registered insurer (except a contract relating to reinsurance), shall apply to the Registrar for permission to do so.

**12. SHARE CAPITAL NECESSARY FOR REGISTRATION**

- (1) Subject to this Act, a company shall not be registered to carry on long term insurance business unless, if a local company it has a paid-up share capital of not less than \$1,000,000, or if a foreign company it has a paid-up share capital of not less than \$2,500,000 such capital to be fully paid up in cash, or in the case of a mutual company unless it has uncommitted reserves of at least \$2,500,000.
- (2) A company shall not be registered to carry on any class of insurance business other than long term insurance business unless if a local company it has a paid-up share capital of not less than \$750,000, or if a foreign company it has a paid-up share capital of not less than \$1,500,000, such capital to be fully paid up in cash, or in the case of a mutual company unless it has uncommitted reserves of at least \$1,500,000.
- (3) Despite subsections (1) and (2), the Registrar may, if it appears to him or her necessary, require a company seeking registration under this Act to increase its paid-up share capital beyond the minimum level stated in subsections (1) or (2) as the case may be.
- (4) A company which immediately before the commencement of this Act is registered to carry on any class of insurance business, shall within 2 years of the commencement of this Act, increase its paid-up share capital or its uncommitted reserves to the level required in subsection (1) or subsection (2) as the case may be.

**13. APPLICATION FOR REGISTRATION**

- (1) Any company proposing to undertake any insurance business in Saint Lucia shall apply to the Registrar for registration under this Act and such application shall be accompanied by the fee prescribed in Schedule 3.
- (2) An application for registration under subsection (1) shall be in writing on the prescribed form and, shall be signed by 2 directors and the secretary in the case of a local company or by 2 directors and the principal representative in the case of a foreign company, and shall specify—
  - (a) if a local company, the address of its principal office in Saint Lucia;
  - (b) if a foreign company, the name of its principal representative and the address of its principal office in Saint Lucia and the address of its Head Office;
  - (c) the names and addresses of the directors and auditors of the company, and in the case of a company carrying on long term insurance business, the name of the actuary;
  - (d) in the case of a local company, the name and address of its chief executive officer;
  - (e) the countries, if any, outside Saint Lucia in which the company carries on insurance business; and
  - (f) the class or classes of insurance business to be undertaken by the company.
- (3) An application under subsection (1) shall be accompanied by—

- (a) a certificate of incorporation and, in the case of a foreign company its certificate of registration in Saint Lucia;
- (b) a copy of the memorandum and articles of association of the company or other instrument establishing the company;
- (c) a copy of the latest revenue account and balance sheet of the company, if any, and a statement of its projections of revenue and expenditure for at least 3 years;
- (d) evidence of payment of the prescribed application fee;
- (e) in the case of a company having shareholders, a statement showing the nominal, subscribed and paid up capital of the company and the amount of the capital which had been paid up in cash;
- (f) details of reinsurance arrangements in respect of each class of insurance business which the company proposes to carry on;
- (g) in the case of a company carrying on long term insurance business, a copy of the premium rate book to be used by the company;
- (h) specimens of the various standard forms of proposals and policies to be issued in Saint Lucia certified by a director or principal representative of the company to be true and correct; and
- (i) such further information as the Registrar considers necessary for determining whether the company is capable of complying with this Act.

#### **14. REGISTRAR MAY REGISTER COMPANY**

- (1) The Registrar may, where he or she is satisfied that all the requirements of this Act governing registration have been complied with, register the company as soon as practicable after receiving the application.
- (2) The Registrar shall issue to every company registered under this Act a certificate of registration in such form as may be prescribed in which shall be stated the class or classes of insurance for which the company is registered.

#### **15. CONDITIONS FOR REGISTRATION**

Subject to this section and section 166, a company shall not be registered to carry on insurance business in Saint Lucia unless—

- (a) it has deposited with the Registrar the deposits required under this Act;
- (b) it has made arrangements and continues to have in place such arrangements for reinsurance of its business or future business to the satisfaction of the Registrar;
- (c) the Registrar is satisfied that the company is solvent under section 34;
- (d) it has paid the licence fee stipulated by section 161;

- (e) the Registrar is satisfied that having regard to the knowledge and competence of its manager and other officers, the company is in relation to that class of insurance business, capable of carrying on such business efficiently; and
- (f) the Registrar is satisfied that the company is capable of complying with such provisions of this Act as are applicable to that class of insurance being undertaken by the company.

## **16. REGISTRATION OF FOREIGN COMPANIES**

- (1) A foreign company shall not be registered to carry on insurance business in Saint Lucia unless, in addition to complying with section 15, the Registrar is satisfied that the company is lawfully constituted in accordance with the laws of the country in which it is incorporated and has undertaken insurance business in that country for at least a period of 5 years before the date of the application for registration in Saint Lucia.
- (2) The Minister may by order published in the Gazette vary the period specified in subsection (1).

## **17. OBLIGATIONS OF FOREIGN COMPANY**

- (1) A registered foreign company shall maintain a principal office in Saint Lucia and shall appoint a principal representative in Saint Lucia.
- (2) The principal representative of a registered foreign company shall have a power of attorney sufficient to satisfy the Registrar that the representative is authorised to act for such company in all matters to secure compliance by that foreign company with this Act, and a copy of such power of attorney shall be lodged with the Registrar immediately after the appointment of the principal representative.
- (3) Service of any notice, writ, summons or other document or process on a principal representative shall be deemed to be service on the foreign company concerned.
- (4) If a registered foreign company changes the address of its principal office in Saint Lucia or appoints a new principal representative, it shall within 14 days of the change or the new appointment, give notice of it to the Registrar in writing.

## **18. NOTIFICATION OF CHANGE IN PARTICULARS OF REGISTRATION**

Where subsequent to the registration of a company under this Act there is any change in the particulars specified in the application for the registration of the company, or in the documents submitted with the application, the company shall, within 30 days of such change, notify the Registrar in writing of the change.

## **19. APPLICATION AND POLICY FORMS**

- (1) Every company registered under this Act to carry on any class of insurance business shall, at least one month prior to the date of issue of any standard form of policy, or

of the use of any standard form of application for a policy, furnish the Registrar with a copy of such form of policy or form of application.

- (2) The Registrar may prohibit a company from issuing any form of policy, form of endorsement or form of application for a policy the issue or use of which, in his or her opinion is fraudulent, unjust or not in the public interest.
- (3) A company which continues to issue or continues to use a form of policy or a form of endorsement or a form of application for a policy the issue or use of which is prohibited by the Registrar under subsection (2) commits an offence.

## 20. CANCELLATION OF REGISTRATION

- (1) The Registrar may cancel the registration of a company registered under this Act—
  - (a) if he or she is satisfied that the company has ceased to carry on insurance business in Saint Lucia for more than one year;
  - (b) if he or she is satisfied that the company has not commenced business in Saint Lucia within 2 years of registration;
  - (c) at the request of the company or its liquidator or trustee;
  - (d) if he or she is satisfied that the company obtained registration as a result of any misleading or false representation or in consequence of any incorrect information;
  - (e) if the company is insolvent within the meaning of section 34;
  - (f) if he or she is satisfied that there is unreasonable delay in the settlement of claims payable under policies issued by it;
  - (g) if one month has elapsed since the date before which the company was required under this Act to furnish information to the Registrar and the company has, without reasonable excuse, failed to furnish the information or failed to do so in the manner specified in this Act; or
  - (h) if any of the reinsurance arrangements of the company is not satisfactory.
- (2) Before exercising the power of cancellation under subsection (1) the Registrar shall notify the company of such intended cancellation giving reasons therefor and the company shall have the right to be heard within any period stipulated by the Registrar in the notice.
- (3) The Registrar shall, when the registration of a company is cancelled—
  - (a) give notice of cancellation to the company; and
  - (b) require the company to deliver its certificate of registration to him or her within 28 days of the cancellation or such shorter period as may be specified in the notice.

**21. REASONS FOR REFUSAL OR CANCELLATION**

The Registrar shall, where he or she refuses to register a company or where he or she cancels the registration of a company after the refusal or the cancellation within 14 days notify the company in writing of his or her reasons for so doing.

**22. EFFECT OF CANCELLATION OF REGISTRATION**

- (1) Where the registration of a company is cancelled the company shall not, after the date on which it was notified of the cancellation, enter into any new contract of insurance in Saint Lucia.
- (2) For the purpose of subsection (1) a company shall be treated as having entered into a new contract of insurance where a contract of insurance entered into prior to the date of the notification under section 20 is renewed or varied after that date.
- (3) This section shall not be construed as relieving an insurance company the registration of which has been cancelled under this Act or any other Act, of the obligation to maintain the deposit required to be made under section 80 and the insurance fund required to be maintained under section 88.
- (4) A company which contravenes subsection (1) commits an offence.

*Accounting Requirements***23. COMPANY TO KEEP RECORDS**

- (1) Every company shall keep at its head office or at the office of its principal representative in Saint Lucia, as the case may be, such books, vouchers, records, receipts and other documents as may be necessary to enable it to prepare for transmission to the Registrar a statement of the insurance business carried on by it in Saint Lucia.
- (2) The Registrar may request in writing a company to furnish such statement referred to in subsection (1) and it shall be in such form as may be prescribed by the Minister.

**24. INFORMATION IN ORDER TO ASCERTAIN ABILITY OF COMPANY TO MEET OBLIGATIONS**

- (1) The Registrar may require any company registered under this Act or the director, manager, auditor, actuary or secretary thereof to furnish him or her, within such time as he or she may specify, with such information as may be necessary to ascertain the ability of the company to meet its obligations under policies issued by it.
- (2) A company or any director, manager, auditor, actuary or secretary of a company who without reasonable excuse fails to comply with the requirements of subsection (1) commits an offence.

**25. COMPANY TO KEEP SEPARATE ACCOUNTS**

- (1) A company which carries on besides insurance any other business shall keep separate accounts in respect of its insurance business.
- (2) A company which carries on general insurance business in addition to its long-term insurance business, shall keep separate accounts in respect of its long-term insurance business.

**26. ANNUAL ACCOUNTS**

- (1) Subject to subsection (3) a company shall, within 4 months of each financial year, or within such extended period not exceeding 2 months as the Registrar may allow, submit to the Registrar 3 copies of—
  - (a) a balance sheet showing the financial position of all insurance business of the company at the close of that year;
  - (b) a profit and loss account in respect of all its insurance business in that year;
  - (c) separate revenue accounts in respect of each class of insurance business carried on by it;
  - (d) an analysis of long term insurance policies in force at the end of that year;
  - (e) a certificate by the auditor that the company is solvent in accordance with section 34 of this Act; and
  - (f) such other documents and information as may be required by the Registrar.
- (2) A company shall furnish the Registrar with a copy of any report on the affairs of the insurer submitted to the policy holders or shareholders of the insurer in respect of the financial year to which those documents relate.
- (3) All the documents required to be furnished under subsection (1) shall separately provide information on the world wide business of the company as well as the business in Saint Lucia, and such documents shall be prepared in such form as may be prescribed by the Registrar.
- (4) A company incorporated outside of Saint Lucia carrying on business in Saint Lucia shall submit to the Registrar a copy of the statement of accounts submitted to the regulatory authority in the country of incorporation.
- (5) If, in the opinion of the Registrar, a document furnished by a company under subsection (1) is incorrect or incomplete or is not prepared in accordance with this Act, he or she may, by notice in writing, call upon the company to amend the document or to furnish a correct document, as the case may be.
- (6) If a company fails to comply with a notice referred to in subsection (5) to the satisfaction of the Registrar, the Registrar may amend the document in question, giving the company particulars of the amendments, or reject the document.
- (7) A document amended by the Registrar or by a company under this section shall be treated as having been submitted to the Registrar in its amended form.



- (8) If a document has been rejected by the Registrar under subsection (6) the company shall be treated as having failed to comply with subsection (1) in relation to that document, unless it has furnished within the time specified another document in accordance with the directions of the Registrar.
- (9) A company which fails to submit any account, statement or other document required under this section, shall pay a fee of \$200 for every day that the account, financial statement or other document remains not submitted after the due date or the date extended by the Registrar, and such fee shall be payable by the company on such date as may be fixed by the Registrar and if not paid the company commits an offence and is liable on summary conviction to a fine of \$40,000 together with any fee incurred for not submitting the statements or other documents on the due date or on the date extended by the Registrar.
- (10) A company shall, at the request of a policy holder make available to that policy holder a copy of the relevant revenue account, profit and loss account and balance sheet prepared by the company under subsection (1) in respect of its last preceding financial year.
- (11) The documents required to be furnished under subsection (1) shall be certified by an independent auditor, and if long term insurance business, by an actuary, and the Secretary or the principal representative and a director of the company.

## **27. GROUP ACCOUNTS**

All registered insurance companies which operate as separate entities that can be wound up under local or overseas law shall render separate accounts in respect of each separate entity; but where they are associated together in a group, the parent company shall also furnish to the Registrar consolidated accounts for the group as a whole.

## **28. APPRECIATION AND DEPRECIATION OF ASSETS**

Where a company treats any asset as having appreciated or depreciated in value, the company shall regard the amount of the appreciation or depreciation as an item of income or expenditure as the case may be.

## **29. REGISTRAR MAY REQUEST APPRAISAL OF PROPERTY OF COMPANY**

- (1) Where on perusal of any information furnished to the Registrar under this Act it appears—
  - (a) that the value placed by the company on any real property owned by it in Saint Lucia is too great; or
  - (b) that the property is not adequate security for any loan secured by mortgage on such property and the interest thereon,

the Registrar may request the company to have the real property appraised by a valuer approved by him or her, and failing compliance with such request, the

Registrar may cause an appraisal of the real property to be done at the expense of the company.

- (2) Where the appraised value of the real property of a company is substantially less than the value disclosed in the information furnished under section 36(1), the Registrar may, in order to ascertain the ability of the company to meet its obligations, substitute the appraised value for the value disclosed.
- (3) Where the appraised value of the real property of a company is not adequate security for a loan secured by mortgage on such property and the interest thereon, the Registrar may write off from the loan and the interest a sum sufficient to reduce them to such amount as may be fairly realisable from the sale of the real property; but the reduced sum shall in no case exceed the appraised value of such property.

### 30. AUDIT

- (1) The accounts of every company shall be audited annually by its auditors, and every revenue account and balance sheet required to be prepared by the company under section 26(1) shall be accompanied by a report of the auditors addressed to the Registrar stating whether in their opinion—
  - (a) the accounts have been prepared in accordance with this Act;
  - (b) the revenue account and the profit and loss account present fairly the results of the company's operations for the financial period to which they relate;
  - (c) the balance sheet presents fairly the state of the company's affairs at the end of the financial period to which it relates;
  - (d) adequate records of account have been maintained by the company and are reasonably up to date;
  - (e) the reserves relating to unexpired policies have been calculated in accordance with section 137; and
  - (f) the provisions regarding the settlement of outstanding claims are adequate, having regard to the latest estimated costs of settlement of such claims.
- (2) Subsections (1)(e) and (1)(f) shall apply only to a company carrying on general insurance business in Saint Lucia.
- (3) Where the auditors, for the purpose of exercising the powers conferred on them by subsection (1)—
  - (a) are unable to obtain all the information they require; or
  - (b) are not completely satisfied with the information contained in the accounts on which they are reporting,

they shall in their report specify the matters in respect of which they were unable to obtain all the information or matters about which they were not completely satisfied.

**31. APPOINTMENT OF AUDITORS**

- (1) A person shall not be appointed auditor of a company incorporated in Saint Lucia unless—
  - (a) he or she is a member of the Institute of Chartered Accountants of Saint Lucia or such other professional association as may be prescribed; or
  - (b) the company has served on the Registrar written notice of its intention to make such appointment; and
  - (c) the Registrar has failed to serve on the company a written notice of objection to the appointment within one month of the date on which the company served notice of the appointment on him or her.
- (2) In this section “person” includes a firm or a partnership.

**32. VARIATIONS IN FORMS**

The Registrar may approve variations from any prescribed form for the purpose of adapting the form to take account of the circumstances of a particular registered insurer or applicant for registration as an insurer.

**33. PROHIBITIONS**

- (1) A company shall not after the commencement of this Act directly or indirectly—
  - (a) acquire or deal in its own shares or lend money or make advances on the security of its own shares;
  - (b) lend any of its funds to a director or an officer of the company or to the spouse or a child of a director or of an officer except on the security of the company’s own policies or on some other adequate security;
  - (c) lend any of its funds to a company where more than ½ of the shares of that other company is owned either jointly or severally by a director or an officer of the company or by the spouse or a child of a director or an officer or by any combination of such persons;
  - (d) grant unsecured credit to any person;
  - (e) pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisational expenses, share-selling commission and brokerage) not represented by tangible assets, have been completely written off; or
  - (f) enter into any guarantee or provide any security in connection with a loan by any other person to any such person or company as is mentioned in paragraph (b) or (c) of this section.
- (2) A company which contravenes this section commits an offence.

### 34. SOLVENCY

A company shall be deemed to be insolvent—

- (a) in the case of a company carrying on only long term insurance business, if the value of its liabilities exceeds its assets;
- (b) in the case of a company carrying on only general insurance business, if the excess of assets over liabilities is less than the greater of the following amounts, namely—
  - (i) \$200,000, or
  - (ii) 20% of its premium income in respect of its general insurance business in its last preceding financial year;
- (c) in the case of a company carrying on both long term insurance business and general insurance business, if the excess of its total assets over its total liabilities is less than the amount specified in paragraph (b).

### 35. COMPILING INCOME AND LIABILITY

For the purpose of section 34—

- (a) in computing the amount of the liabilities of a company, all contingent and prospective liabilities of the company in respect of policies including adequate provision for unexpired policies and outstanding claims, but not liabilities in respect of share capital, shall be taken into account; and
- (b) the premium income of a company in any financial year shall be assessed as the net amount, after deduction of any premiums paid by the company for reinsurance in that year in respect of all general insurance business carried on by it.

### 36. POWER TO REQUEST INFORMATION

- (1) The Registrar may require a company registered under this Act to carry on insurance business—
  - (a) to furnish him or her at such time and in such manner as he or she may determine with such information in connection with its insurance business as he or she may specify;
  - (b) to produce at such time and place as he or she may determine such books, papers or other documents in connection with its insurance business as he or she may specify; or
  - (c) to produce to any person authorised in writing by the Registrar such books or papers as the Registrar may specify.
- (2) A person who is authorised by the Registrar under subsection (1)(c) shall, where requested to do so, produce evidence of his or her authority to the company.
- (3) The power conferred under subsection (1) on the Registrar or on a person authorised by him or her may be exercised even where the books, papers, or other

documents are in the possession of another person, except that where the person who is in possession claims a lien on the books, papers or other documents the production shall be without prejudice to the lien.

- (4) The power conferred under subsection (1) on the Registrar or on a person authorised by him or her includes a power—
  - (a) to take copies of or extracts from the books, papers or other documents which have been produced; and
  - (b) to require the company or the person in whose possession the books, papers or other documents were, or any other person who is or was a director or auditor of the company or who is or was employed by the company to explain any of the contents thereof; or
  - (c) where the books, papers or other documents have not been produced, to require the company which or the person who was requested to produce them to give reasons for failing to do so.

### **37. POWER OF INTERVENTION**

- (1) Subject to subsection (2) and to section 38, the Registrar may at any time intervene in the affairs of a company registered under this Act to carry on insurance business.
- (2) The power of intervention conferred by subsection (1) shall be exercisable where the Registrar is satisfied that—
  - (a) the exercise of the power is essential in order to protect policy holders or potential policy holders of the company against the risk of the company's inability to meet its liabilities or, where a company is carrying on long-term insurance business, to fulfil the reasonable expectations of policy holders or potential policy holders;
  - (b) the company has failed to satisfy any obligation imposed on it by this Act;
  - (c) the company has furnished misleading or inaccurate information to the Registrar under or for the purposes of this Act;
  - (d) adequate arrangements have not been or will not be made for the reinsurance of risks against which persons are insured by the insurer and in respect of which he or she considers such arrangements to be necessary;
  - (e) an application for registration would be refused if such an application were made at the time of the proposed intervention;
  - (f) a company is deemed to be insolvent in accordance with section 34; or
  - (g) after liability has been established that there has been unreasonable delay in the settlement of claims under policies issued by the company.

**38. NOTICE OF INTERVENTION**

- (1) The Registrar shall, before exercising the power conferred on him or her by section 37, serve on the company a written notice that he or she is exercising the power of intervention and the grounds on which it is being exercised.

**39. REGISTRAR MAY IMPOSE REQUIREMENTS**

- (1) In exercising the power of intervention, the Registrar may require the company by instrument in writing to perform any or all of the following—
  - (a) to refrain from the date specified in the instrument—
    - (i) from effecting any contracts of insurance either generally or with respect to a specified class whether or not the effecting of the contract falls within a class of insurance business which the company is authorised to carry on, or
    - (ii) from varying any existing contracts;
  - (b) to limit to a specified amount the aggregate amount of premiums to be written by the company whether the aggregate relates to premiums to be received by the company or to the aggregate after deducting any premiums payable by the company for reinsuring the liabilities in consideration of which premiums are to be received;
  - (c) to refrain from making investments of a specified class or description;
  - (d) to realise, before the expiration of the period specified in the instrument, the whole or a specified portion of investments of a specified class or description held by the company;
  - (e) to prepare and submit at earlier dates and with greater frequency the documents required to be prepared and furnished under section 26;
  - (f) to have an actuary or any other person appointed by the Registrar to investigate the financial position of the company in respect of its insurance business or any part thereof and to submit to the Registrar a report of the investigation on or before a specified date;
  - (g) to take such action as appears to him or her to be necessary for the purpose of protecting policy holders or potential policy holders of the company against the risk that the company is or is likely to be unable to meet its liabilities or, in the case of an insurer carrying on long-term insurance business, to fulfil the reasonable expectations of policy holders or potential policy holders; and
  - (h) to take such action as appears to him or her necessary for the proper administration of the Act.
- (2) The Registrar may request any company within 5 years of its registration under this Act, to comply with any or all of the requirements of subsection (1) whether or not the power to intervene is exercisable under section 37(2).
- (3) The Registrar may, where he or she considers it desirable so to do rescind or vary any requirement imposed by him or her on a company under subsection (1).

- (4) Notice of the imposition of a requirement or the rescission or variation thereof may be published in the Gazette and in a newspaper circulating in Saint Lucia.

*Judicial Management and Winding-up*

**40. APPLICATION FOR JUDICIAL MANAGEMENT**

- (1) The Registrar may apply to the court for an order that a company or any part of the business of a company be placed under judicial management where, after exercising his or her power of intervention under section 37(1), he or she is of the opinion that it is necessary or proper to apply for such an order.
- (2) A company may after giving the Registrar one month's notice in writing of its intention so to do, apply to the court for an order that it or any part of its business be placed under judicial management.
- (3) The company and the Registrar are both entitled to be heard on any application made to the court for an order under this section.
- (4) Where an application is made under this section for an order in respect of any company, all actions and the execution of all writs, summonses and other processes against the company shall, by virtue of this section, be stayed and shall not be proceeded with, without the prior leave of the court unless the court directs otherwise.

**41. ORDER FOR JUDICIAL MANAGEMENT**

- (1) An order for the judicial management of a company or any part of the business of a company shall be subject to this section and sections 42 to 47.
- (2) The court shall appoint a judicial manager who shall receive such remuneration from the company as it directs and it may at any time cancel the appointment and appoint some other person as the judicial manager.
- (3) The court may, if it thinks fit, charge the remuneration charges and expenses of the judicial manager on the property of the company in such order of priority, in relation to any existing charges on that property, as it thinks fit.
- (4) Where the court by order directs that a company or any part of the business of a company be placed under judicial management, the management of the company or of that part of its business to which the order relates shall, on and after the date specified in the order, vest exclusively in the judicial manager, who shall have complete control of the management of the company notwithstanding any appointment of a receiver prior or subsequent to the appointment of the judicial manager.
- (5) A person who is appointed judicial manager shall not, except with the leave of the court, issue any new policies except paid up policies.

- (6) The court shall issue to the judicial manager such directions regarding his or her powers and duties as it considers necessary.
- (7) The judicial manager shall act under the control of the court and may at any time apply to the court for instructions as to the manner in which he or she shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.
- (8) The judicial manager shall give the Registrar such information as the Registrar may require and shall report to the Registrar whenever he or she intends to apply to the court for instructions and shall, at the same time furnish the Registrar with particulars of the application.
- (9) The Registrar is entitled to be heard on any application made under subsection (7) and may make an application to the court to be heard on any matter relating to the conduct of the judicial management.

#### **42. REPORT OF JUDICIAL MANAGER**

- (1) The judicial manager shall conduct the management with the greatest economy compatible with efficiency, and shall as soon as possible after his or her appointment, file with the court a report stating which of the following courses is in the circumstances, in his or her opinion most advantageous to the general interests of the policy holders of the company—
  - (a) the transfer of the business of the company to some other company in pursuance of a scheme to be prepared in accordance with this Act (whether the policies of the business continue for the original sums insured, with the addition of bonuses that are attached to the policies, or for reduced amounts);
  - (b) the carrying on of its business by the company (whether the policies of the business continue for the original sums insured, with the addition of bonuses that attach to the policies, or for reduced amounts);
  - (c) the winding up of the company or of any part of the business of the company;  
or
  - (d) the dealing with part of the business of the company in one manner, and with another part in another manner.
- (2) The judicial manager shall, as soon as he or she has filed the report, furnish a copy of it to the Registrar and make a written application to the court for an order to give effect to the course stated in the report.
- (3) The report or a copy of it shall be open for inspection by any person during official hours at the registry of the court in which the report is filed or at such other place as the Registrar determines.

#### **43. DECISION OF COURT ON REPORT OF JUDICIAL MANAGER**

- (1) The court shall on the hearing of an application made under section 42(2)—



- (a) after hearing the Registrar, the judicial manager, and any other person who in the opinion of the court ought properly to be heard; and
  - (b) after considering the report of the judicial manager,  
make an order giving effect to the course which it considers in the circumstances to be most advantageous to the general interest of the policy holders of the company.
- (2) The order of the court shall be binding on all persons, and shall have effect despite anything in the instruments constituting the company or in the articles of association or other rules of the company.

#### **44. TRANSFER OF BUSINESS TO ANOTHER COMPANY**

Where an order is made by the court for the transfer of the business of a company to some other company, the judicial manager shall prepare a scheme for the transfer in accordance with this Act and until the scheme is confirmed by the court in accordance with this Act, the management of the company shall continue to be vested in the judicial manager.

#### **45. CANCELLATION OF CONTRACT OR AGREEMENT**

The court may, either on its own motion or on the application of the judicial manager, at any time while an order made under section 41 is in force with respect to a company, after hearing all persons who, in the opinion of the court, are entitled to be heard, cancel or vary, either unconditionally or subject to such conditions as the court thinks just, any contract or agreement other than a policy between the company and any other person, which the court is satisfied is detrimental to the interests of the policy-holders.

#### **46. INDEMNITY OF JUDICIAL MANAGER**

The judicial manager shall not be subject to any action, claim or demand by, or liability to, any person in respect of anything done or omitted to be done in good faith in the exercise of or in connection with the exercise of the powers conferred on him or her under this Part.

#### **47. CANCELLATION OF ORDER**

- (1) The judicial manager or any interested person may at any time apply to the court for the cancellation of an order made by the court under section 40(1).
- (2) Where an application is made under subsection (1) the court may cancel the order if it appears to it that—
  - (a) the purpose of the order has been fulfilled; or
  - (b) it is undesirable for the order to remain in force.
- (3) Upon the cancellation of an order, the judicial manager shall be divested of the management which shall thereupon vest in the board of directors or other governing body of the company.

**48. COURT MAY ORDER WINDING-UP**

- (1) The court may order the winding-up of a company in accordance with the Commercial Code but subject to this section, sections 40 to 54 and to the condition that the company may be ordered to be wound up—
  - (a) on the petition of 10 or more policy-holders owning policies of an aggregate sum assured of not less than \$1,000,000; or
  - (b) on the petition of the Registrar.
- (2) A petition shall not be presented except by leave of the court, and such leave shall not be granted unless—
  - (a) a *prima facie* case has been established to the satisfaction of the court; and
  - (b) security for costs for such amounts as the court may think reasonable has been given.
- (3) The Registrar shall be a party to any proceedings under the Commercial Code relating to the winding up of a company and the liquidator in such a winding up shall give him or her such information about the affairs of the company as he or she may require.
- (4) A reference in this section to a company shall include a company which has ceased to be registered under this Act, but remains under any liability in respect of policy-holders in Saint Lucia.

**49. PROCEDURE ON WINDING-UP**

- (1) An order of the court for the winding-up of a company shall be subject to sections 50 to 53.
- (2) On making an order for the winding-up of a company, the court shall appoint a liquidator.
- (3) Subject to subsections (4) and (6), the liquidator shall act under the authority of the court and may apply to the court at any time for instructions as to the manner in which he or she shall conduct the winding-up or in relation to any matter arising in the course thereof.
- (4) The liquidator may, in the case of a company which was carrying on long-term insurance business, continue to carry on the business with a view to its being transferred as a going concern to another insurance company, whether in existence or being formed for that purpose.
- (5) For the purpose of exercising his or her functions under subsection (4), the liquidator may agree to the variation of any contracts of insurance in existence at the date of the order but he or she shall not effect any contracts of insurance.
- (6) Where the liquidator is satisfied that the interests of the creditors in respect of liabilities of the company attributable to its long-term insurance business require the appointment of a special manager, he or she may apply to the court for such an appointment.

- (7) The court may on an application under subsection (6), appoint a special manager to act during such time and with such powers as the court may direct.
- (8) The court shall give to the liquidator such directions as may appear necessary or desirable for the purpose of the winding-up.
- (9) The liquidator shall furnish the Registrar with such information as the Registrar may require and shall report to him or her whenever he or she intends to apply to the court for instructions and particulars of the application shall be furnished simultaneously with the report.
- (10) The Registrar is entitled to be heard on an application under subsection (9) and may make an application to the court to be heard on any matter relating to the conduct of the winding-up.
- (11) A liquidator or a special manager, or both, shall receive such remuneration as the court directs and the court may, at any time, cancel the appointment of a liquidator or a special manager or both and appoint some other person as such.

#### **50. VALUE OF LIABILITY UNDER POLICIES**

- (1) The liquidator shall ascertain, in such manner and on such basis as the court may approve, the value of the liability of the company to every person who, according to the books of the company, is entitled to or is interested in a policy issued by the company and shall in such manner as he or she thinks proper give notice to every such person of the value so ascertained.
- (2) A person to whom notice is given under subsection (1), shall be bound by the value ascertained by the liquidator unless he or she disputes the valuation in such manner and within such time as is prescribed by rules of court or as the court in any particular case, by order directs.

#### **51. APPLICATION OF CERTAIN ASSETS**

- (1) The value of the liabilities and of the assets of an insurance fund of a company shall, on the winding-up of the company, be ascertained separately from the value of any other liabilities or from the value of any other assets of the company, and no assets of the insurance fund shall be applied to the discharge of any liabilities other than those in respect of that fund except in so far as those assets exceed the liabilities of that insurance fund.
- (2) Where, on the winding-up of a company the liabilities and assets of an insurance fund of the company have been ascertained and there is a surplus of the assets over the liabilities, there shall be added to the liabilities of that insurance fund an amount equal to the proportion of the surplus equivalent to the proportion of the profits, if any, in the class of insurance business to which the insurance fund relates, which was allocated to shareholders and policy-holders during the 10 years immediately preceding the commencement of the winding-up.

- (3) The assets of an insurance fund referred to in subsection (2) shall be deemed to exceed the liabilities of that fund only in so far as the assets exceed the liabilities after the addition referred to in that subsection, but where it appears to the court that by reason of special circumstances it would be inequitable for the amount specified to be added to the liabilities of the insurance fund, the amount to be added shall be such amount as the court directs.

## **52. LIABILITY OF DIRECTORS AND OFFICERS**

- (1) Where in the course of the winding-up of a company, the court is satisfied that the amount of an insurance fund has been diminished by reason of any contravention of this Act, every person who at the time of the contravention was a director, the principal representative or an officer of the company, shall be deemed in respect of the contravention to have been guilty of misfeasance unless he or she proves that the contravention occurred without his or her knowledge and that he or she used all due diligence to prevent its occurrence.
- (2) The court may assess the sum by which the amount of the insurance fund has been diminished by reason of the misfeasance and may order any person found guilty of misfeasance to contribute to the insurance fund the whole or any part of that sum by way of compensation.

## **53. APPLICATION OF DEPOSITS**

On the winding-up of a company the Registrar shall pay to the liquidator all moneys and securities held as a deposit in respect of that company and the liquidator shall, in accordance with this Act, apply such moneys and securities towards discharging the liabilities of the company in respect of policies issued by it.

## **54. WINDING-UP PART OF BUSINESS**

- (1) Where the court makes an order for the winding-up of part of the business of a company a scheme for the purpose of the winding-up shall be prepared and submitted for the confirmation of the court—
  - (a) by the person who made the application, where an order is made after the hearing of an application under section 40; or
  - (b) by the judicial manager appointed in respect of the company, where the order is made under section 43;
- (2) Any scheme prepared under this section shall provide—
  - (a) for the allocation and distribution of the assets and liabilities of the company between any classes of business affected by the winding-up (including the allocation of any surplus assets which may arise on the proposed winding-up);
  - (b) for any future rights of every class of policy-holders in respect of their policies; and

- (c) for the manner in which any part of the business of the company may be wound up and may contain such provisions as are expedient for giving effect to the scheme.
- (3) Sections 49 to 53 shall apply with such adaptations as are necessary, on a winding-up in accordance with a scheme under this section.

## **PART 4**

### **ASSOCIATION OF UNDERWRITERS**

#### **55. REGISTRATION OF ASSOCIATION OF UNDERWRITERS**

- (1) An association of underwriters shall not carry on insurance business in Saint Lucia unless it is registered in accordance with this Part, but an association which was carrying on insurance business in Saint Lucia before the commencement of this Act shall be deemed to have been registered.
- (2) An association of underwriters which is constituted outside Saint Lucia shall not be registered under this Act unless there are one or more persons resident in Saint Lucia who are authorised to accept on behalf of the members of the association service of process in any legal proceedings, being persons nominated for that purpose by the association.
- (3) An application by an association of underwriters for registration shall be made to the Registrar and shall be accompanied by evidence of payment of the prescribed fee and the following information—
  - (a) a copy of its statute and deed of association;
  - (b) in the case of an association constituted outside Saint Lucia, a certificate stating that—
    - (i) it has been established for at least 5 years,
    - (ii) the law of the country in which it is constituted provides for the regulation of an association of underwriters, and
    - (iii) the association is operating in accordance with that law;
  - (c) The names of the members of the associations of underwriters;
  - (d) the name and address of every person who is nominated under subsection (2);
  - (e) the name and address of the insurance brokers through whom insurances may be placed as brokers in Saint Lucia; and
  - (f) such further information as may be required by the Registrar.
- (4) The Registrar may register an association of underwriters as an insurer where he or she is satisfied that the association complies with this Part and section 80.
- (5) Where the Registrar proposes to reject an application for registration, he or she shall notify the applicant in writing and shall also state his or her reasons for so doing.

**56. PREMIUMS TO BE HELD IN TRUST**

All premiums received by each member of an association of underwriters shall be held in trust in the names of trustees for the payment of the underwriting liabilities attached thereto of each member and the expenses of its insurance business.

**57. DOCUMENTS TO BE SUPPLIED TO REGISTRAR**

An association of underwriters registered in accordance with this Part (in this Part referred to as a “registered association”) shall within 4 months of the end of each financial year or within such extended period not exceeding 2 months as the Registrar may allow furnish to the Registrar—

- (a) in the case of an association constituted outside Saint Lucia—
  - (i) a certified copy of such returns relating to the insurance business of its members during the preceding year as are required to be made to the responsible Minister or other public authority in the country in which the association is constituted,
  - (ii) a certificate signed by the chairperson or other presiding officer of the association and as soon as it becomes available a certificate by or on behalf of the public authority in the country in which it is constituted, stating whether the association has complied with the requirements of the law for the regulation of associations of underwriters in that country,
  - (iii) the latest annual list of members and the names of the members of its committee or other governing body and including any change in the particulars specified in section 55 (3),
  - (iv) a statement of receipt and expenditure in Saint Lucia by its members during the preceding year, and
  - (v) such documents and information as the Registrar may require;
- (b) in the case of an association constituted within Saint Lucia—
  - (i) an audited statement of its accounts for that year,
  - (ii) such returns relating to the insurance business carried on by each of the members of the association as the Registrar may require, and
  - (iii) such documents and information as the Registrar may require.

**58. REGISTRAR MAY PROHIBIT WRITING NEW POLICIES**

- (1) The Registrar may prohibit a registered association of underwriters from writing new policies in any class of insurance business if he or she is satisfied that it is in the interest of the policy holders or prospective policy holders to do so.
- (2) Where the Registrar exercises the power conferred by subsection (1) the Registrar shall notify the registered association in writing, and shall state the reasons for his or her decision.

**59. CANCELLATION OF REGISTRATION OF ASSOCIATION**

- (1) The Registrar may cancel the registration of an association of underwriters—
  - (a) if he or she is not satisfied that the insurance business of its members is being conducted in accordance with sound insurance principles;
  - (b) if the association has failed to comply with any requirement imposed upon it in accordance with this Part;
  - (c) if he or she is satisfied that the members of the association have not commenced business within one year of registration or have ceased to carry on business within Saint Lucia; or
  - (d) at the request of the association.
- (2) Where the Registrar cancels the registration of an association, he or she shall state in writing his or her reasons for doing so.

**60. OBLIGATIONS OF ASSOCIATION**

An association of underwriters whose registration has been cancelled in accordance with this Part shall continue to carry on business relating to policies issued by it before the date on which it was notified of such cancellation, unless the Registrar is satisfied that it has made suitable arrangements for its obligations under those policies to be met.

## **PART 5 INSURANCE AGENTS, BROKERS AND SALESMEN**

**61. REQUIREMENT FOR REGISTRATION**

- (1) After one year from the commencement of this Act, a person shall not, in respect of any class of insurance business, carry on business as insurance agent, insurance broker, or as an insurance salesman unless that person is registered under this Part.
- (2) A person who contravenes this section commits an offence and is liable on summary conviction to a fine of \$10,000 or to imprisonment for 12 months or to both.

**62. APPLICATION FOR REGISTRATION**

- (1) An application for registration shall be made to the Registrar on the approved form and shall be accompanied by evidence of payment of the registration fee specified in Schedule 3 and such documents as may be required by the Registrar.
- (2) On receipt of an application the Registrar may request the applicant to furnish such additional information as the Registrar may consider necessary.
- (3) Where a person wishes to be registered as an insurance agent or as an insurance salesman, the application shall be endorsed by the registered insurer (in this Part referred to as the principal) with whom that agent or salesman is contracted.

**63. RESTRICTIONS ON REGISTRATION**

- (1) An individual shall not be registered under this Part to carry on business as an insurance agent, insurance broker or insurance salesman if that person is—
  - (a) under the age of 18 years in the case of a salesman;
  - (b) under the age of 21 years in the case of an insurance agent or an insurance broker; or
  - (c) an undischarged bankrupt, unless that individual has been granted leave to carry on such business by the court by which that said person was adjudged bankrupt.
- (2) A director or officer of a company carrying on brokerage business shall not be registered as an insurance salesman or an insurance agent.
- (3) A director, officer or employee of an insurance company shall not be registered as an insurance broker, nor be a director of a company carrying on brokerage business.
- (4) A person registered to carry on business as an insurance salesman or an insurance agent shall not be registered to carry on business as an insurance broker and a person registered to carry on business as an insurance broker shall not be registered to carry on business as an insurance salesman or an insurance agent.

**64. CONDITIONS FOR REGISTRATION**

- (1) Subject to this Part, the Registrar may either unconditionally or subject to such conditions as he or she considers necessary, register an applicant as an insurance salesman or an insurance agent of the company by which he or she was employed or contracted or as an insurance broker in respect of such class of insurance business as may be specified.
- (2) The Registrar may subject to sections 62 and 63 register an applicant as an insurance salesman, an insurance agent, or an insurance broker where he or she is satisfied—
  - (a) that the applicant is a person of good character;
  - (b) that the applicant is competent to carry on business as an insurance salesman, an insurance agent, or an insurance broker in the particular class of insurance business in which he or she applied to be registered;
  - (c) in the case of a person applying to carry on business as an insurance broker, that he or she has such professional indemnity cover as may be required by the Registrar;
  - (d) in the case of an applicant who, before the commencement of this Part, was carrying on business in Saint Lucia as an insurance broker, an insurance salesman, or an insurance agent for a period of not less than 3 years, that he or she carried on such business in an efficient manner;
  - (e) that the applicant has complied with any requirement relating to the passing of any examination;



- (f) where the application is for registration to carry on business as an insurance broker, or an insurance agent and the applicant is a body, whether incorporated or not, that having regard to the competence of the person managing the body or of the partners and such staff as the body may employ, the body is in relation to any class of insurance business in respect of which the application is made, capable of carrying on business efficiently in the capacity in which it seeks to be registered.
- (3) The Registrar shall, where he or she refuses an application for registration under this part, notify the applicant in writing of his or her refusal either generally or in respect of a particular class of insurance business and give reasons for his or her refusal.

#### **65. CERTIFICATE OF REGISTRATION**

- (1) The Registrar shall issue a Certificate of Registration (in this Act referred to as “a Certificate”) to every person registered under this Part.
- (2) A Certificate shall—
  - (a) be valid for one year from the date of issue and shall be renewable annually on the anniversary date of its issue;
  - (b) state the category and each class of insurance business in respect of which the person is registered; and
  - (c) where the person is registered as an insurance agent or an insurance salesman specify the insurance company in respect of which the person is so registered.
- (3) A Certificate shall be *prima facie* evidence that the person named therein has been registered in the capacity stated therein.
- (4) A person who displays a Certificate which is not valid, commits an offence and is liable on summary conviction to a fine of \$500 and to a further fine of \$50 for each day on which the offence continues after conviction thereof.

#### **66. CERTIFICATE TO BE PRODUCED ON REQUEST**

- (1) Every person registered under this Part shall produce his or her Certificate when requested to do so by—
  - (a) the Registrar or any other person authorised by him or her;
  - (b) the insurance company or a person in respect of which or whom he or she is registered to carry on business as an insurance broker, or an insurance salesman, or an insurance agent; or
  - (c) an actual or a prospective client.
- (2) A person who fails to comply with subsection (1) commits an offence.

**67. INTENTION TO CANCEL REGISTRATION**

- (1) The Registrar may, by instrument in writing, notify a person who is registered under this Part that he or she proposes to cancel the registration of the person in respect of all or any of the classes of insurance business he or she was registered to carry on.
- (2) The power of cancellation conferred on the Registrar under subsection (1) shall be exercisable where he or she is satisfied—
  - (a) that registration was granted as a result of any misleading or false representation;
  - (b) that the person has become an undischarged bankrupt;
  - (c) in the case of a person who is registered to carry on business as an insurance agent, an insurance salesman, or an insurance broker that the person is not carrying on such business in accordance with sound insurance principles and practice;
  - (d) that the person has demonstrated that he or she cannot carry on efficiently the class of insurance business which he or she is registered to carry on, or in the case of a body, whether corporate or otherwise that all the persons managing the body or the partners thereof have demonstrated that they cannot carry on efficiently the class of insurance business which they are registered to carry on;
  - (e) that the person has repeatedly and unreasonably delayed transmitting moneys received for the account of an insurer or a client to the person entitled thereto;
  - (f) that one month has elapsed since the date by which such person was required under this Act to furnish information or balance sheets and profit and loss accounts to the Registrar and the person has without reasonable excuse failed to do so; or
  - (g) that the person has pursued a fraudulent or dishonest practice or any other practice which is generally regarded in the insurance business as being undesirable;
- (3) The Registrar shall, on notifying a person that he or she proposes to cancel his or her registration, inform him or her of the reason for taking the action contemplated by him or her.
- (4) A person who is aggrieved by the decision of the Registrar to refuse to register him or her or to cancel his or her registration as an insurance agent, insurance broker or insurance salesman may within 15 days of the decision, appeal to the tribunal established under section 170.
- (5) The Registrar shall cancel the registration of a person—
  - (a) where the person fails to exercise his or her right of appeal within the time specified in subsection (1) of this section; or
  - (b) where on an appeal the decision of the Registrar to cancel the registration is upheld.

- (6) Where the Registrar suspends or cancels the registration of a person registered under this Part the person shall surrender to the Registrar his or her Certificate and every copy thereof.
- (7) A person who has had his or her registration cancelled under subsection (2)(f) may apply to the Registrar for reinstatement of his or her registration and the Registrar may reinstate his or her registration if he or she is satisfied that such person has complied with the requirements of this Act.
- (8) Sections 62(1) and 62(2) shall apply to reinstatement of registration as they do to registration.
- (9) A person who fails to comply with subsection (6) commits an offence and is liable on summary conviction to a fine of \$500 and to a further fine of \$50 for each day on which the offence continues after conviction thereof.

#### **68. CANCELLATION OF REGISTRATION**

The Registrar may at any time cancel the registration of a person registered under this Part—

- (a) where he or she is satisfied that the person has not carried on business in Saint Lucia as an insurance broker, an insurance agent, or an insurance salesman within a year of his or her being registered to carry on such business or has not carried on such business in Saint Lucia for a period of more than one year;
- (b) in the case of a person registered as an insurance agent or an insurance salesman, where the Registrar is satisfied that the registration of the insurance company or the person in respect of which or whom the person was registered to carry on business as an insurance agent or an insurance salesman has been cancelled or that the agency or the salesman's contract has been terminated; or
- (c) where the person requests that his or her registration be cancelled.

#### **69. SUBMISSION OF AUDITED ACCOUNTS**

For the purpose of giving a true account of the state of the business, the Registrar shall require an insurance agent or an insurance broker to prepare and submit to him or her at such intervals as the Registrar may require, audited balance sheets and profit and loss accounts containing such information as the Registrar may require.

#### **70. NOTICE OF TERMINATION OF AGENCY**

- (1) Where the contract of a registered insurance agent, or a registered insurance salesman is terminated or amended, notice in writing shall be given to the Registrar by the insurance agent or the insurance salesman as the case may be, and by the principal with whom he or she is contracted.
- (2) A person who fails to comply with this section commits an offence.

**71. REGISTRAR MAY REQUEST INFORMATION**

- (1) The Registrar may request in writing from any person registered under this Part or from the person's employer or principal any information relating to the person's business as an insurance broker, an insurance salesman or an insurance agent.
- (2) A person who fails to comply with a request made to him or her under subsection (1) commits an offence.

**72. AGENT OF THE INSURER**

An insurance agent or an insurance salesman shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer despite any conditions or stipulations to the contrary.

**73. LIABILITY FOR UNLAWFUL CONTRACTS**

An insurance agent, an insurance broker or an insurance salesman is personally liable to the insured on all contracts of insurance unlawfully made by or through him or her directly or indirectly with any insurer not registered to carry on insurance business in Saint Lucia in the same manner as if such insurance agent, insurance broker or insurance salesman had been the insurer.

**74. MISLEADING ADVERTISEMENT**

- (1) An insurer, insurance agent, insurance broker, or insurance salesman shall not make any oral statement or issue or permit to be issued any advertisement, statement, circular, descriptive booklet or other document, or make or permit to be made a statement, by means of any broadcasting or other medium, which misleads or tends to mislead the public.
- (2) A person who contravenes subsection (1) commits an offence.

**75. RESTRICTION ON COMPENSATION TO UNREGISTERED AGENT**

- (1) Where, at the date of placing or negotiating insurance a person is not registered as an insurance agent, an insurance broker or an insurance salesman, an insurer or an officer, employee or agent of the insurer shall not pay, agree to pay or allow to be paid to that person compensation or anything of value for placing, negotiating or attempting to place or negotiate insurance or for negotiating the continuance or renewal of insurance, other than reinsurance, on lives, property or interests in Saint Lucia.
- (2) A person who fails to comply with this section commits an offence.

**76. REBATING**

- (1) An insurer or an officer, employee or agent of an insurer or an insurance broker, or insurance salesman shall not directly or indirectly—
  - (a) make or attempt to make an agreement as to the premium to be paid for a policy other than as specified in the policy; or
  - (b) pay, allow or give or offer or agree to pay, allow or give a rebate of the whole or part of the premium stipulated by the policy or any other consideration or thing of value intended to be in the nature of a rebate of premium, to any person who is insured or is applying for insurance in respect of life, person or property in Saint Lucia.
- (2) An insurer or any other person who contravenes subsection (1) commits an offence.

**77. RETURNS TO THE REGISTRAR**

Every insurer shall make a return to the Registrar in such form and at such times as he or she requires, showing all persons, partnerships and companies—

- (a) registered as its insurance agents or insurance salesmen in Saint Lucia;
- (b) to whom it has, within such period as may be specified in the form, paid or agreed to pay or allowed to be paid directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Saint Lucia or negotiating the continuance or renewal of such insurance or for attempting to do so.

**78. PROCURING PREMIUMS BY FRAUDULENT MEANS**

An insurance agent or an insurance salesman commits an offence where he or she—

- (a) knowingly procures by fraudulent representations payment or the obligation for payment of any premium on an insurance policy; or
- (b) without being satisfied on reasonable grounds that the discontinuance of a policy is to the benefit of an insured, causes the insured to discontinue that policy.

**79. FAILURE TO PAY OVER MONEY TO CLIENT OR INSURER**

- (1) An insurance agent, an insurance broker or an insurance salesman commits an offence where he or she receives money—
  - (a) from an insurer for the account of an insured and fails to pay over the same within 14 days; or
  - (b) from a client for the account of an insurer and fails to pay over the same less any commission and other deduction to which he or she may be agreement be entitled, within 30 days after demand for payment made in writing.
- (2) Where an insurer at the request of an insurance broker provides cover to an insured, the insurance broker is liable to the insurer for the premium due in respect of such

cover and such premium may be sued for and recovered from the insurance broker as a civil debt.

## **PART 6 DEPOSITS AND INSURANCE FUNDS**

### *Deposits*

#### **80. AMOUNT OF DEPOSITS**

- (1) An insurer or insurance broker shall not be registered under this Act to carry on and shall not carry on any class of insurance business unless the appropriate amount specified in subsection (2) has in each case been deposited with the Registrar.
- (2) Where—
  - (a) a foreign insurer carries on or intends to carry on long-term insurance business the deposit shall be \$100,000;
  - (b) a local insurer carries on or intends to carry on long-term insurance business, the deposit shall be \$50,000;
  - (c) a foreign insurer carries on or intends to carry on motor vehicle insurance business, the deposit shall be either \$100,000 or an amount equal to 40% of the premium income net of reinsurance premium in respect of motor vehicle insurance business transacted in Saint Lucia during the financial year last preceding the date of deposit whichever is the greater;
  - (d) a local insurer carries on or intends to carry on motor vehicle insurance business, the deposit shall be either \$50,000 or an amount equal to 40% of its premium income net of reinsurance premium with respect to motor vehicle insurance business transacted in Saint Lucia during the financial year last preceding the date of deposit whichever is the greater;
  - (e) a foreign insurer carries on or intends to carry on insurance business other than long-term insurance or motor vehicle insurance business, the deposit shall be \$50,000 or an amount equal to 40% of its premium income net of reinsurance premium with respect to its insurance business other than long-term or motor vehicle insurance business transacted in Saint Lucia during the financial year last preceding the date of deposit whichever is the greater;
  - (f) a local insurer carries on or intends to carry on insurance business other than long-term insurance business or motor vehicle insurance business the deposit shall be \$25,000 or an amount equal to 40% of its premium income net of reinsurance premium in respect of its insurance business other than long-term or motor vehicle insurance business transacted in Saint Lucia during the financial year last preceding the date of the deposit whichever is the greater;
  - (g) a foreign insurance broker carries on or intends to carry on insurance brokerage the deposit shall be \$20,000; and

- (h) a local insurance broker carries on or intends to carry on insurance brokerage the deposit shall be \$10,000.
- (3) Despite subsection (2), an insurer shall not be required to deposit any sum in excess of \$1,500,000.
- (4) At the end of each subsequent financial year an insurer who made a deposit required to be made under subsection (2) shall, where necessary deposit or be refunded an amount equal to the difference between the last preceding deposit and the new amount required to be deposited.
- (5) Every such deposit shall be in the form of cash or prescribed securities or partly in the one and partly in the other as determined by the Registrar.
- However, in the case of the Commonwealth Caribbean other than Saint Lucia such prescribed securities shall not exceed 10% of any deposit required under this section.
- (6) All deposits made by an insurer or insurance broker under this section shall be deemed to form part of the assets of the insurer or insurance broker as the case may be, and all interest accruing on any securities deposited under this section shall be paid to the depositor concerned.
- (7) For the purposes of this Act, the several securities listed in Schedule 2 are “prescribed securities”.

#### **81. VARIATION OF FORM OF DEPOSIT**

The Registrar may by notice in writing require or by application permit any insurer or insurance broker to vary the form of his or her deposit with the Registrar.

#### **82. FAILURE TO MAKE DEPOSITS**

Any insurer or insurance broker who fails to comply with section 80 and section 88 of this Act commits an offence and is liable on summary conviction to a fine of \$10,000, and in addition to any other punishment, is liable to have his or her certificate of registration cancelled by the Registrar.

#### **83. MINISTER MAY ATTACH BANK DEPOSITS**

- (1) The Minister may, by order directed to any bank within Saint Lucia, attach any sum not in excess of the amount required as a deposit under section 80, held to the account of any insurance company or association of underwriters or insurance broker which has failed to comply with section 80;
- (2) The Minister shall discharge the order specified in subsection(1) as soon as compliance with section 80 has been effected.

#### **84. RELEASE OF DEPOSITS**

- (1) When an insurer or insurance broker has ceased to transact business and has given notice to that effect to the Registrar or where the registration of an insurer or insurance broker has been cancelled, all deposits made under section 80 shall be retained by the Registrar and shall not be delivered to the insurer or insurance broker until all the outstanding risks of the insurer or insurance broker, as the case may be, have been provided for or have been surrendered to the satisfaction of the Registrar.
- (2) Upon making application for the release of its deposits, an insurer or insurance broker shall file with the Registrar in respect of all policies issued locally, a list of all policy holders who have not been provided for, or who have not surrendered their policies, and the insurer shall at the same time publish, and continue the publication at least once a week for 6 consecutive weeks in the Gazette and in at least one newspaper published in Saint Lucia and approved by the Registrar, a notice that it will apply to the Registrar for the release of its deposits on a certain day not less than 3 months after the date on which the notice is first published in the Gazette and calling upon the policy holders opposing such release to file their opposition with the Registrar on or before the day so specified.
- (3) After the day so specified in the said notice, if the Registrar is satisfied that the deposits of the insurer, or insurance broker are substantially in excess of the requirements under this Act governing the same in respect of the continuing policy holders, he or she may, from time to time, release to the insurer or insurance broker such portion of the excess as he or she thinks proper in the circumstances, and shall continue to hold the remainder of the deposits for the protection of the continuing policy holders as is provided by this Act, thereafter from time to time as such policies lapse or proof is adduced to the satisfaction of the Registrar that they have been satisfied, further amounts may be released on the authority aforesaid.
- (4) Despite this section if an insurer is in liquidation or a judgement of the court is obtained, the deposits or part thereof may, on an order of the court having jurisdiction under this Act or the Commercial Code be released by the Registrar to the liquidator or judicial manager.

However the liquidator or judicial manager shall first satisfy in full the claims of policy holders before making any other payment.

#### **85. REFUND OF DEPOSITS**

Despite section 84, where the registration of an insurer or insurance broker who has not commenced to carry on business in Saint Lucia is cancelled under this Act, the Registrar shall refund to the insurer or insurance broker any monies or securities, or both, deposited by him or her under section 80.



**86. DEPOSITS TO BE INCREASED**

- (1) Where the Registrar is satisfied that by reason of depreciation in the value of securities or for any other cause the value of monies and prescribed securities deposited by or on behalf of an insurer or insurance broker falls short of the value required by this Act he or she shall, by notice in writing require within a period not exceeding 3 months the insurer or insurance broker to deposit with him or her monies or approved securities or both to the value deemed by him or her to be sufficient to bring the amount of the deposit to the value required.
- (2) A notice under subsection (1) shall not be issued until the Registrar has given an opportunity to the insurer or insurance broker to be heard in connection with the matter.

**87. LOST SECURITIES**

If any monies or securities held on, or as part of, any deposit required to be made by an insurer or insurance broker under this Act are, while so deposited, lost, stolen, damaged or destroyed the injury occasioned to all persons interested in such monies or securities shall be made good out of monies to be appropriated by Parliament for the purpose.

*Insurance Funds***88. ESTABLISHMENT OF INSURANCE FUNDS**

- (1) Despite section 80, every insurer shall, in respect of each class of insurance business being transacted, establish an insurance fund equal to its liability and contingency reserves in that class of business less the amounts held on deposit.
- (2) Within 4 months of the end of each financial year an insurer shall place in trust the assets of its long term insurance fund, and of its motor vehicle insurance fund as the case may be.

**89. RESTRICTION ON THE USE OF ASSETS IN A FUND**

- (1) The assets representing the long term insurance fund or the motor vehicle insurance fund shall not be applied directly or indirectly to any class of insurance business other than that in respect of which the fund was established and is maintained.
- (2) Where the value of the assets in an insurance fund exceeds the amount of the liabilities attributable to the classes of insurance business referred to in section 88(2) the trustee, may, with the approval of the Registrar release the assets held in excess of the requirement of the fund.
- (3) Subsection (1) shall not be construed as precluding an insurer from exchanging at fair market value, assets representing each insurance fund for other assets belonging to the insurer.

- (4) An insurer incorporated in Saint Lucia carrying on long term insurance business or motor vehicle insurance business shall not declare a dividend at any time when the value of the assets of a long term insurance fund or a motor vehicle insurance fund, as the case may be, is less than the liabilities attributable to such business.

#### **90. CREATING A TRUST**

- (1) A trust referred to in section 88(2) shall be created by trust deed the contents and the trustees of which shall be approved by the Registrar before the trust is created.
- (2) The Registrar may, for the purpose of this section, allow the assets required to be placed in trust to be held by a bank in Saint Lucia or a financial institution approved by the Registrar to the order of or on behalf of the Registrar and such assets shall be deemed to be placed in trust and the bank shall be deemed to be a trustee.

#### **91. RESTRICTIONS ON TRUSTEE**

- (1) A trustee may not deal with any assets held in trust by him or her without the prior general or specific approval of the Registrar.
- (2) A trustee shall, as required by the Registrar, submit a list of the assets held in trust under section 90.
- (3) A trustee who contravenes subsection (1) shall be under the same liability as if the appropriate policy-holders had been the beneficiaries of the trust.

#### **92. MAINTAINING PARTICULARS OF FUND**

- (1) Every insurer transacting more than one class of insurance business shall maintain such records as are necessary for identifying the assets representing each insurance fund.
- (2) An insurer shall, within 4 months of the expiration of each financial year, furnish to the Registrar a statement showing particulars of—
  - (a) the liabilities in respect of each fund; and
  - (b) the assets comprising each fund.

#### **93. INVESTMENT OF ASSETS OF A FUND**

- (1) The assets of an insurance fund shall be invested only in the securities specified in Schedule 4.
- (2) The Minister may by order published in the Gazette amend Schedule 4.

## **PART 7 LONG-TERM INSURANCE BUSINESS**

*Actuarial Investigations***94. COMPANY TO APPOINT ACTUARY**

- (1) Every company carrying on long-term insurance business shall appoint an actuary, as a member of its staff or as a consulting actuary.
- (2) The company shall, within 3 months of the termination of the appointment of an actuary, appoint another actuary.
- (3) Where the appointment of an actuary is terminated, the company shall within 14 days of appointing another actuary notify the Registrar in writing of the appointment.
- (4) A person shall not carry out the functions of an actuary unless the Registrar is satisfied that he or she possesses the necessary qualifications to carry out such functions.

**95. ACTUARIAL REPORTS**

- (1) Every company carrying on long-term insurance business shall, every 3 years or at such shorter intervals as the company notifies the Registrar to be the intervals adopted by it for the purposes of this section—
  - (a) cause its actuary to make an investigation into its financial condition including a valuation of its liabilities in respect of every class of long-term insurance business and to furnish the Registrar with a report of the result of the investigation; and
  - (b) cause an abstract of the report of the actuary and a statement of its long-term insurance business to be prepared.
- (2) A valuation balance sheet shall be annexed to every abstract prepared under this section.
- (3) The basis of valuation adopted shall be such as to place a proper value upon the liabilities, having regard to the average rate of interest from investments and to expenses of management, including commissions, and shall be such as to ensure that no policy shall be treated as an asset.

*Issue of Policies***96. PREMIUM RATES TO BE APPROVED BY ACTUARY**

- (1) A company shall not issue any policy unless the rate of premium chargeable under the policy is a rate which has been approved by its actuary as being suitable for the class of policy to which the policy belongs.
- (2) The Registrar may, at any time, require the company to obtain and to furnish him or her with a report by its actuary as to the suitability of the rate of premium

chargeable under any class of policy issued by the company and, where the actuary considers that the rate is not suitable, a report as to the rate of premium which the actuary approves as suitable in respect of that class of policy.

- (3) Where a requirement is made under subsection (2), the company shall not issue any policy of that class until it has, in accordance with the requirement, obtained the approval of its actuary as to the rate of premium.
- (4) When approving a rate of premium under this section in respect of any class of policy an actuary shall have regard to—
  - (a) the maximum rate of commission proposed to be paid to any person; and
  - (b) the maximum rate of reduction of premium to be allowed to any person,in respect of that class of policy.
- (5) Where a rate of premium is approved by its actuary in respect of any class of policy the company shall not except with the approval of its actuary, pay or allow in respect of any policy of that class a commission or a reduction of premium at a rate greater than the maximum rate of commission or reduction of premium to which the actuary had regard when approving the rate of premium.

#### **97. MISSTATEMENT OF AGE**

- (1) A policy is not avoided by reason only of a misstatement of the age of the life insured.
- (2) Where there is proof of the true age of the life insured and such age is greater than the age on which the policy is based, the company may vary the sum insured by and the bonuses, if any, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and the bonuses, if any, allotted to the policy before variation as the amount of the premiums which have become payable under the policy as issued bears to the amount of the premiums which would have become payable if the policy had been based on the true age.
- (3) Where there is proof of the true age of the life insured and such age is less than the age on which the policy is based, the company shall either—
  - (a) vary the sum insured by, and the bonuses, if any, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and the bonuses, if any, allotted to the policy before variation as the amount of the premiums which have become payable under the policy as issued bears to the amount of the premiums which would have become payable if the policy had been based on the true age; or
  - (b) reduce, as from the date of issue of the policy, the premium payable to the amount which would have been payable if the policy had been based on the true age and repay the policy-holder the amount of over payments of premium less any amount paid as the cash value of bonuses in excess of the cash value which would have become payable if the policy had been based on the true age.

- (4) A policy shall not be avoided by reason only of any incorrect statement (other than a statement as to the age of the life insured) made in any proposal or other document on the faith of which the policy was issued or reinstated by the company unless the statement—
- (a) was fraudulently untrue; or
  - (b) is material in relation to the risk of the company under the policy and was made within the period of 3 years immediately preceding the date on which the policy is sought to be avoided or the date of the death of the life insured, whichever is earlier.

### **98. MINORS MAY EFFECT POLICIES AND TAKE ASSIGNMENTS**

- (1) A minor who has attained the age of 10 years but has not attained the age of 16 years may, with the written consent of his or her parent or of a person standing in *loco parentis*—
- (a) effect a policy upon his or her own life or upon another life in which he or she has an insurable interest; or
  - (b) take an assignment of a policy.
- (2) A minor who has attained the age of 16 years—
- (a) may effect a policy upon his or her own life or upon another life in which he or she has an insurable interest; or
  - (b) may take an assignment or a policy; and
  - (c) subject to subsection (3), is as competent in all respects to have and exercise the powers and privileges of a policy holder in relation to a policy of which he or she is the holder as he or she would had he or she been of full age.
- (3) A minor who has attained the age of 16 years may assign or mortgage a policy with the prior consent in writing of his or her parent or of a person standing in *loco parentis*.
- (4) This section does not—
- (a) impose on a minor any liability to which, but for this section, he or she would not be subject;
  - (b) confer on a minor any power or capacity which, but for this section, he or she would not have;
  - (c) validate a receipt, a discharge or a surrender of, or security over a policy given by a minor, if, but for this section, that receipt, discharge, surrender or security would not be valid; or
  - (d) validate any assignment of a policy which, but for this section, would not be valid.

### **99. INSURABLE INTEREST**

- (1) An insurable interest shall be deemed to be had by—

- (a) a parent of a child under 18 years of age or a person in *loco parentis* to such a child, in the life of the child;
  - (b) a husband, in the life of his wife;
  - (c) a wife, in the life of her husband;
  - (d) any person, in the life of another upon whom he or she is wholly or in part dependent for support or education;
  - (e) a company or other person, in the life of an officer or employee thereof; and
  - (f) a person who has a pecuniary interest in the duration of the life of another person, in the life of that person.
- (2) This section shall not be construed as in any way limiting or restricting the meaning of insurable interest as understood on the coming into force of this Act.

#### *Assignment and Mortgages of Policies*

### **100. ASSIGNMENT OF POLICIES**

- (1) After the coming into force of this Act, every assignment of a policy shall be by deed or other instrument in writing.
- (2) An assignment is not binding on the company liable under the policy until written notice of the date and purport of the assignment is received by the company at its principal office in Saint Lucia.
- (3) Every insurer shall in a register of policies required by section 156 to be maintained, enter the date and purport of every assignment of which it receives notice and the date on which the notice is received.
- (4) Upon the presentation of a memorandum of discharge of an assignment, the insurer shall enter the discharge in the register.

### **101. EFFECT OF NOTICE OF ASSIGNMENT**

- (1) Despite section 100, a company shall not be entitled to any protection under that section or to rely upon that section where the company—
  - (a) has not acted in good faith; or
  - (b) has received express notice in writing of any trust, right, equity or interest of any person.
- (2) Where a company receives express notice of any trust, right, equity or interest of any person, the company may, if it thinks fit, pay to the Registrar any money payable under the policy, and the receipt of the Registrar for the money shall be a valid discharge to the company for the money so paid.
- (3) Money paid to the Registrar under subsection (2), shall be paid by the Registrar to such person or persons as the court orders.

**102. ASSIGNMENT NOT TO DISTINGUISH RIGHTS**

- (1) The rights and liabilities arising under a policy shall not be deemed, either at law or in equity, to be merged or extinguished by reason only of an assignment of the policy, whether at law or in equity, to the company which issued the policy.
- (2) Despite anything to the contrary in section 100 or section 101, but subject to subsection (3), no assignment of an industrial policy shall be valid without the consent of the company liable under such policy.
- (3) Where the company refuses its consent to the assignment of an industrial policy, the policy-holder may appeal to the Registrar whose decision shall be final.

**103. RELEASE OF ASSIGNMENTS**

Upon payment or discharge of any money or other obligation secured by an assignment of a policy, the assignee shall give to the assignor a memorandum of discharge indicating that the assignment is relinquished and the policy discharged and where the assignment was by deed, the assignee shall execute a deed of release in favour of the assignor.

*Protection of Policies***104. INTEREST OF THE INSURED TO BE PROTECTED**

- (1) The property and interest of any person in a policy effected before or after the commencement of this Act upon his or her own life is not liable to be applied or made available in payment of his or her debts by any judgement, order or process of any court.
- (2) Where a person who has effected a policy on his or her life dies after the coming into force of this Act, the moneys payable upon his or her death under or in respect of such policy shall not be applied or made available in payment of his or her debts by any judgement, order or process of any court, or by a retainer, an executor or administrator, or in any other manner, except by virtue of a contract or a charge made by the person whose life is insured, or by virtue of an express direction contained in his or her will or other testamentary instruments executed by him or her that the moneys arising from the policy shall be so applied.
- (3) A direction to pay debts or a charge of debts upon the whole or any part of the testator's estate or a trust for the payment of debts, shall not be construed to be an express direction for the purposes of subsection (2).
- (4) This section shall not affect any provisions relating to the creation of trusts for married persons under the Civil Code, or relating to bankruptcy under the Commercial Code.

**105. EFFECT OF CAPITAL PUNISHMENT, SUICIDE, ON POLICY**

A policy shall not be void on the ground that the person whose life is insured suffered capital punishment or died by his or her own hand or act, whether or not at the time of death he or she was mentally ill, where upon the true construction of the policy, the company agreed to pay the sum insured on the happening of either of those events.

**106. CONDITION REDUCING THE SUM INSURED, VOID**

Any term or condition of a policy which limits, to an amount less than the sum insured, the amount payable under the policy, in the event of death of the life insured, shall not have any force or effect unless the person who effected the policy agreed in writing to the insertion in the policy of that term or condition.

*Paid-up Policies, Surrender Values, and Non-Forfeiture*

**107. APPLICATION TO CERTAIN TYPES OF POLICIES**

Sections 108 to 113 shall not apply to—

- (a) an instrument securing the grant of an annuity for a term dependent upon human life, not being a deferred annuity, during the period of deferment; or
- (b) a policy which provides insurance against contingencies none of which may happen, not being a policy which provides for the payment of a sum of money if the life insured by the policy survives a specified period.

**108. PAID-UP POLICIES**

- (1) A policy holder who desires to discontinue further premium payments on a policy on which not less than 3 years premiums have been paid shall, where the policy has a cash surrender value, be entitled on application to the company to receive in lieu of that policy a paid-up policy.
- (2) Where a paid-up policy is issued under subsection (1) and the contingency occurs which would have rendered the company liable under the original policy, the company shall thereupon be liable under the paid-up policy, limited to its paid-up value.

**109. SURRENDER OF POLICIES**

The owner of a policy which has been in force for at least 3 years, on application to the company, is entitled to surrender the policy and to receive not less than the cash surrender value of the policy less any tax payable and the amount of any debt owing to the company under or secured by the policy.



**110. REGISTRAR MAY VARY OBLIGATION TO PAY SURRENDER VALUE**

The Registrar may on an application by a company, suspend or vary for such period and subject to such conditions as he or she thinks fit the obligation of the insurance company to pay surrender values under section 109 where in his or her opinion the payment of cash of those surrender values would be prejudicial to the financial stability of the insurance company or to the interests of its policy holders.

**111. NON-FORFEITURE OF ORDINARY LIFE POLICIES**

- (1) An ordinary long-term insurance policy shall not be forfeited by reason only of non-payment of any premiums (in this section referred to as “the overdue premiums”) where the surrender value of the policy (calculated as at the day immediately preceding that on which the overdue falls due) exceeds the sum of the amount of the debts owing to the company under, or secured by, the policy and the amount of the overdue premium.
- (2) The company may until payment of the overdue premium, charge compound interest on it, on terms not less favourable to the policy holder than such terms, if any, as may be specified in the policy.
- (3) The overdue premium and any interest charged on it under this section which remains unpaid shall for the purposes of this Act be deemed to be a debt owing to the company under the policy.
- (4) Despite subsection (1), an ordinary policy on which not less than 3 years’ premiums have been paid shall not be forfeited by reason only of the non-payment of a premium unless, on or after the day on which the premium fell due—
  - (a) the company liable under the policy serves a notice on the policy holder stating—
    - (i) the amount due or payable to the company at the date of the notice,
    - (ii) that the policy will be forfeited at the expiration of 28 days after the date of the notice if a sufficient sum is not paid to the company within that period; and
  - (b) a period of at least 30 days has elapsed after the service of the notice.
- (5) For the purposes of subsection (4) a notice posted to the last known address of the policy holder shall be deemed to be a service of the notice on the policy holder.

**112. NON-FORFEITURE OF INDUSTRIAL LIFE POLICIES**

- (1) An industrial life policy on which not less than one year’s premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than 4 weeks after it became due.
- (2) An industrial life policy on which not less than one year’s but less than 2 years premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than 8 weeks after it became due.

- (3) An industrial life policy on which not less than 2 years premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than 12 weeks after it became due.
- (4) Where an industrial life policy on which not less than 3 years premiums have been paid has been forfeited by reason of the non-payment of any premium, the company shall, without requiring any application from the policyholder, issue a paid-up policy for an amount not less than that specified in the table included in the policy.
- (5) Where a paid-up policy is issued under subsection (4) and the contingency occurs which would have rendered the company liable under the original policy the company shall thereupon be liable under the paid-up policy limited to its paid-up value.
- (6) The company shall notify the policy holder in writing of the fact that the paid-up policy has been granted and shall specify the amount of the policy and the contingency upon which the policy is payable.
- (7) An industrial policy shall not be forfeited by reason only of the non-payment of any premium where the non-payment is as a result of non-collection by the company.

### **113. TREATMENT OF DEBTS ON ISSUE OF PAID-UP POLICIES**

Where under this Part a policy holder is entitled to receive or a company is required to issue a paid-up policy and there is any debt owing to the company under, or secured by, the policy the company may elect—

- (a) to treat the debt as a debt secured by the paid-up policy and thereupon the paid-up policy shall be a security for the debt owing to the company; or
- (b) in ascertaining the amount of the paid-up policy, to reduce the amount by taking into account upon a basis approved by the Registrar the debt owing to the company and thereupon the debt shall cease to be owing to the company.

### **114. PAYMENT TO A BENEFICIARY**

- (1) Despite any other law, where a person effects a policy on his or her own life and at the time of effecting such policy or at any time thereafter designates an individual as the beneficiary thereof, the money payable under such a policy on the death of the policy holder shall be paid by the insurer to the individual named as beneficiary.
- (2) The money payable on the death of the policy holder under a policy to which subsection (1) applies may be sued for and recovered by the named beneficiary under the policy from the insurer as a civil debt.
- (3) The signed receipt of the named beneficiary for the sum payable under a policy to which subsection (1) applies shall be a full and complete discharge to the insurer for such sum.
- (4) This section shall apply to a policy effected before or after the commencement of this Act.

**115. COMPANY MAY PAY MONEY TO REGISTRAR**

- (1) A company may pay to the Registrar any money payable by it in respect of a policy for which, in the opinion of the company, no sufficient discharge can otherwise be obtained.
- (2) The receipt of the Registrar for any money paid under subsection (1) shall be a good and valid discharge to the company for the money so paid, and the money shall be dealt with according to an order made by the court.

**116. UNCLAIMED MONIES**

- (1) A company shall, within 60 days of its financial year, deliver to the Registrar a statement of all unclaimed moneys as at that date.
- (2) The statement shall specify, in respect of each policy to which it refers—
  - (a) the name and last known address of the person whose life is insured;
  - (b) the name of the policy-holder (if known) and his or her last known address; and
  - (c) the amount due and the date on which it became due.
- (3) The company shall pay to the Registrar at the time of the delivery of the statement, the total amount of unclaimed money shown therein, less any amount paid by the company, between its financial year and the date on which the copy of the statement is delivered, to the person to whom the amount was due, and the company shall furnish, with the copy of the statement, particulars in writing of the amounts paid.
- (4) Where unclaimed money is paid to the Registrar under this section and he or she is satisfied that, but for this section, a person would have been paid the unclaimed money by the company which made the payment or where that company is no longer carrying on that class of insurance business, by the company to which it sold or disposed of such business, the Registrar shall arrange payment of the unclaimed money to that company and specify the person to whom that company is to pay the money, and that company shall thereupon pay the money to the person specified.
- (5) Where under this section a company has paid to the Registrar an amount in respect of a policy and the company satisfies the Registrar that the amount paid exceeds the amount which would have been payable under the policy to the policy-holder, the Registrar shall arrange for payment of a refund to the company in the amount of the excess.
- (6) On payment to the Registrar of unclaimed money in accordance with this section, a company is, subject to subsection (4), discharged from further liability in respect of the amount paid.
- (7) There shall be paid from the Consolidated Fund such sums as are necessary to give effect to this section.
- (8) A company which fails to comply with this section commits an offence.
- (9) In this section—

“**unclaimed money**” means all sums of money which, after the commencement of this Act, become legally payable by a company in respect of policies but in respect of which the time within which proceedings may be taken for their recovery has expired, and includes sums of money payable on the maturity, after the commencement of this Act, of an endowment insurance policy which are not claimed within 7 years after the maturity date of the policy.

### *Industrial Life Insurance Business*

#### **117. OBJECTION TO POLICIES**

- (1) If, within 28 days after a company delivers an industrial policy—
  - (a) to the policy-holder; or
  - (b) at the residence of the policy-holder to some other person who resides there and is apparently not less than 16 years of age and by whom any premium in respect of the policy is paid on behalf of the policy-holder,

the policy-holder returns the policy to the company with an objection in writing to any term or condition of the policy, the company shall immediately refund any premium which has been paid in respect of the policy which shall thereupon be cancelled.

- (2) Where an industrial policy is sent by post by a company to the person to whom it is issued, it shall, unless the contrary is proved, be deemed to have been delivered to him or her at the time at which it would reach him or her in the ordinary course of post.
- (3) For the purpose of this section, a policy shall be deemed to have been returned to a company with an objection if the policy and the writing specifying the objection are posted for transmission to the company by registered letter.

#### **118. RETURNING POLICIES, PREMIUM RECEIPT BOOKS**

Where at any time a company which carries on industrial life insurance business, or any person authorised by such a company, takes possession of an industrial policy or premium-receipt book or other document issued in connection with the policy, a receipt for the policy, book or document shall be given to the person from whom it was received, and the policy, book or document shall be returned to that person on demand at any time after the expiration of 28 days, unless—

- (a) it is required for the purposes of evidence in legal proceedings;
- (b) the policy has been terminated by reason of the satisfaction of all claims capable of arising under it; or
- (c) in the case of a policy, the company is entitled to retain the policy as security for money owing to the company by the policy-holder.

**119. FALSIFICATION OF ENTRIES, AN OFFENCE**

Any person who wilfully makes, or orders or to be made, any entry or erasure in, or omits any entry, or orders or allows any entry to be omitted from, a collecting book or premium-receipt book, with intention to falsify the book, or to evade any of the provisions of this Act, commits an offence.

**120. AVOIDANCE WHERE PROPOSAL IS FILLED IN BY AGENT**

- (1) Where any agent or servant of a company writes or fills in or has before the commencement of this Act written or filled in any particulars in a proposal for an industrial policy with the company, then, despite any agreement to the contrary between the proponent and the company, any policy issued in pursuance of the proposal shall not be avoided by reason only of any incorrect or untrue statement contained in any such particulars so written or filled in unless the incorrect or untrue statement was in fact made by the proponent to the agent or servant for the purposes of the proposal.
- (2) The burden of proving that any such statement was so made shall lie upon the company.
- (3) This section shall not be construed to allow the avoidance of any policy for any reason or in any circumstances for or in which the policy could not have been avoided apart from this section.

**121. PARTICULARS TO BE SET OUT IN POLICIES**

Every industrial life policy issued by a company after the commencement of this Act shall contain an endorsement in distinctive type setting out—

- (a) whether the policy is or is not a participating policy; and
- (b) a short statement in a form approved by the Registrar as to—
  - (i) the right of the policy-holder to be granted a paid up policy,
  - (ii) the right of the policy-holder to surrender his or her policy and to receive in cash the surrender value of the policy, and
  - (iii) the forfeiture of the policy.

**122. ISSUE OF PREMIUM RECEIPT BOOK**

- (1) A company shall, in respect of each industrial policy issued by the company, issue to the policy-holder a premium-receipt book as follows—
  - (a) where the policy was issued before or is issued within the period of 12 months immediately following the commencement of this Act — issue the book before the end of that period of 12 months; or
  - (b) where the policy is issued after the end of that period of 12 months — issue the book at the time of the issue of the policy.

- (2) Despite subsection (1), if the policy-holders concerned do not object, the company may—
  - (a) issue one premium-receipt book in respect of 2 or more policies if held by the same policy-holder or by 2 or more policy-holders who are members of the same household; or
  - (b) add the endorsements and entries required by this section in respect of any policy to the premium-receipt book issued in respect of any earlier policy held by the same policy-holder or by a member of the same household.
- (3) After the end of the period of 12 months immediately following the commencement of this Act a company shall not issue or permit to be used one premium-receipt book in respect of 2 or more policies held by different policy-holders not being members of the same household.
- (4) Any premium-receipt book issued to a policy holder by a company, whether before or after the commencement of this Act, shall, if it complies with this section or if it is amended to comply with these provisions and returned to the policy-holder within the period of 12 months immediately following the commencement of this Act, be deemed to be a premium-receipt book issued in accordance with this section.
- (5) Every premium-receipt book issued by a company shall contain in respect of each policy to which it relates—
  - (a) an endorsement in distinctive type of the particulars referred to in section 121(a) and 121(b);
  - (b) an entry made by the company of the following matters, namely—
    - (i) the surname and initials of the policy-holder and, where the policy is issued in respect of the life of a person other than the policy-holder, the surname and initials of that person,
    - (ii) the amount of the weekly or other periodical premium; and
  - (c) a notice stating that proof of age may be required before payment of the sum insured.

### **123. PREMIUM RECEIPT BOOK TO SHOW DATE PREMIUM PAID**

- (1) Every payment in respect of premiums under an industrial policy made to an agent or servant of the company shall be recorded by the agent or servant in the premium-receipt book so as to clearly indicate the date to which premiums have been paid in respect of the policy or policies to which the premium-receipt book relates, and the record shall—
  - (a) if it is the first entry on a page of the premium receipt book, be signed by the agent or servant with his or her usual signature; and
  - (b) if it is not such an entry, be signed by the agent or servant with his or her usual signature or be initialled by him or her.

- (2) Where a premium-receipt book relates to more than one policy and any payment for premiums on the policies is made which is less than the aggregate of the weekly or other periodical premiums in respect of all those policies, the person making the payment shall be required by the agent or servant of the company to whom the payment is made to state the policy or policies in respect of which no payment or an insufficient payment is made, and the agent or servant shall clearly record in the premium-receipt book the fact stated.
- (3) Unless the amount of the deficiency is paid before any further premiums are paid, the company shall cause a separate premium-receipt book in compliance with section 122 to be issued in respect of any policy in relation to which the deficiency exists and shall cause the particulars and entry in the first mentioned premium-receipt book relating to any such policy to be cancelled.

### *Mutualisation*

#### **124. CONVERSION TO A MUTUAL COMPANY**

- (1) Despite anything in its memorandum of association or other instrument of incorporation or in its articles of association or other rules, or in this Act, a company may, with the approval of the Registrar, establish and implement a plan in accordance with this Part.
- (2) In this section and in sections 125 to 130—
  - “**company**” means a company incorporated in Saint Lucia which has a share capital and is registered under this Act to transact long-term insurance business, whether alone or in combination with any other class of insurance business;
  - “**plan**” means a plan for the conversion of a company into a mutual company by the purchase of shares and their conversion into debentures.

#### **125. APPLICATION TO ESTABLISH PLAN OF MUTUALISATION**

Every application for approval to establish and implement a plan shall be made in writing to the Registrar.

#### **126. APPOINTMENT OF AN INDEPENDENT ACTUARY**

- (1) Where the Registrar receives an application made in accordance with section 125, he or she shall appoint an independent actuary to investigate the financial position of the company.
- (2) The actuary appointed under subsection (1), shall on the completion of his or her investigation, furnish the Registrar with a report on his or her findings.
- (3) In addition to the findings of the actuary, the report shall state—
  - (a) the price which should be offered for the shares of the company;

- (b) the terms and conditions of the security which should be offered in exchange for the shares; and
- (c) such other information as the Registrar may require.

#### **127. APPROVAL OF APPLICATION**

Where after considering the report of the actuary appointed under section 126 the Registrar is satisfied that the paid-up capital of the company has ceased to be an important factor in safeguarding the interests of the policy holders of the company, having regard to—

- (a) the quality and amount of the assets of the company;
- (b) the surplus of the assets of the company relative to its liabilities;
- (c) the nature of the business carried on by the company; and
- (d) any other considerations which the Registrar may consider relevant,

the Registrar may approve the application referred to in section 125.

#### **128. SUBMISSION OF DETAILED PLAN**

Where an application is approved by the Registrar, the board of directors of the company shall prepare and submit to the Registrar a detailed plan which shall include—

- (a) particulars relating to the financial state of the company;
- (b) a statement of any actual or contingent liability as determined by the actuary;
- (c) any changes which are proposed to be made in its memorandum or articles of association; and
- (d) such other information as the Registrar may require.

#### **129. ACCEPTANCE BY SHAREHOLDERS AND POLICY-HOLDERS**

- (1) When a plan is approved by the Registrar—
  - (a) it shall be laid as a special resolution before the shareholders of the company at a special general meeting of the company duly called for considering the resolution, and there shall be recorded in the minutes of the meeting the number of votes cast in favour of and against confirmation of the resolution;
  - (b) the board of directors shall send by post to each policy holder of the company at his or her last known address—
    - (i) a ballot paper, and
    - (ii) a circular approved by the Registrar, inviting the policy holders to vote by post on the resolution referred to in paragraph (a) within the time specified in the circular.
- (2) The resolution shall only be effective where it is approved by not less than 50% of the votes by the shareholders at the special general meeting and by not less than



50% of the votes cast by the policy holders in accordance with the circular referred to in subsection (1)(b)(ii).

- (3) Where the resolution is effective the shareholders shall sell their shares to the company at such price as may be approved by the Registrar.

### **130. RECOVERY OF EXPENSES**

All expenses incurred by the Registrar in connection with an application for approval to establish and implement a plan shall be defrayed by the company, and any sum due in respect of those expenses may be recovered from the company by the Registrar summarily as a civil debt.

### *Transfer and Amalgamation*

### **131. APPLICATION FOR A SCHEME OF TRANSFER**

- (1) A company shall not transfer or amalgamate its long term insurance business, either in whole or in part, to or with the long term insurance business of any other company, except in pursuance of a scheme—
  - (a) prepared in accordance with this section and with sections 132 to 134; and
  - (b) confirmed by the Registrar.
- (2) An application for the confirmation of a scheme shall be made to the Registrar by or on behalf of any company engaged in the transfer or amalgamation, and an application with respect to any matter connected with a scheme or a proposed scheme may be made at any time before it is confirmed, by any person who, in the opinion of the Registrar, is likely to be affected by the scheme or the proposed scheme.
- (3) Where an application is made under subsection (2) the Registrar shall set a date not less than 2 months from the date of the application for the hearing thereof.
- (4) At the hearing of the application the company is entitled to appear and to be heard either through one of its officers or through an attorney-at-law; the Registrar may hear such other evidence as he or she considers necessary and any person who, in the opinion of the Registrar, is likely to be affected by the scheme is entitled to be heard.
- (5) A company which is aggrieved by the refusal of the Registrar to confirm a scheme may appeal against the decision in the manner specified in section 169.
- (6) In the case of a foreign company this section shall apply only to the transfer or amalgamation of insurance business relating to its policies in Saint Lucia.

**132. SUBMISSION OF DETAILS OF SCHEME**

A scheme shall set out the terms of the agreement or deed under which it is proposed to effect the transfer or amalgamation and shall contain such further provisions as are necessary to give effect thereto.

**133. CONFIRMATION OF A SCHEME OF TRANSFER**

- (1) Before a scheme for the transfer or amalgamation of insurance business of a company is confirmed by the Registrar—
  - (a) certified copies of the assets and liabilities of the companies engaged in the transfer or amalgamation shall be submitted to the Registrar;
  - (b) a copy of the scheme together with copies of the actuarial and other reports, if any, upon which the scheme was founded, shall be submitted to the Registrar;
  - (c) copies of the scheme and of every report submitted to the Registrar or summaries of the scheme and reports approved by the Registrar shall, unless the Registrar otherwise directs, be transmitted to every policy-holder affected by the scheme by the companies engaged in the transfer or amalgamation, at least 15 days before the application for confirmation of the scheme is to be heard;
  - (d) notice of the intention to make the application (the notice to contain such particulars as may be prescribed by the Registrar) shall, not less than one month after the copy of the scheme is submitted to the Registrar be published in the Gazette and in such local newspapers as may be approved by the Registrar;
  - (e) the scheme shall be open for inspection by any policy-holder or shareholder affected by it, for a period of 15 days after the publication of the notice, at the office of each company engaged in the transfer or amalgamation;
  - (f) the Registrar may cause a report on the scheme to be made by an independent actuary and shall cause a copy of the report to be sent to each of the companies engaged in the transfer or amalgamation; and
  - (g) the Registrar may give directions concerning—
    - (i) the publication of advertisements of the scheme,
    - (ii) the giving of notices to shareholders, policy-holders or creditors of the companies,
    - (iii) the holding of meetings of any company affected,and such directions shall be complied with by the person to whom they are given.
- (2) When confirmed by the Registrar, the scheme shall be binding on all persons and shall have effect despite anything in the instruments constituting the company or in the articles of association or in any rules of the company and the directors of any company affected by the scheme shall cause a copy of the scheme to be filed with the Registrar of Companies.

- (3) All expenses incurred by the Registrar in obtaining the report of any actuary on the scheme shall be defrayed by the companies engaged in the transfer or amalgamation, and any sum due in respect of those expenses may be recovered summarily as a civil debt by the Registrar from the companies either jointly or severally.

#### **134. RETURN TO BE MADE ON CONFIRMATION OF SCHEME**

Where the insurance business carried on by a company is transferred to or amalgamated with the insurance business of another company, the company to which the insurance business is transferred or the company carrying on the amalgamated insurance business shall, within one month after the transfer or the amalgamation, submit to the Registrar—

- (a) a certified copy of the agreement or deed under which the transfer or the amalgamation is effected; and
- (b) a statutory declaration made by the chairperson of the board of directors or by the principal representative of the company—
  - (i) specifying every payment made or to be made to any person in respect of the transfer or amalgamation, and
  - (ii) stating that to the best of his or her knowledge and belief no other payment, other than those specified has been or is to be made in money, policies, bonds, valuable securities, property of any description or any other valuable consideration, by or with the knowledge of any parties to the transfer or amalgamation.

### **PART 8 GENERAL INSURANCE**

#### **135. APPLICATION OF THIS PART**

This section and sections 136 to 147 shall apply to all companies registered under this Act to carry on insurance business in respect of any class of such business other than long-term insurance business.

#### **136. RESERVES FOR UNEXPIRED RISKS**

Every company shall, in respect of its outstanding unexpired policies, include in its liabilities in its annual statement deposited with the Registrar reserves computed to the satisfaction of the Registrar.

#### **137. RESERVES FOR OUTSTANDING CLAIMS**

Every company shall, in addition to the reserves required to be included under section 136, provide reserves for meeting outstanding claims.

**138. METHODS FOR CALCULATING RESERVES**

- (1) Every company shall furnish to the Registrar details of the methods used in calculating the reserves to be provided under sections 136 and 137.
- (2) The Registrar may disallow any method used in calculating the reserves referred to in subsection (1) where he or she is satisfied that the method does not result in the provision of adequate reserves.

**139. PROHIBITION ON PAYMENT OF DIVIDENDS**

A dividend shall not be paid by any company incorporated in Saint Lucia—

- (a) while its assets are less than the amount required for solvency by section 34; or
- (b) where the dividend would reduce its assets below the amount referred to in paragraph (a) or would impair its capital.

**140. DEFICIENCY IN SOLVENCY MARGIN**

- (1) Where it appears to the Registrar that the assets of any company fall below the amount required for solvency by section 34 the Registrar, after giving the company not more than 30 days to be heard by him or her, may—
  - (a) withdraw the company's certificate of registration;
  - (b) on such terms and conditions as he or she considers necessary, specify a time not exceeding 3 months within which the company shall make good the deficiency; or
  - (c) where the admissible assets of the company are less than its total liabilities, including the reserves calculated in accordance with sections 136 and 137 or where the company has contravened the requirements of section 139, withdraw its certificate of registration.
- (2) Where a company fails to make good a deficiency within the time specified by the Registrar under subsection (1)(b), the Registrar shall withdraw the certificate of registration of the company.

**141. APPROPRIATION OF PROFITS TOWARDS SURPLUS**

- (1) A company incorporated in Saint Lucia shall at the end of each year appropriate towards surplus at least 25% of its profits for that year until the surplus of the company equates with or exceeds the liability of the company in respect of outstanding unexpired policies required to be included in the annual statement in accordance with section 136.
- (2) In this section "surplus" means the excess of assets over all the liabilities of the company, including its liability in respect of outstanding unexpired policies required to be included in the annual statement in accordance with section 136.

## **PART 9 PENSION FUND PLANS**

### **142. PLANS TO BE REGISTERED**

After one year from the date on which this Act comes into effect, a person shall not operate a pension fund plan (in this Act referred to as “the plan”) in Saint Lucia unless the plan is registered under this Part.

### **143. QUALIFICATIONS FOR REGISTRATION**

- (1) Subject to this Part, where a plan establishes a fund under trusts which are subject to the laws of Saint Lucia, in connection with an undertaking or a combination of undertakings carried on wholly or partly in Saint Lucia, and the main purpose of that fund is—
  - (a) the provision of superannuation allowances on retirement to persons employed in the undertaking or in the combination of undertakings in connection with which the fund is established;
  - (b) the provision of pensions to the spouses of persons who are or have been so employed and of periodical allowances to or in respect of the children of such persons; or
  - (c) the assurance of capital sums on the death of persons who were so employed,such a plan shall be qualified for registration under this Part if the rules of the plan comply with the requirements set out in Part 1 of Schedule 5.
- (2) Where a plan establishing a fund for any of the purposes set out in subsection (1)(a), (1)(b) and (1)(c) is in operation before the coming into force of this Act that plan shall, subject to such directions as to the amendment of its rules as the Registrar may give, be treated as qualified for registration under this Part although—
  - (a) the fund created under the plan is not established under trusts or under trusts which are subject to the laws of Saint Lucia; or
  - (b) the plan does not comply with the requirements set out in Part 1 of Schedule 5.

### **144. REGISTRATION OF PLANS**

- (1) An application for the or she registration of the plan under this Part shall be addressed to the Registrar and shall—
  - (a) be on the approved form;
  - (b) be signed by the trustees of the plan;
  - (c) specify the address at which communications concerning the plan will be received (in this Act referred to as the “address of the plan”);
  - (d) be accompanied by—

- (i) a copy of the trust deed and of the rules of the plan,
  - (ii) a copy of the actuarial report on which the plan is based,
  - (iii) a list of the names and addresses of the trustees of the plan,
  - (iv) in the case of an insured plan a copy of the policy of insurance related to benefits provided by the plan, and
  - (v) such other documents or further information as may be required by the Registrar.
- (2) Where an application is made in accordance with this Part for the registration of the plan, the Registrar shall register the plan and the rules thereof where he or she is satisfied that the plan is qualified for registration.
- (3) Where—
  - (a) the trust deed or the rules, or both, of a plan registered under this Part (hereafter referred to as a “registered plan”) are amended; or
  - (b) there is any change in the address of the plan or in the names or addresses of the trustees thereof, the trustees shall, within 21 days of the amendment or the change, apply for the registration of the amendment or the change.
- (4) An application for an amendment or for a change shall be addressed to the Registrar and shall—
  - (a) be on the approved form;
  - (b) be signed by one of the trustees of the plan; and
  - (c) shall be accompanied—
    - (i) in the case of an amendment, by a copy of the amendment signed by one of the trustees, or
    - (ii) in the case of a change, by such particulars as may be necessary for the correction of the records.

#### **145. AMENDMENT NOT VALID UNTIL REGISTERED**

- (1) An amendment to trust deed or rules, or both, of a registered plan shall not be valid unless the amendment is registered.
- (2) Where an application for the registration of an amendment is made in accordance with section 144(4), the Registrar shall register the amendment where he or she is satisfied that the trust deed or the rules, or both, as amended would not have disqualified the plan from registration under this Part.

#### **146. CERTIFICATE OF REGISTRATION**

- (1) The Registrar shall on registering any plan or any amendment to the trust deed or the rules, or both, of a registered plan under this Part, issue to the applicant a Certificate of Registration (in this Act referred to as a “Certificate”).

- (2) Any document purporting to be a Certificate issued under subsection (1) and purporting to be signed by the Registrar shall be received in evidence and be deemed to be so issued or signed without further proof unless the contrary is shown, and shall be conclusive evidence of the fact certified.

#### **147. CANCELLATION OF REGISTRATION OF PLAN**

- (1) The registration of a registered plan shall not be cancelled unless the plan has been wound-up.
- (2) The trustees of a registered plan shall, within 14 days of the completion of the winding-up of the plan, notify the Registrar in writing that the winding-up has been completed.
- (3) On receiving notice in writing that a registered plan has been wound-up, the Registrar shall cancel the registration of the plan where he or she is satisfied that—
  - (a) the plan has been wound-up; and
  - (b) the assets of the plan have been applied in accordance with the rules of the plan.

#### **148. FEES PAYABLE**

The fees payable in respect of—

- (a) the registration of a plan;
- (b) the registration of any amendment to the trust deed or the rules, or both of the registered plan;
- (c) the correction of the records occasioned by a change in the name or address of a trustee or a change in the address of a registered plan,

shall be such as may be prescribed in Schedule 3 of this Act.

#### **149. ADDITIONAL POWERS OF THE REGISTRAR**

- (1) The Registrar may require any person who is an employer, an insurer, a trustee or an officer of a plan for the registration of which application has been made under this Part, or of any registered plan to furnish either by statutory declaration or otherwise, any information or explanation which may be necessary for the proper exercise and performance of the powers and duties of the Registrar under this Part.
- (2) Where the trustees of a registered plan commit a breach of trust by making an unauthorised investment or by violating any rule of the plan, where the rule is necessary for registration under this Part, the Registrar shall have the same remedies in all respect for the breach of trust as if he or she were a person beneficially interested in the plan.
- (3) The Registrar or any person authorised by him or her in writing may at any reasonable time inspect or examine any books, records or other documents relating to a registered plan or any plan in respect of which an application for registration is

made under this Part, or any securities or obligations in which pension fund moneys of any such plan are invested.

#### **150. PENALTIES FOR DEFAULT**

- (1) Every trustee and the secretary of a registered plan commits an offence where in respect of that plan, there is default in complying with any of the requirements of this Part relating to—
  - (a) accounts and reports;
  - (b) the making of applications for the registration of any amendment to the trust deed or to the rules, or both, of the plan or, the correction of the records in respect of a change in the address of the plan or in the names and addresses of the trustees thereof; or
  - (c) the giving of notice to the Registrar or the winding-up of the plan.
- (2) It is a defence to any proceedings instituted under subsection (1) against the trustees and the secretary of a registered plan to prove that the default occurred without their consent or connivance and was not facilitated by any neglect on their part.
- (3) A person who is lawfully required under this Part by the Registrar to furnish any information or explanation which could with reasonable diligence be furnished by him or her makes default in complying with any such requirement within 14 days after written notice thereof has been delivered to him or her, commits an offence.
- (4) A person who commits an offence under this Part is liable on summary conviction to a fine of \$5,000 and in the case of a continuing offence to a further fine of \$100 for every day during which the offence is committed after conviction thereof.

#### **151. SUBMISSION OF ANNUAL ACCOUNTS**

- (1) The trustees of each plan registered under this Part shall—
  - (a) submit annually to the Registrar a balance sheet and statement of accounts for each accounting year within 6 months of the expiration of that accounting year; and
  - (b) file with the Registrar annually or at such periods and in such form as may be prescribed any information or return relating to such plan.
- (2) The balance sheet and statement of accounts referred to in subsection (1) shall—
  - (a) before they are submitted to the Registrar be audited by an auditor approved by him or her; and
  - (b) be prepared in accordance with the format approved by the Registrar.



**152. ACTUARIAL INVESTIGATION**

- (1) The trustees of each registered plan shall appoint an actuary or a consulting actuary to make an investigation into the financial condition of the plan and to report on his or her findings.
- (2) An investigation under subsection (1) shall be made every 4 years or at such shorter intervals as the Registrar may specify.
- (3) A copy of the report of the actuary shall be furnished to the Registrar.
- (4) Subsections (1) and (3) shall not apply to a plan insured with an insurer, but the trustees of such a plan shall obtain from the insurer a certificate to the effect that the plan has been valued by an actuary.
- (5) The certificate required by subsection (4) shall be deposited by the trustees with the Registrar.

**153. INVESTMENT OF ASSETS OF A PLAN**

- (1) The trustees of a registered plan may invest the assets of the plan only in such securities as may be prescribed in Schedule 4 of this Act.
- (2) A trustee shall not invest the assets of a pension fund in the equity, debentures or other evidence of indebtedness of the employer or any subsidiary or associate of the employer or of any company of which the employer is a subsidiary or an associate.

**PART 10  
MISCELLANEOUS****154. JURISDICTION OVER LOCAL POLICIES**

Every policy issued in Saint Lucia shall, despite any agreement to the contrary, be governed by the laws of Saint Lucia and shall be subject to the jurisdiction of the courts of Saint Lucia.

**155. POLICY TO BE LEGIBLE**

A registered insurer shall not issue a policy in Saint Lucia which, whatever its nature, is not printed or typed in clearly legible letters.

**156. INSURER TO MAINTAIN REGISTER OF POLICIES**

- (1) Every company shall keep at its principal office in Saint Lucia a register of policies (hereafter referred to as “the register”).
- (2) Every local policy existing at the date of commencement of this Act shall as at that date be registered by the company in the register.

- (3) A company shall specify its principal office in Saint Lucia on every policy issued by it.
- (4) Every local policy issued after the commencement of this Act shall immediately after issue be registered by the company in the register.
- (5) A policy may at the written request of the policy-holder and with the consent of the company, be transferred from a register outside Saint Lucia to a register in Saint Lucia, or from a register in Saint Lucia, to a register outside Saint Lucia.
- (6) All expenses incurred in connection with the transfer of a policy under subsection (5) shall be borne by the policy-holder.

#### **157. POLICY NOT INVALIDATED BY BREACH OF THIS ACT**

A policy issued by any person whether before, on or after the date of commencement of this Act shall not be invalid merely because that person contravened or failed to comply with any enactment in force applying to that policy.

#### **158. RESTRICTION ON USE OF INSURANCE TERMS**

- (1) A person other than a registered insurer, a registered insurance agent, a registered insurance salesman or a registered insurance broker shall not have or use the word “insurance” or “assurance” or any derivative thereof in the name under which such person carries on business.
- (2) Despite section 14 and section 55 the Registrar shall not register an applicant as an insurer if the name under which the applicant desires to be registered is identical to or so nearly resembles the name of a registered insurer as to be likely to be mistaken for it, unless that registered insurer is being wound up or being dissolved or has ceased to carry on insurance business in Saint Lucia or consents to the registration of the applicant under the name in question.
- (3) The Registrar shall not register an applicant as an insurance broker if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer.
- (4) The Registrar shall not register an insurance agent if the name under which he or she desires to be registered is likely to suggest that he or she is an insurer or an insurance broker.
- (5) A registered insurer, insurance broker or insurance agent shall not change the name under which he or she is registered without the prior written permission of the Registrar.

#### **159. INSPECTION OF DOCUMENTS LODGED WITH REGISTRAR**

- (1) A person may, subject to the payment of any fee which may be prescribed—
  - (a) inspect; or
  - (b) inspect and make a copy of,

any prescribed returns and any audited statement furnished by a registered insurer to the Registrar under this Act.

- (2) The Registrar shall, without charge furnish at the request of any person the name of the principal representative in Saint Lucia of a registered insurer and the address of the principal office in Saint Lucia of a registered insurance company notified to him or her in accordance with Part 2 and in respect of an association of underwriters the name and address of any person nominated under Part 3.

#### **160. BORROWING POWERS**

The borrowing powers of a company shall be exercised only by a resolution of the board of directors of the company; but at no time shall the unsecured debts of the company exceed such percentage of the capital of the company for the time being issued as may be prescribed.

#### **161. ANNUAL LICENCES**

- (1) Every insurer shall pay to the Accountant General a licence fee for the transaction of insurance business as set out in Schedule 3 to this Act.
- (2) Such licence fee shall be payable at registration and thereafter in the month of January in every year for the continuance of the registration of the insurer. In the event of the licence fee for the continuance of the registration of an insurer being paid after the last day of January, a sum equal to 10% of the licence fee shall be paid in addition to the relevant licence fee.
- (3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding \$5,000.
- (4) Before the grant or renewal of a licence, the Registrar shall ensure that the insurer has complied with all the provisions of this Act.

#### **162. PUBLICATION OF REGISTRATION, CANCELLATION**

- (1) The Registrar shall cause notice of registration or the cancellation of registration of an insurer or of an insurance agent or of an insurance broker to be published in the Gazette.
- (2) The Registrar shall cause to be published in the Gazette and in a newspaper published and circulating in Saint Lucia up-to-date lists of companies, associations of underwriters and persons registered under Part 3, Part 4 or Part 5, as the case may be.

#### **163. MISLEADING ADVERTISEMENT**

- (1) An advertisement shall not be used by a registered insurer which, directly or by implication, has the capacity or tendency to mislead or deceive prospective policy

holders with respect to an insurer's assets, corporate structure, financial standing or relative position in the insurance business or in any other material respect.

(2) In this section and in section 164—

“**advertisement**” includes every form of advertising whether in the form of a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematographic films or by way of electronic broadcasting or by any other means.

#### **164. PUBLICATION OF AUTHORISED AND PAID-UP CAPITAL**

Where any advertisement, notice or other document of a registered insurer contains a statement of the amount of its authorised capital or of its issued capital, the publication shall also contain a statement of the amount of the capital which has been paid up.

#### **165. TRANSLATION OF DOCUMENTS**

The Registrar may require any person who furnishes him or her in accordance with this Act, with any statement, certificate or other document whatsoever in a language other than the English language to provide a translation of that document in the English language at that person's expense.

#### **166. CABINET MAY AUTHORISE EXEMPTIONS**

Cabinet may by order in its discretion and on such terms as may be determined authorise the exemption from this Act any person or any class of insurance business where such exemption is considered necessary.

#### **167. REGULATIONS**

(1) The Minister may make regulations—

- (a) prescribing the forms to be used for any purpose in this Act;
- (b) prescribing anything which is required or authorised to be prescribed by this Act;
- (c) amending any schedule to this Act or adding any schedule to this Act;
- (d) prescribing rules governing reinsurance business;
- (e) prescribing rules for the investment of funds by insurers;
- (f) prescribing rules for the form, procedure and time limits for appeals;
- (g) prescribing rules for the valuation of assets;
- (h) prescribing rules for the writing-off of preliminary expenses and the deferring of acquisition costs in respect of new insurance business;
- (i) prescribing rules governing the holding and conduct of examinations for persons applying to be registered as insurance agents, insurance brokers or insurance salesmen, and the exemptions of persons from such examinations;

- (j) prescribing fees for the holding of examinations for insurance agents, insurance brokers and insurance salesmen; and
  - (k) generally, for the effective implementation of this Act.
- (2) The Minister may by regulations extend the period prescribed under this Act for the performance of an act, or things which may seem necessary for the fulfilment of this Act.
  - (3) The Minister may by order published in the Gazette make such adaptations and modifications to the Commercial Code and any Act amending or replacing the same or to any other enactment in force as appears to him or her to be necessary or expedient by reason of anything contained in this Act.
  - (4) The Minister may make Regulations where a company, other than one carrying on insurance business, wishes to establish a captive insurance fund under an insurance policy of the company, prescribing the –
    - (a) categories of insurance to be permitted;
    - (b) method to be used by the company for the insurance; and
    - (c) manner in which funds obtained from the insurance may be invested.
  - (5) For the purpose of subsection (4), “captive insurance fund” means a fund established by a company to finance the –
    - (a) repair or replacement of its assets; or
    - (b) restoration of its service;damaged or destroyed by a catastrophe.

*(Amended by Acts 3 of 2006 and 8 of 2008)*

#### **168. REGISTRAR MAY AUTHORISE EXTENSION OF TIME**

Where any provision of this Act requires anything to be done within a specified period of time and no provision is made for the extension of it, that period may in any particular case be extended by the Registrar in writing.

#### **169. APPEALS**

- (1) Any person who is aggrieved by any decision of the Registrar under this Act, including a cancellation of his or her registration, or a refusal to register him or her as an insurer, an insurance agent, insurance salesman or insurance broker may within 15 days of the decision, appeal to the tribunal established under section 170.
- (2) An appeal shall lie from a decision of the tribunal to a judge of the High Court within 30 days of the decision.
- (3) Where an appeal is pending any order made by the Registrar shall be suspended until the final determination of such appeal.

*(Amended by Act 28 of 2003)*

**170. APPEALS TRIBUNAL**

- (1) For the purpose of hearing appeals under this Act, there is established an Insurance Appeals Tribunal (in this Act referred to as “the Tribunal”) which shall consist of a chairperson who shall be a person qualified in law of not less than 5 years standing and 2 other members, one of whom shall be a representative of the insurance industry.

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- (2) The members of the Tribunal shall be appointed by the Governor General on the advice of the Minister and shall, subject to subsections (4), (5) and (6), hold office for such period not exceeding 3 years as may be specified in the instrument of appointment, but shall be eligible for re-appointment.
- (3) A member of the Tribunal other than the chairperson may at any time resign his or her office by instrument in writing addressed to the chairperson who shall transmit it to the Governor General.
- (4) The chairperson of the Tribunal may at any time resign this office by instrument in writing addressed to the Governor General.
- (5) The Governor General acting on the advice of the Minister may at any time revoke the appointment of the chairperson or any other member of the Tribunal.
- (6) At any meeting of the Tribunal, the chairperson and one other member shall constitute a quorum.
- (7) The members of the Tribunal shall be paid such remuneration and allowances as may be prescribed.
- (8) A secretary shall be appointed to the Tribunal and the secretary shall perform such duties as may be prescribed.
- (9) Subject to this section, the Tribunal may regulate its own procedure.
- (10) Where a member of the Tribunal is for any reason temporarily unable to perform his or her duties under this Part, the Governor General on the advice of the Minister may appoint some other person to act as a temporary member of the Tribunal during such inability; save that where the member is the chairperson, the person appointed to act in his or her stead shall be a person qualified in law of not less than 5 years standing.

*[The next page is page 97]*





**171. OFFENCES**

- (1) Any person who contravenes—
  - (a) any provision of this Act;
  - (b) any provision of any statutory instrument; or
  - (c) any direction or requirement given or made by the Registrar,commits an offence, unless he or she proves that he or she did not knowingly commit such contravention or omission and, in the case of a default in complying with any such provision, direction or requirement, the offence shall be deemed to be continued so long as the default continues.
- (2) Where an offence against this Act is committed by a company and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, any officer, or an actuary or auditor of the company, he or she, as well as the company, commits the offence.
- (3) Where any document required by or under this Act to be signed by any person is false in any aspect to the knowledge of any such person who signs it, that person commits an offence.
- (4) For the purpose of this section, a certificate purporting to be signed by the Registrar as to the date on which that evidence came to his or her knowledge shall, in any such summary proceedings, be conclusive evidence of that date.
- (5) Any proceedings against a company for an offence against this Act shall be without prejudice to any proceedings for the judicial management, or the winding-up of the company or of any part of the business of the company which may be taken in respect of the matter constituting the offence.

**172. FALSE DOCUMENTS**

If a person issues a document referred to in this Act which is false or misleading in any material respect, that person and every other person who took part in the preparation or issue of the document or who signed it commits an offence, unless it is proved that the offender, if an individual, or all the persons who acted on behalf of the offender, if he or she is not an individual, had no knowledge of the falsity or misleading character of the document when it was issued and had taken every reasonable precaution to ensure its accuracy.

**173. PENALTIES**

All offences against this Act for which no penalty is specified is punishable, in the case of a company, by a fine not exceeding \$5,000 and in the case of an individual by a fine not exceeding \$2,000 or to imprisonment for 6 months.

**174. SAVINGS**

Anything granted or done under the Insurance Act, 1968 and in force immediately before the commencement of this Act shall continue in force as if made under this Act until amended, cancelled or revoked.

**SCHEDULE 1**

(Section 2)

*Classes of Insurance Business*

1.
  - (1) ‘Ordinary long-term insurance business’ means business of any of the following classes—
    - (a) the effecting and carrying out of contracts of insurance on human life or contracts to pay annuities on human life;
    - (b) the effecting and carrying out of contracts of insurance against the risks—
      - (i) of death or personal injury of the persons insured resulting from an accident or from an accident of a specified class,
      - (ii) of the persons insured becoming incapacitated as a result of disease or of a disease of a special class,if, in the absence of special circumstances specifically provided for in such contracts, they cannot be terminated before the expiration of 5 years from the date on which they were entered into;
    - (c) the effecting and carrying out of contracts of insurance other than contracts referred to in paragraph (b), whether effected by the issue of policies, bonds or endowment certificate or otherwise, under which in return for one or more premiums paid to the insurer, a sum or a series of sums becomes payable to the insured at a future date.
  - (2) Where the principal object of a contract of insurance is to insure a person against risks of such kinds that the business of effecting and carrying out contracts of insurance against such risks constitutes marine, aviation and transport insurance business, motor vehicle insurance business or property insurance business, a company shall not for the purpose of this Act be treated as carrying on ordinary long-term insurance business by reason only of the incidental inclusion in such a contract of a provision whereby the company assumes liability against the happening of personal accidents, whether fatal or not.
2. ‘Industrial Life Insurance Business’ means the business of effecting and carrying out insurance upon human life, premiums in respect of which are contracted to be paid at intervals of less than 2 months and which are received by means of collectors.
3.
  - (1) ‘Liability insurance business’ means the business of effecting and carrying out contracts of insurance, against risks of the persons insured incurring liabilities to

third parties, not being risks arising out of, or in connection with the use of motor vehicles or out of, or in connection with the use of vessels or aircraft or risks incidental to the construction, repair or docking of vessels or aircraft.

- (2) Where the principal object of a contract of insurance is to insure a person against risks of such kinds that the business of effecting and carrying out contracts of insurance against such risks constitutes property insurance business, a company shall not for the purpose of this Act be treated as carrying on liability insurance business by reason only of the incidental inclusion in such a contract of a provision whereby the company assumes liability against the risk of the person insured incurring liabilities to third parties.

4.

- (1) ‘Marine, aviation and transport business’ means the business of effecting and carrying out contracts of insurance—
- (a) upon vessels or aircraft, or upon the machinery, tackle, furniture or equipment of vessels or aircraft;
  - (b) upon goods, merchandise or property of any description on board of vessels or aircraft;
  - (c) upon the freight of, or any other interest in or relating to vessels or aircraft;
  - (d) against damage arising out of, or in connection with, the use of vessels or aircraft, including third-party risks;
  - (e) against risks incidental to the construction, repair or docking of vessels including third-party risks;
  - (f) against loss of or damage to merchandise, baggage and other goods in transit (whether the transit is by sea, inland water, land or air, or partly one and partly another), including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance; or
  - (g) against any other risks insurance against which is customarily undertaken in conjunction with, or as falls within this definition by virtue of any of paragraphs (a) to (f).
- (2) Where the principal object of a contract of insurance is to insure a person against risks of such kinds that the business of effecting and carrying out contracts of insurance against such risks constitutes insurance business of some other class, a company shall not for the purpose of this Act be treated as carrying on marine, aviation and transport insurance business by reason only of the incidental inclusion in such a contract of a provision whereby the company assumes liability of a kind which by itself would constitute liability against any of the risks specified in paragraphs 4(1)(a) – 4(1)(g).

5.

- (1) ‘Motor vehicle insurance business’ means the business of effecting and carrying out contracts of insurance against loss of, or damage to, or loss or damage arising out of

or in connection with the use of, motor vehicles, inclusive of third-party risks but exclusive of transit risks.

- (2) For the purposes of this Act a company shall not be treated as carrying on motor vehicle insurance business by reason only of the fact that goods, merchandise or property upon which a contract of insurance is effected by it (being goods, merchandise or property on board of a vessel or an aircraft) consist of, or include motor vehicles.

6.

- (1) 'Pecuniary loss insurance business' means the business of effecting and carrying out contracts of insurance against any of the following risks—
- (a) of loss to the persons insured arising from the insolvency of their debtors or from the failure (otherwise than through insolvency) of their debtors to pay their debts when due;
  - (b) of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;
  - (c) of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reductions of the scope of business so carried on;
  - (d) of loss to the persons insured attributable to incurring unforeseen expenses; and
  - (e) neither falling within any of paragraphs (a) to (d) nor being a kind such that the carrying on of the business of effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class.
- (2) Where the principal object of a contract of insurance is to insure a person against risks of such kinds that the business of effecting and carrying out contracts of insurance against such risks constitutes marine, aviation and transport insurance business, motor vehicle insurance business or property insurance business, a company shall not for the purpose of this Act be treated as carrying on pecuniary loss insurance business by reason only of the incidental inclusion in such a contract of a provision whereby the company assumes liability against the risks specified in paragraph 6(c) and 6(d).

7.

- (1) 'Personal accident insurance business' means the business of effecting and carrying out contracts of insurance against the risks of the persons insured—
- (a) dying or sustaining injury as the result of an accident or of an accident of a specified class; or
  - (b) becoming incapacitated as the result of a disease or a disease of a specified class,

where such contracts do not fall within the classes of contracts specified in paragraph (b) of the definition of Ordinary Long-term insurance business.

- (2) Where the principal object of a contract of insurance is to insure a person against risks of such kinds that the business of effecting and carrying out contracts of insurance against such risks constitutes marine, aviation and transport insurance business, motor vehicle insurance business or property insurance business, a company shall not for the purpose of this Act be treated as carrying on personal accident insurance business by reason only of the incidental inclusion in such a contract of a provision whereby the company assumes liability against the happening of personal accidents, whether fatal or not.
8. 'Property insurance business' means the business of effecting and carrying out contracts of insurance against risks of loss or damage to property, not being risks of such kinds that the business of effecting and carrying out contracts of insurance against them constitutes marine, aviation and transport insurance business or motor vehicle insurance business.

## SCHEDULE 2

(Sections 2 and 80)

### *Prescribed Securities for Deposits*

Deposits required for transacting insurance business or carrying on the business of insurance brokerage may be in the following prescribed securities—

1. treasury bills issued by the Government of Saint Lucia;
2. bonds and debentures issued by the Government of Saint Lucia;
3. bonds and debentures issued by the Governments of the Commonwealth Caribbean;
4. deposits with the Saint Lucia Development Bank;
5. bonds, debentures, stock issued by the Caribbean Development Bank;
6. long term securities held with any financial institution licensed under the Banking Act provided that the securities may not be redeemed or released without prior written approval of the Registrar.

(Amended by S.I. 125/2002)

## SCHEDULE 3

(Sections 13(1), 62(1), 148, 161)

### *Registration and Licence Fees*

1. Application Fees for Registration—

(a) Local Insurers

Long term insurance business

\$750

	Motor vehicle insurance business	\$750
	All other classes of insurance business	\$600
(b)	Foreign Insurers	
	Long term insurance business	\$1,500
	Motor vehicle insurance business	\$1,500
	All other classes of insurance business	\$1,250
2.	Annual registration fees—	
	Local Insurance Broker	\$800
	Foreign Insurance Broker	\$1,500
	Insurance Agent	\$1,000
	Insurance Salesman	\$100
3.	Annual licence fees—	
(a)	Local insurer	
	Long term insurance business	\$1,500
	Motor vehicle insurance business	\$1,500
	Other classes of insurance business	\$1,200
(b)	Foreign insurer	
	Long term insurance business	\$3,000
	Motor vehicle insurance business	\$3,000
	All other classes of insurance business	\$2,500
4.	(a) Registration of a pension fund plan	\$500
	(b) Registration of an amendment or change of a pension fund plan	\$10
5.	Fees for reinstatement of registration—	
	Insurance Agent	\$150
	Insurance Broker	\$200
	Insurance Salesman	\$50

## SCHEDULE 4

### Investment of Policy-Holder Reserves

(Sections 93, 153)

#### A. ASSETS IN WHICH THE POLICY HOLDER RESERVES MAY BE INVESTED

A company in respect of its policy-holder reserves, and the trustees of a pension fund plan, may invest in assets of the following classes—

1. Bonds and debentures—
  - (a) The bonds, debentures and other evidence of indebtedness of or guaranteed by the Government of—
    - (i) Saint Lucia,
    - (ii) CARICOM Countries, or
    - (iii) any other country approved by the Minister.

*(Amended by S.I. 125/2002)*
  - (b) The bonds, debentures and other evidence of indebtedness of a corporation incorporated in Saint Lucia which either—
    - (i) is established by statute to administer on behalf of the State a utility in Saint Lucia where its recurrent income is sufficient to meet its operation, maintenance and debt service charges, or
    - (ii) is fully secured by a statutory charge upon real estate or upon plant and equipment or other tangible assets of the corporation used in the transaction of its business.
  - (c) The bonds, debentures or other securities of, or those guaranteed by the Caribbean Development Bank, or any other international financial institution approved by the Minister.
2. Ordinary and Preference Shares—
  - (a) The fully-paid ordinary shares, bonds, debentures or other evidence of indebtedness of a company incorporated in Saint Lucia or in any Commonwealth Caribbean State which during a period of the previous 5 years prior to the date of purchase, has either paid a dividend in each year upon its ordinary shares or had earnings in each such year available for the payment of a dividend upon such shares of at least 4% of the market value of those shares.
  - (b) Ordinary shares, preference shares, bonds or debentures of a company incorporated in Saint Lucia or in a Commonwealth Caribbean State and approved by the Minister.
3. Mortgages—
  - (a) Mortgages on real estate or leaseholds in Saint Lucia where the amount of the loan does not exceed 75% of the value of the real estate.
  - (b) A company or the trustees of a pension fund plan may invest in a mortgage where the amount of the loan does not exceed 90% but where the portion of the indebtedness in excess of 75% is guaranteed by an agency of, or directly by the Government of Saint Lucia, or by a company registered under the Insurance Act to carry on that class of insurance business.
4. Real Estate—
  - (a) Real Estate or leaseholds in Saint Lucia for the production of income where—
    - (i) the lease is made to or guaranteed by the Government of Saint Lucia and provides for a net revenue sufficient to yield a reasonable interest

- return and to repay the amount invested over a period not exceeding 30 years,
- (ii) the real estate or leasehold has produced over the previous 3 years revenue sufficient to yield a reasonable interest return and to repay the amount invested for a period of the economic life time of the investment not exceeding 40 years;
- (b) Real estate in Saint Lucia required by the company for its use or occupation or reasonably required for the natural expansion of its business;
  - (c) Real estate in Saint Lucia acquired by foreclosure of a mortgage on real estate where the mortgage qualifies as an investment under the Insurance Act.
5. Deposit Certificates—
- Deposits for fixed terms in—
- (a) any bank in Saint Lucia;
  - (b) any financial institution licensed under the Banking Act; or
  - (c) any other financial institution operating in Saint Lucia and approved by the Minister.
6. Any other asset approved by the Minister. (*Inserted by S.I. 60/1997*)

## B. LIMITATIONS ON THE INVESTMENT OF POLICY-HOLDER RESERVES

For the purpose of the investment of policy-holder reserves and of pension fund plans the following limitations shall apply—

- (a) Real Estate—

The total amount of investment in real estate shall not exceed 20% of a long term insurance fund or a pension fund plan. The Registrar may permit an investment in real estate to be included as part of a general insurance fund but this authority should not exceed 20% of a fund. In the case of pension fund plans the Registrar may, on the recommendation of an actuary permit investment in real estate to exceed 20% of the fund;
- (b) Mortgages—

A single mortgage included as an asset of a fund shall not exceed 10% of the total assets of the insurer;
- (c) Bonds and Debentures—

An insurer shall not invest in bonds and debentures on which payment of principal or interest is in default;
- (d) Ordinary Shares—
  - (i) An insurer shall not invest more than 30% of a fund in ordinary shares,
  - (ii) An insurer shall not purchase more than 30% of the ordinary shares in a corporation where those shares are to be included in an insurance fund;



(e) Purchase of Life Insurance Company—

A long term insurer shall not purchase the shares of a company carrying on long term business where that investment is to be included in its insurance fund.

## **SCHEDULE 5**

### Pension Fund Plans

(Section 143(1))

#### **PART 1**

#### **REQUIREMENTS AS TO THE TRUST DEED AND RULES OF REGISTERED PENSION FUND PLANS**

The trust deed and rules of a plan qualified for registration under this Act shall make provision for the following matters—

- (a) All the objects for which the plan is established;
- (b) the appointment and removal of trustees;
- (c) the vesting in the trustees of all property belonging to the plan;
- (d) the investment in the names of the trustees of all capital moneys belonging to the plan and for authorising the investments, if any, in addition to those authorised by law, in which the trustees may invest such moneys; but the rules of a plan may provide for the deposit of such moneys with the bank;
- (e) the making of contributions to the plan by the employers of persons employed in the undertaking or combination of undertakings in connection with which the plan is established;
- (f) the contributions payable to and the rates of benefits payable from the fund or the method of calculating benefits so payable;
- (g) the conditions on which persons may become and may cease to be contributors to and entitled to benefits from the fund;
- (h) the protection of the vested rights of contributors to the plan;
- (i) the preparation of all statements of accounts, balance-sheets and reports required by this Act to be prepared;
- (j) the supply (on demand) to every person having any rights in the plan, being a person who is or has been employed in the undertaking in connection with which the plan is established, of a copy of the rules of the plan and of all amendments thereof, and of the latest statements of accounts, balance-sheet and report prepared in accordance with the requirements of this Act;
- (k) the circumstances in which the plan may be wound up and in the event of winding up the use of the plan to purchase immediate annuities for contingent pensioners;

- (l) the method by which the rules may be amended.

**PART 2  
FORMS**

**FORM A**

Revenue Account for the period ..... To .....

**Pension Fund Plan**

Revenue	\$	Expenditure	\$
1. Amount of the Fund at the beginning of the period.		1. Superannuation Benefits— (a) pension to retired employees (b) widows' pensions (c) orphans' pensions (d) retirement gratuities.	
2. Contributions by employees.		2. Death grants.	
3. Contributions by employers.		3. Return of contribution on withdrawal.	
4. Any additional contribution by employer to meet deficiency or back service liabilities.		4. Other expenditure (to be specified).	
5. Interest dividend and rents.		5. Amount of the Fund at the end of the period.*	
6. Other income (to be specified).			

**FORM B**

(Not to be completed for an insured pension fund plan)

Balance Sheet as at ..... 20.....  
for ..... Pension Fund Plan

Liabilities	\$	Assets	\$
Amount of fund as at		Government Bonds and Debentures*	
Pensions due but not yet paid		Other Bonds and Debentures*	
Other benefits (to be specified) due but not yet paid		Ordinary and Preference shares*	
		Mortgages*	

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Revision Date: 31 Dec 2008

		Real Estate
		Deposit Certificates
		Other Assets (specify)

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\* Details to be specified in a Schedule.



*[Insert page 1 of Insurance Act landscape pages]*

*[Insert page 2 of Insurance Act landscape pages]*

*[Insert page 3 of Insurance Act landscape pages]*

2. The second part of the report shall contain the following information—
  - (a) general observations regarding mortality, withdrawal and retirement from service and progression of salary during intervaluation period and general observations on any other factors entering into the valuation;
  - (b) a description of the mortality and all other rates used (specimen rates to be shown in an appendix to the report);
  - (c) average rates of interest realised by the assets of the fund whether or not during each year in the intervaluation period;
  - (d) the rate of interest assumed in the calculations for purpose of the valuation;
  - (e) a statement indicating—
    - (i) Whether and how it has been secured that the estimated net liability in respect of any employer is not negative,
    - (ii) the amount of and the reason for any special reserves which have been set up.
3. The final part of the report shall contain information about the results of the valuation, an analysis of the surplus or deficiency shown and a recommendation as to how much of the surplus can be regarded as disposable, or, if a deficiency, the manner in which the deficiency can be liquidated.
4. The report shall close with any further observations the actuary may wish to offer on the valuation.



**SCHEDULE 6****Member States**

(Section 2)

- |                                 |   |
|---------------------------------|---|
| (a) Antigua and Barbuda         | (g) Jamaica                             |
| (b) Barbados                    | (h) Saint Christopher and Nevis         |
| (c) Belize                      | (i) Saint Vincent and the<br>Grenadines |
| (d) Commonwealth of<br>Dominica | (j) Suriname                            |
| (e) Grenada                     | (k) Trinidad and Tobago                 |
| (f) Guyana                      |   |



## **REGISTRATION OF INSURANCE AGENTS INSURANCE BROKERS AND INSURANCE SALESMEN REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

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#### **SCHEDULE**

**121**



## **REGISTRATION OF INSURANCE AGENTS, INSURANCE BROKERS AND INSURANCE SALESMEN REGULATIONS – SECTION 167**

(Statutory Instrument 77/1995)

Commencement [9 December 1995]

### **1. SHORT TITLE**

These Regulations may be cited as the Registration of Insurance Agents, Insurance Brokers and Insurance Salesmen Regulations

### **2. INTERPRETATION**

In these Regulations—

“**Act**” means the Insurance Act;

“**approved educational institution**” means the institution or organisation appointed by the Minister to supervise and administer the examinations required under of Part 5 of the Act;

“**Board**” means the persons appointed by the Minister to supervise and administer the examinations required under Part 5 of the Act;

“**Minister**” means the Minister responsible for finance.

### **3. APPLICATION FOR REGISTRATION**

- (1) Every application for registration or for reinstatement of registration under Part 5 of the Act shall be made on a form approved by the Registrar and shall be accompanied by the receipt obtained from the Accountant General upon payment of the fee prescribed in Schedule 3 to the Act.
- (2) Registration and licence fees paid under Schedule 3 to the Act shall be non-refundable.

### **4. INSURANCE AGENTS AND INSURANCE BROKERS**

- (1) An application for registration as an insurance agent or as an insurance broker, where the applicant is a firm or company, shall be accompanied by—
  - (a) the audited balance sheet, profit and loss account and revenue account of the applicant for the financial year immediately preceding the date of application;
  - (b) copies of the articles and memorandum of association or other rules constituting the company or firm, together with the certificate of registration;

- (c) a statement of the beneficial shareholding in the case of a firm, or details regarding the interests of the partners, in the case of a partnership; and
  - (d) personal particulars of every director, partner and manager prepared on Form GR101.
- (2) Where the application is for registration as an insurance agent, the applicant shall submit together with the application form, certified copies of the agency agreement and power of attorney as well as any agreement relating to commissions and other remuneration payable in respect of the agency.
  - (3) Where an application is for registration as an insurance broker, the applicant shall submit evidence that there is in force professional indemnity insurance of \$500,000 or 20% of commission income, whichever is the greater, and placed with an insurer approved by the Registrar.
  - (4) The deductible to be applied in respect of any claim under the professional indemnity insurance policy should not exceed 15% of the capital and reserves of the company or firm.
  - (5) Where a firm or company applies for registration the firm or company shall specify the managers of the company, and shall specify the officers or the partners who may act in the name of the firm or company.

## **5. CERTIFICATION OF APPLICATIONS**

- (1) Every application for registration of an agent shall be certified by the insurer or agent on behalf of whom the agent will act.
- (2) Every application for registration of a salesman shall be certified by the insurer by which or the agent by whom the salesman is employed or contracted at the time of the application.

## **6. CERTIFICATE OF REGISTRATION**

- (1) Every certificate of registration issued under section 65 of the Act shall be numbered and shall specify the date of issue of the certificate.
- (2) The certificate of registration of a firm or company shall specify the officers or the partners who may act thereunder in the name of the firm or company.
- (3) The Certificate of Registration of insurance agents, insurance brokers and insurance salesmen shall be as set out in Form C13, Form C14 and Form C15 of the Schedule.

## **7. CANCELLATION OF CERTIFICATE**

A certificate of registration may be cancelled or suspended with respect to a firm or company with respect to any of the officers or partners named or specified in it.

## **8. RENEWAL OF CERTIFICATE OF REGISTRATION**

- (1) An application to renew a certificate of registration shall be in a form approved by the Registrar.
- (2) The application specified under subregulation (1) shall be accompanied by the receipt obtained from the Accountant General upon payment of a specified fee and shall be made to the Registrar not later than 30 days before the anniversary date of the issue of the certificate.
- (3) The fee specified under subregulation (2) shall be non-refundable.

## **9. FORMS OF NOTICES**

The notices required by section 70 of the Act shall be in the forms set out as Forms N010, N011, and N012 of the Schedule to these Regulations.

## **10. REGISTERS, TO BE MAINTAINED**

The Registrar shall maintain registers of all insurance agents, insurance brokers and insurance salesmen to whom certificates of registration have been issued.

## **11. SUBMISSION OF ANNUAL ACCOUNTS**

- (1) Every insurance agent and every insurance broker shall within 6 months of the end of each financial year submit to the Registrar 3 copies of its audited accounts, balance sheet and profit and loss account of the agency or brokerage business as the case may be.
- (2) Every account, balance sheet and profit and loss account shall be audited by an auditor approved by the Registrar.

## **12. CLIENT TRUST ACCOUNT**

Every insurance agent and every insurance broker shall keep an account called a "Client Trust Account" reflecting only those transactions related to insurance placed with that insurance agent or insurance broker.

## **13. APPOINTMENT OF EXAMINERS**

- (1) The Minister shall appoint either a Board or an educational institution to supervise and administer the examinations referred to in Part 5 of the Act.
- (2) The Board shall consist of not less than 3 and not more than 6 members, one of whom shall be the Registrar or his or her nominee.
- (3) The other members of the Board shall include persons nominated by insurance associations or organisations recognised as such by the Minister.

- (4) Members of the Board shall be appointed for a period of 2 years and shall be eligible for reappointment.
- (5) An approved educational institution shall be appointed for a period of 3 years in the first instance and shall be eligible for reappointment for further periods of not less than 12 months duration.

#### **14. REMUNERATION OF EXAMINERS**

The Minister may authorise the amount of remuneration to be paid to the Board or the approved educational institution as the case may be, for the supervision and administration of examinations and specify the fee payable by a candidate for such examinations.

#### **15. SCOPE AND FORM OF EXAMINATIONS**

- (1) The Registrar shall determine the scope and form of examinations necessary to qualify a person to act as or carry on business as an insurance agent, insurance broker or insurance salesman.
- (2) An examination under subregulation (1) shall not be wholly oral.

#### **16. FREQUENCY OF EXAMINATIONS**

- (1) Examinations shall be held at least once each year.
- (2) A candidate for examination may apply to the Registrar for an examination to be held in respect of any class of insurance business and, subject to subregulation (3), the examination shall be so held where at least 5 candidates have applied and paid the prescribed examination fee.
- (3) An examination in respect of a particular class of insurance business shall not be held more than once in 3 months.

#### **17. EXEMPTIONS FROM EXAMINATIONS**

- (1) A person who satisfies the Registrar that he or she holds a professional diploma in insurance issued by a body recognised by the Registrar, and covering the class of insurance business for which he or she is applying, may be exempted from the examinations referred to in these Regulations.
- (2) A person who satisfies the Registrar that he or she has carried on business for a period of not less than 3 years as an insurance agent, insurance broker or insurance salesman in a particular class of insurance business in an efficient manner, or has been employed by an insurer, an insurance agent or insurance broker in a technical capacity in a particular class of insurance business, may be exempted from the examinations referred to in these Regulations.



## SCHEDULE

(Regulations 4)

Form GR101

### APPLICATION FOR REGISTRATION

#### PERSONAL PARTICULARS

(To be completed by every director or manager or partner, and should accompany an application for registration as an insurer, as an insurance agent or as an insurance broker.)

1. Surname ..... Forename .....
2. Private address .....
3. Business address .....
4. Date of birth ..... 5. Country of birth .....
6. Nationality ..... 7. Occupation .....
8. Position held in applicant firm .....
9. Shareholding in the applicant company (if applicable) .....
10. Professional training (including details of any insurance and related courses) (Attach original and photocopies of certificates).  
.....  
.....  
.....
11. Working experience in insurance. (Include dates and the class(es) of insurance transacted.)  
.....  
.....  
.....

12. Are you a member of an association of insurance salesmen or of any other professional insurance association? Give details.

.....  
.....  
.....

13. Are you a director of any insurance company, insurance brokerage company or insurance agency? Give details.

.....  
.....  
.....

14. Of what other bodies corporate are you a director or partner?

.....  
.....  
.....

15. Have you at any time been convicted of any offence (other than a traffic offence) by any court whether civil or military? Give details.

.....  
.....  
.....

16. Have you been censured, disciplined or publicly criticised by any professional body to which you belong or belonged or refused entry to any profession? If so, give particulars.

.....  
.....  
.....

17. Have you been adjudged bankrupt by a court in Saint Lucia or elsewhere? If so give particulars.

.....  
.....

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.....  
I, ..... certify that I have supplied the above information and to the best of my knowledge and belief the information is true and complete.

Date ..... Signature .....

Form C13



GOVERNMENT OF SAINT LUCIA

**CERTIFICATE OF REGISTRATION**

*as an*

**INSURANCE AGENT**

*this is to certify that*

.....  
is registered under Part 5 of the Insurance Act as an **INSURANCE AGENT** representing the following Insurance Company

.....  
in respect of the following classes of insurance business—

The officers/partners who may act in the name of the firm/company are—

.....  
*Date* *Registrar of Insurance*

Note: This Certificate is valid for one year from the date of issue and shall be renewable annually on the anniversary date of issue.

Form C14



GOVERNMENT OF SAINT LUCIA

**CERTIFICATE OF REGISTRATION**

*as an*

**INSURANCE BROKER**

*this is to certify that*

.....

is registered under Part 5 of the Insurance Act as an **INSURANCE BROKER** representing the following classes of Insurance Business—

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The Officers/partners who may act in the name of the firm/company are—

.....  
*Date* *Registrar of Insurance*

Note: This Certificate is valid for one year from the date of issue and shall be renewable annually on the anniversary date of issue.

Form C15



GOVERNMENT OF SAINT LUCIA

**CERTIFICATE OF REGISTRATION**

*as an*

**INSURANCE SALESMAN**

*this is to certify that*

.....  
is registered under Part 5 of the Insurance Act as an **INSURANCE SALESMAN** for the following Insurance Company—

.....  
and may procure business on their behalf in respect of the following classes of Insurance Business—

.....  
*Date*

.....  
*Registrar of Insurance*

Note: This Certificate is valid for one year from the date of issue and shall be renewable annually on the anniversary date of issue.

Form N010

**NOTICE OF TERMINATION OF AGENCY**

*To the Registrar of Insurance*

Please note that the agency agreement between:

.....  
*Name of Company and*

.....  
*Name of Agent*

has been terminated as of .....  
*Date*

for the following reasons:

.....  
.....  
.....

*Signature* .....

*Title* .....  
*(Chief Executive of the Company or of the Agency)*

*Date* .....

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FORM N011

**NOTICE OF TERMINATION OF SALESMAN CONTRACT**

*To the Registrar of Insurance*

Please note that the contract between:

.....  
*Name of Company and*

Mr/Mrs/Miss.....  
*Salesman*

has been terminated as at.....  
*Date*

for the following reasons:

.....  
.....  
.....  
.....

*Signature*.....  
*Title*.....  
*(Chief Executive, Principal Representative of the*  
*Company, or Salesman*  
*Date* .....

FORM N012

**NOTICE OF INSURANCE SALESMAN CONTRACT**

*To the Registrar of Insurance*

Please note that with effect from.....  
*Date*

Mr/Mrs/Miss.....  
of.....

*Address*

has entered into a contract with:

.....

*Name of Company*

to carry on the business of SALESMAN in respect of the following classes of insurance business:

1 ..... 2 .....

3 ..... 4 .....

5 ..... 6 .....

7 ..... 8 .....

*Signature*.....

*Title*.....  
(Please affix the official stamp of the Company)

*Date*.....



## **INSURANCE COMPANIES (REGISTRATION) REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

---

#### **Regulation**

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#### **SCHEDULE**

**132**



## **INSURANCE COMPANIES (REGISTRATION) REGULATIONS – SECTION 167**

(Statutory Instrument 78/1995)

Commencement [9 December 1995]

### **1. SHORT TITLE**

These Regulations may be cited as the Insurance Companies (Registration) Regulations.

### **2. INTERPRETATION**

In these Regulations—

“**Act**” means the Insurance Act;

“**classes of insurance business**” means the classes of business set out in Schedule 1 to the Insurance Act.

### **3. FORMS FOR APPLICATION FOR REGISTRATION**

Every application for registration under Part 3 of the Act shall be made in the Form GR100 specified in the Schedule to these Regulations.

### **4. SIGNATORY TO AN APPLICATION FOR REGISTRATION**

An application for registration shall be signed—

- (a) in respect of a company incorporated in Saint Lucia, by 2 directors and the secretary of the company;
- (b) in respect of a company incorporated outside Saint Lucia, by 2 directors and the principal representative in Saint Lucia.

### **5. CURRENCY SPECIFICATION**

All amounts shown in the application under regulation 4 shall be in the local currency of Saint Lucia, and where these amounts have been converted from other currencies, the rate of conversion shall be stated.

### **6. PERSONAL PARTICULARS OF DIRECTORS AND MANAGERS**

Every director and every manager of the applicant company shall submit personal particulars on the Form GR101 specified in the Schedule to these Regulations.

**SCHEDULE**

(Regulations 3 and 6)

FORM GR100

**APPLICATION FOR REGISTRATION BY AN INSURANCE  
COMPANY***(Insurance Act: section 13)*

1. Name of Company .....
2. Head Office Address .....
- .....
- .....3. Telephone No .....
4. Classes of insurance business for which the application is made:
 

i. Ordinary long term	<input type="checkbox"/>	ii. Industrial life	<input type="checkbox"/>	iii. Marine, aviation and transport	<input type="checkbox"/>
iv. Liability	↑	v. Motor vehicle	↑	vi. Pecuniary loss	↑
vii. Personal accident	↑	viii. Property	↑		↑

**A – Particulars of the Company**

5. (a) Date of incorporation.....
- (b) Place of incorporation.....
- (c) The amount of:
  - (i) authorised capital.....
  - (ii) subscribed/paid-up capital.....
  - (iii) capital paid-up in cash; or.....
  - (iv) uncommitted reserves (if a mutual company).....

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*(Please provide a list of shareholders of the company together with the number of shares held by each, and indicate those who are citizens of Saint Lucia)*

- (d) The amount by which the assets of the company exceed liabilities, (including all contingent or prospective liabilities, but not liabilities in respect of share capital).
6. If the company was not incorporated in Saint Lucia—
- (a) State the date of registration in Saint Lucia.....
- (b) State the address of the registered office in Saint Lucia.....
- (c) State the name and address of the principal representative in Saint Lucia.  
.....
- (d) State the number of years that the company has transacted insurance business—
- (i) in the country of incorporation.....
- (ii) in the country in which the Head Office is located  
.....

*B—Particulars of Business*

7. (a) State the class or classes of insurance business which the company carries on at present;
- (b) List the countries in which the company carries on business at present;
- (c) If the company is incorporated outside Saint Lucia attach a letter from the supervisory authority in the country of incorporation or the country in which the Head Office is located, confirming the classes of insurance business authorised, and also that the company has met the required margin of solvency in that country.
8. Give particulars of any business other than insurance business which the company carries on or proposes to carry on—
- (a) in Saint Lucia; and

(b) elsewhere.

9. Has the company been refused permission to carry on any class of insurance business in any other country? (Give details)

*C—Details of Reinsurance Arrangements*

10. State the nature and extent of the existing or proposed reinsurance arrangements in respect of each class of business indicating clearly the amount of the applicant company's retention per risk or per event after all reinsurance ceded. (Attach copies of cover notes and treaties).
11. State the names of the principal reinsurers in respect of each class of insurance business.

*D—Business Plan*

12. Indicate the estimated costs of installing the administrative services and the organisation for securing business in Saint Lucia.
13. Attach statement(s) showing for each of the first 3 financial years following registration for each class of business on both optimistic and pessimistic bases—
- (a) estimates of income and expenditure highlighting—
    - (i) premium income gross and net of reinsurance ceded,
    - (ii) commissions receivable,
    - (iii) claims payable(include outstanding provision),
    - (iv) commissions to be paid, and
    - (v) expenses of management;
  - (b) forecast balance sheet(s); and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities and margin of solvency.
14. (a) If the application is to carry on long term insurance business, attach—
- (i) a statement of the actuarial basis of the premium rates,

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- (ii) in the case of linked long term business a statement showing the proportion of premiums which is to be invested in or related to the specified fund,
    - (iii) a certificate by an actuary stating that the premium rates are satisfactory in the light of the information disclosed in the application and that the proposed amount of capital appears adequate to support the amount of business;
  - (b) If the application is to carry on any class of general insurance business, state in respect of each class the percentage of premiums (net of reinsurance), which—
    - (i) claims,
    - (ii) management expenses excluding commissions, and
    - (iii) commissions to be paid are expected to form.
- 15. For each class of business to be transacted during the next 3 years, state—
  - (a) the method or methods by which the policies will be marketed (e.g., by the company's own organisation, by brokers, salesmen, agents or by all methods);
  - (b) if more than one method is to be used, the expected proportions to be marketed by each.
- 16. Indicate the rates of commission which will be paid in various classes of business to—
  - (a) insurance agents contracted to the company;
  - (b) insurance brokers; and
  - (c) insurance salesmen.
- 17. Indicate the way in which claims will be settled (e.g., by the company, by outside adjusters or by agents with authority to settle claims).
- 18. Please attach—
  - (a) specimens of the standard forms of proposal and policy to be used and issued in Saint Lucia;

- (b) in the case of a company applying to carry on long term business, the premium rate book;
- (c) the tariffs to be applied in respect of property (especially fire and allied perils) insurance and motor vehicle insurance business.

19. List the names of—

- (a) the present directors of the company;
- (b) any directors soon to be appointed;
- (c) any other person in accordance with whose directions the directors of the company or any of them act or will act.

*(Attach completed Forms GR101 in respect of each person listed)*

20. List the names of—

- (a) the chief executive officer;
- (b) the company's actuary;
- (c) each of the persons who will be in charge of one or more of the following functions within the company, namely underwriting, claims, agency, investment, accounting.

*(Attach completed Forms GR101 in respect of each person listed at (a) and (c))*

*F—Investments and Bankers*

- 21. List the investments (under appropriate headings) held by the company, the value of each investment at the end of the financial year immediately preceding the date of this application and give the method of valuation.
- 22.
  - (a) List the place or places at which the documents of title in respect of the company's investments in Saint Lucia are held;
  - (b) List particulars of any of the documents of title which are or will be held outside Saint Lucia.
- 23. List the names and addresses of the banks in Saint Lucia in which the company has accounts at present or intends to have accounts.



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*G – Financial Year and Auditors*

24. (a) Give the date on which the company's financial year ends;
- (b) Attach a letter from the auditor of the company confirming that the company will be able to provide audited returns as required by section 26 of the Act, within 4 months of the end of the financial year.
25. (a) If a firm is appointed to act as auditor to the company, give the name and address of the firm;
- (b) If an individual is appointed to act as auditor to the company state—
- (i) full name,
- (ii) address,
- (iii) qualifications,
- (iv) the professional association in which membership is held, and
- (v) whether the person is a member of the Institute of Chartered Accountants of Saint Lucia.

*H—Documentation*

26. Official receipt number ..... dated .....  
is enclosed as evidence of payment of the prescribed application fee.
27. This application is accompanied by—
- (a) A copy of the instrument establishing the company or any other  
duly certified proof of incorporation .....
- (b) Certificate of registration of a foreign company .....
- (c) A copy of the memorandum and articles of association or other  
rules of the company .....
- (d) A copy of the list of shareholders of the company, indicating  
those who are citizens of Saint Lucia, and the shareholding of  
each person. ....

- (e) Personal particulars of directors and managers prepared on Forms GR101. (Indicate the number of Forms) .....
- (f) A copy of the latest revenue account and balance sheet prepared in accordance with the prescribed forms .....
- (g) A letter from the auditor of the company requested at G24(b) .....
- (h) A letter from the supervisory authority in the country of incorporation requested at B7(b) .....
- (i) Statement of actuarial basis and certificate of the Actuary requested at D14(a)(i) and D14(a)(iii) .....
- (j) A copy of the latest valuation report on the financial position of the company .....
- (k) Details of reinsurance arrangements requested at C10 .....
- (l) A statement of the rates of commissions requested at D16 .....
- (m) A statement of projections of revenue and expenditure, forecast balance sheet and other estimates requested at D13(a) .....
- (n) The specimen forms requested at 18(a) .....
- (o) The premium rate book requested at D18(b) .....
- (p) The tariffs requested at D18(c) .....

We, on behalf of the

..... company  
apply for registration to carry on the classes of insurance business stated in item 4.

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We certify that to the best of our knowledge and belief all the information given in this application is true and correct.

- (i) Director
(ii) Director
(iii) Secretary
(iv) Principal Representative

Date.....

Form GR101

APPLICATION FOR REGISTRATION

PERSONAL PARTICULARS

(To be completed by every director or manager or partner, and should accompany an application for registration as an insurer, as an insurance agent or as an insurance broker.)

- 1. Surname Forename(s)
2. Private address
3. Business address
4. Date of birth 5. Country of birth
6. Nationality 7. Occupation
8. Position held in applicant firm
9. Shareholding in the applicant company (if applicable)
10. Professional training (including details of any insurance and related courses) (Attach original and photocopies of certificates).

.....
.....
.....

11. Work experience in insurance. (Include dates and the class(es) of insurance transacted.)

.....  
.....  
.....

12. Are you a member of an association of insurance salesmen or of any other professional insurance association? Give details.

.....  
.....  
.....

13. Are you a director of any insurance company, insurance brokerage company or insurance agency? Give details.

.....

14. What other bodies corporate are you a director or partner?

.....  
.....

15. Have you at any time been convicted of any offence (other than a traffic offence) by any court whether civil or military? Give details.

.....

16. Have you been censured, disciplined or publicly criticised by any professional body to which you belong or belonged or refused entry to any profession? If so give particulars.

.....  
.....

17. Have you been adjudged bankrupt by a court in Saint Lucia or elsewhere? If so give particulars.

.....

I, ..... certify that I, have

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supplied the above information and to the best of my knowledge and belief the information is true and complete.

Date ..... Signature .....

Form C12



GOVERNMENT OF SAINT LUCIA

**CERTIFICATE OF REGISTRATION**

*as an*

**INSURER**

*this is to certify that*

.....  
is registered under Part 3 of the Insurance Act to carry on the following  
classes of insurance business in Saint Lucia:

.....

*Date*

*Registrar of Insurance*



## **INSURANCE COMPANIES (ACCOUNTS AND FORMS) REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

---

#### **Regulation**

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**151**





## **INSURANCE COMPANIES (ACCOUNTS AND FORMS) REGULATIONS-SECTION 167**

(Statutory Instruments 79/1995 and 36/1996)

Commencement [9 December 1995]

### **1. SHORT TITLE**

These Regulations may be cited as the Insurance Companies (Accounts and Forms) Regulations.

### **2. INTERPRETATION**

In these Regulations—

“**Accounts**” means the balance sheet, profit and loss account and the revenue account of a company;

“**Act**” means the Insurance Act;

“**aviation insurance business**” means the business of effecting and carrying out contracts of insurance—

(a) upon aircraft or upon the machinery, fittings or equipment of aircraft;

(b) upon the freight of, or any other interest in or relating to aircraft;

(c) against loss, damage or liability arising out of or in connection with the use of aircraft;

“**claims equalisation**” means the amount set aside by a company at the end of its financial year to be used for the purpose of minimizing exceptional fluctuations in the amounts charged to revenue in subsequent financial years in respect of claims under insurance contracts;

“**claims outstanding**” means the amount set aside by a company at the end of its financial year for the purpose of meeting unsettled claims, including incurred but not reported claims under contracts of insurance, in respect of incidents occurring before the end of that year and for the purpose of meeting expenses likely to be incurred in connection with the settlement of such claims; but does not include the reduction of amounts recoverable from other insurers or other persons;

“**gross premiums**” mean premiums after deduction of refunds and rebates of premiums but before deduction of premiums for reinsurance ceded and commission payable by the company;

“**marine insurance business**” means the business of effecting and carrying out contracts of insurance—

- (a) upon vessels or upon machinery, tackle, furniture or equipment of vessels;
- (b) upon the freight of, or any other interest in or related to vessels;
- (c) against loss, damage or liability arising out of, or in connection with, the use of vessels;
- (d) against risks incidental to the construction, repair or docking of vessels including third party risks;

**“reinsurance ceded”** includes reinsurance retroceded;

**“reinsurance recoveries”** includes recoveries in connection with reinsurance retroceded;

**“transport insurance business”** means the business of effecting and carrying out contracts of insurance against loss of or damage to merchandise, baggage and all other goods in transit, (whether the transit is by sea, inland water, land or air or partly one and partly another) including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance.

**“unearned premium”** means the amount set aside by a company at the end of its financial year out of premiums in respect of risks to be borne by the company after the end of its financial year under contracts of insurance entered into before the end of that year;

**“unexpired risk”** means the amount set aside by a company at the end of its financial year, in addition to unearned premiums, in respect of risks to be borne by the company after the end of its financial year under contracts of insurance entered into before the end of that year.

### **3. REVENUE ACCOUNT**

A revenue account required by section 26(1)(c) of the Act to be prepared by a company at the expiration of each financial year shall be—

- (a) in accordance with the forms set out as Forms A1 to A3 and Form E in respect of each class of long term insurance business carried on by the company; and
- (b) in accordance with the forms set out as Forms B1 to B5 and Form E in respect of other class of insurance business carried on by the company.

### **4. PROFIT AND LOSS ACCOUNT**

(1) A profit and loss account required by section 26(1)(b) shall be prepared in accordance with Form C and shall show—

- (a) the amounts respectively transferred to and transferred from each revenue account of the company for the financial year;

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- (b) the amount of interest on loans not shown in the revenue account, and deducted from interest on income;
  - (c) the amount respectively provided for redemption of share capital and for redemption of loans;
  - (d) the amount of expenses of management not shown in the revenue account;
  - (e) the amount of taxation not shown in the revenue account;
  - (f) the amount of other expenditure not shown in the revenue account classified under appropriate headings;
  - (g) the aggregate amount of interest, dividends and rents (before deduction of tax) not shown in the revenue account;
  - (h) the amount of other income not shown in the revenue account classified under appropriate headings;
  - (i) the aggregate amount (before deduction of income tax) of the dividends to shareholders paid and proposed.
- (2) The amount of any charge arising in consequence of the occurrence of an event in a preceding financial year and of any debit or credit so arising shall, if not included in a heading relating to other matters, be stated under a separate heading.
- (3) Any material respects in which any items shown in the profit and loss account are affected—
- (a) by transactions of a sort not usually undertaken by the company or otherwise by circumstances of an exceptional or non- recurrent nature; or
  - (b) by any change in the basis of accounting
- shall be stated by way of note if not otherwise shown.

## **5. BALANCE SHEET**

- (1) A balance sheet required by section 26(1)(a) of the Act to be prepared by a company at the expiration of each financial year shall be prepared in accordance with the forms set out as Forms D1 to D5.
- (2) Where the amount of any liabilities shown in the balance sheet or in any statement or report annexed thereto includes an amount of indebtedness of the company (whether on account of a loan or otherwise) to any dependant company, in showing the amount of these liabilities such part of that amount as represents indebtedness to dependant companies shall be separately distinguished.
- (3) The aggregate amount (before deduction of income tax) which is recommended for distribution by way of dividend shall be shown.
- (4) The following amounts shall be shown under separate headings—
- (a) in respect of a company's long term insurance business the amount of each long-term business fund carried forward in the revenue account of the

- company for the financial year, as well as the amount of claims admitted but not paid;
- (b) in respect of a company's general insurance business the amounts set aside respectively for
    - (i) unearned premium,
    - (ii) unexpired risks,
    - (iii) claims outstanding, and
    - (iv) claims equalisation;
  - (c) the amount payable to policyholders, insurance brokers and insurance agents including any amount payable in connection with reinsurance accepted by the company but excluding any amount payable in connection with claims under insurance contracts;
  - (d) the amount payable to the company's reinsurers identifying any part of the amount of reinsurance premiums payable which has been retained by the company as a security for future claims against the company's reinsurers;
  - (e) the amounts payable to persons carrying on insurance business (other than amounts payable in connection with reinsurance accepted and ceded);
  - (f) the amount of bank loans and overdrafts;
  - (g) the amounts payable to other creditors classified under appropriate headings;
  - (h) other amounts set aside classified under appropriate headings.
- (5) The following amounts receivable shall be shown under separate headings—
- (a) the amount receivable from policyholders, insurance brokers and insurance agents including any amount receivable in connection with reinsurance accepted by the company identifying any part of the amount receivable by way of reinsurance premiums which has been retained by persons reinsured as a security for future claims against the company;
  - (b) the amount receivable from the company's reinsurers;
  - (c) the amount receivable from persons carrying on insurance business (other than amounts receivable in connection with reinsurance accepted or ceded, or amounts receivable through recoveries on subrogation claims);
  - (d) the amount receivable from other debtors;
  - (e) cash on current account at bankers and in hand;
  - (f) the amount of assets not included in the amounts shown under other headings classified under appropriate headings.
- (6) If not otherwise shown the following shall be stated by way of note—
- (a) the aggregate amount or estimated amount, of contracts of capital expenditure authorised by the directors which has not been contracted for, where such amounts are material;

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- (b) particulars of any charge on the assets of the company to secure the liabilities of any person (other than liabilities arising under a contract of insurance) including the amount secured;
- (c) any other contingent liability not provided for (other than one arising under a contract of insurance) and the aggregate amount or estimated amount of that liability, if it is material.

## **6. SALARIES AND MANAGEMENT EXPENSES**

A summary of the items “Salaries and Expenses of Management” shall be given in accordance with Form E of these Regulations.

## **7. REVENUE ACCOUNT AND BALANCE SHEET**

- (1) The revenue account prepared in accordance with Forms A1 to A3 and Form E or in accordance with Forms B1 to B5 and Form E, and the balance sheet set out as Forms D1 to D5 shall be submitted in respect of business in St Lucia only.
- (2) Separate statements prepared in the same format are to be submitted in respect of the global business of the company.
- (3) Despite subregulation (2), a foreign company instead of submitting statements in respect of the global business of the company in accordance with the Forms stated, may with the approval of the Registrar, deposit with the Registrar a copy of the returns lodged with the Regulatory Authority in the country in which its Head Office is situated.

## **8. CURRENCY, TO BE SPECIFIED IN LOCAL CURRENCY**

- (1) All amounts which are required to be shown in the accounts or in any statement, certificate or report annexed (excluding accounts and returns deposited with the Regulatory Authority in the country in which the Head Office is situated) which by these Regulations are required or permitted to be so annexed shall be shown in the currency of Saint Lucia.
- (2) The basis adopted in converting foreign currency to the currency of Saint Lucia for items in the accounts shall be stated.

## **9. CORRESPONDING AMOUNTS FOR PREVIOUS YEAR**

For all items shown in the accounts or in any statement, certificate or report annexed to it, required by these Regulations, there shall be shown the corresponding amounts for the immediately preceding financial year.

**10. CERTIFICATE OF ACTUARY**

There shall be annexed to every balance sheet prepared under section 26(1)(a) of the Act being a balance sheet of a company which has at any time during the financial year carried on long-term business, a certificate signed by an actuary stating whether or not, in his or her opinion, the aggregate amount of the assets of the company in relation to its long-term business as at the end of the financial year exceeded the aggregate amount of the liabilities as shown in the balance sheet.

**11. NOTES ON ACCOUNTING POLICIES**

Notes on accounting policies adopted or applied in formulation or preparation of the accounts shall be stated in the accounts.

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## SCHEDULE

(Regulations 3, 4, 5, 6 and 7)

### INSURANCE COMPANIES (ACCOUNTS AND FORMS) REGULATIONS

Form A1

#### LONG-TERM BUSINESS REVENUE ACCOUNT

Company .....

Year ended ..... Territory .....

PARTICULARS	Ordinary Long Term			Industrial Life  (4)	Total Long Term (5)
	Ordinary Life	Other	Total		
	(1)	(2)	(3)		
<b>INCOME</b>					
1. Fund brought forward					
2. Premiums (net of refunds, rebates, premiums for reinsurance ceded)—					
Single					
Other					
Consideration for annuities					
Single					
Other					
Total Premiums					
3. Commissions Received					
4. (i) Interest, Dividends and Rent					
(ii) Less Rates and Taxes thereon					
5. Other Income					

(particulars to be specified)					
6. Total					
<b>EXPENDITURE</b>					
7. Claims (net of reinsurance recoveries)—					
8. Commission Paid					
9. Expenses of Management					
10. Shareholders' share of distributable surplus transferred to Profit & Loss Account					
11. Other expenditure (particulars to be specified)					
12. Fund carried forward					
13. Total					

Form A2

**PREMIUM ANALYSIS — LONG TERM BUSINESS**

Company .....

Year ended ..... Territory .....

PARTICULARS	Ordinary Life	Industrial Life	ANNUITIES	
			Ordinary	Approved Pension
1. Gross Premiums Written				
2. Reinsurance Ceded				
3. Reinsurance Commissions				
4. Reinsurance Recoveries				



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FORM A3

CHANGES IN LONG-TERM BUSINESS

Company .....

Year ended..... Territory.....

Category of Business.....

(1) Changes in business in force during the financial year

Particulars	ASSURANCES		DEFERRED ANNUITIES		ANNUITIES IN PAYMENTS	
	Number of Policies	Sums Assured	Number of Policies	Number of annuity per annum	Number of Policies	Amounts of annuity per annum
In force at beginning of year						
New business						
Net transfers and other alternations 'on'						
Bonus allotted Total 'on'						
Deaths						
Maturities						
Surrenders						
Forfeitures						
Conversions to paid up policies for reduced benefits						
Lapses (i.e. policies with no surrender value)						
Net transfers,						











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1									

(Inserted by S.I. 36/1996)

FORM B4

**STATEMENT OF CLAIMS PAID AND OUTSTANDING**  
(for Direct Insurance/Facultative Reinsurance Business)

Company .....

Financial Year ended .....

Country ..... Risk Group/Class of Business .....

Claims originating in year ended .....

	(1) Number of claims year	(2) Amounts paid During years	(3) Amounts paid in Previous years	(4) Payments outstand- ing	(5) Total (2)+ (3)+ (4)+
1.Claims settled in this financial year at no cost					
2.Claims settled in this financial year at some cost					
3.Claims outstanding at end of financial year					
4.Claims incurred but not reported					
Total Claims originating in the year					

Identical forms are to be prepared for each of the 4 years prior to the year of account. A further form is to be prepared for the fifth and previous year.

FORM B5

**STATEMENT OF CATASTROPHE AGGREGATES**

(Property Insurance of Business Only)

Company.....

Financial Year ended.....

Country..... Zone..... Catastrophe Risk Group .....

Type of Property	Total Sums Insured	Exposure (PML)	Premium
Residential	.....	.....	.....
Commercial/Industrial	.....	.....	.....
Other	.....	.....	.....

Note: A separate Form B5 is to be prepared in respect of each of the following risk groups: (a) Hurricane (b) Earthquake (c) Flood.

**FORM C**

**PROFIT & LOSS ACCOUNT**

Company.....

Financial Year ended..... Territory.....

Particulars	Total
Income	
1. Balance of last year's account	
2. Interest & dividends not carried to other accounts	
3. Profit realised (Accounts to be specified)	
4. Other receipts (Details to be specified)	
5. Total	
Expenditure	
6. Taxation	
7. Dividends & Bonuses to shareholders	
8. Expense not charged to other accounts	
9. Loss sustained (Accounts to be specified)	
10. Other payments (Specify)	



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11. Balance as per Form D1	
12. Total	

FORM D1

BALANCE SHEET

Company.....

Financial Year ended..... Territory.....

	Long-Term Insurance Business	Motor Vehicle Insurance Business	All Other Classes of Insurance Business	Total
Share Capital				
Authorised				
.....share of \$..... each				
Issued and fully paid—				
..... shares of \$..... each				
Share Premium Account				
Retained Profits				
Other reserves (specify)				
<b>Total Capital and Reserves</b>				
Insurance Funds				
Long-Term Funds:				
Ordinary Life				
Industrial Life				
Motor Vehicle				
Other Classes (to be specified)				
Claims admitted or intimated but not paid (to be specified)				
Premiums Paid in Advance				
Outstanding Commissions				
Amount due to reinsurers				
Bank Loans and Overdrafts				
Other liabilities (to be specified)				
<b>Total Liabilities</b>				
1. Fixed Assets				
2. Loans				
3. Government Securities				

4. Company Securities				
5. Cash & Term deposits				
6. Current Assets				
7. Other				
Total Assets				

Notes: A note should accompany the Balance Sheet showing a further breakdown of current assets eg. 'Amount due from policyholders', 'Amounts due from other insurers', 'Interest, dividends and rents outstanding', 'Sundry debtors'

## FORM D2

## DETAILED STATEMENT OF ASSETS

Company.....

Financial Year ended..... Territory.....

ASSETS	Long-Term Insurance Business	Motor Vehicle Insurance Business	All Other Classes of Insurance Business	Total
1. Fixed Assets—	\$	\$	\$	\$
(a) Real Estate including buildings				
(b) Office Furniture and Fittings				
(c) Motor Vehicles				
(d) Equipment				
2. Loans—				
(a) On Mortgage				
(b) On Debentures or Shares				
(c) On Policies of the Company				
(d) Other (To be specified)				
3. Government Securities—				
(a) Local				
(b) OECS				
(c) Other CARICOM States				
(d) United Kingdom				

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(e) Canada				
(f) Other (Specify)				
4. Ordinary Shares in—				
(a) Local Companies				
(b) OECS Companies				
(c) CARICOM Companies				
(d) Other Companies				
5. Preference Shares in—				
(a) Local Companies				
(b) OECS Companies				
(c) CARICOM Companies				
(d) Other Companies				
6. Bonds & Debentures—				
(a) Local Companies				
(b) OECS Companies				
(c) CARICOM Companies				
(d) Other Companies				
7. Investment in dependent companies which are insurance companies				
8. Investment in dependent companies which are not insurance companies				
9. Other investments (specify)				
10. Cash Deposits with insurance regulatory bodies				
11. Fixed Deposits with banks				
12. Fixed Deposits with other financial institutions				

13. Cash on current Account and in hand				
14. Amount due from agents and sub-agents				
15. Amounts due from brokers				
16. Amounts due from Policyholders				
17. Amounts due from other Insurance companies				
18. Interest, Dividends and Rents accruing but not due				
19. Interest, Dividends and Rent Outstanding				
20. Sundry Debtors				
21. Other assets (specify)				
<b>Total Assets as per Form D1</b>				

FORM D3

LIABILITIES TO LONG-TERM POLICYHOLDERS

Company .....

Financial Year ended ..... Territory .....

Company .....

Add EC\$

Long Term Funds—  
 Ordinary Life  
 Industrial Life

Outstanding Claims—  
 Death  
 Maturities  
 Other (to be specified)  
 Annuities due and unpaid

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Provisions for unreported claims	
Deposits re policies	
Premiums paid in advance	
Unpaid Dividends	
Accrued Interest on policies	
Other (specify)	_____
Less	_____
Loans on policies of the Company	
Interest accrued on policy loans	
Outstanding Premiums	
Other (specify)	_____
Less	
Cash or market value of securities placed on deposit with the Registrar in respect of long term insurance business	_____
	_____
	_____
Insurance Fund Requirement	_____

FORM D4

POLICY HOLDER LIABILITY — MOTOR INSURANCE BUSINESS

Company .....

Financial Year ended ..... Territory .....

Add	EC\$
Unearned premium provision	
Unexpired risk provision	
Claims outstanding provision	
Claims equalisation	_____
	_____
Less	
Premiums paid in advance	
Other (specify)	_____
	_____
Less	

Cash or market value of securities placed  
on deposit with the Registrar in respect of  
Motor Insurance Business

\_\_\_\_\_

\_\_\_\_\_

Insurance Fund Requirements

\_\_\_\_\_

\_\_\_\_\_

[\[Insert page 4 of Insurance Act landscape pages\]](#)

[\[Insert page 5 of Insurance Act landscape pages\]](#)



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5. Real Estate Owned by Company :

Description and Location of Property	Date Acquired	Encumbrance	Actual Cost	Book Value Encumbrance	Market Value less Encumbrance
TOTAL REAL ESTATE					

6. Other Assets :

(Details to be specified)

SUMMARY OF ASSETS HELD IN RESPECT OF POLICY HOLDERS

1. Government Securities and Debentures	_____
2. Company shares	_____
3. Fixed Deposits	_____
4. Mortgage Loans	_____
5. Real Estate	_____
6. Other	_____
Total	_____

(Substituted by S.I. 36/1996)

FORM E

SCHEDULE OF MANAGEMENT EXPENSES

Company .....

Financial Year ended ..... Territory .....

Details of Expenses	Incurred During the year	Amount Charged as Investment Expenses
I. REMUNERATION		
1. Salaries and Wages		
2. Director's Fee		
TOTAL REMUNERATION		
II. EMPLOYEE RELATIONS AND WELFARE		
3. Pensions and other Employee Benefits		
4. Training Expenses		

5. Other Welfare Items		
Total Employee Welfare		
<b>III. PROFESSIONAL FEES</b>		
6. Legal Fees		
7. Underwriting Reports		
a. Underwriting surveys		
b. Medical Reports		
c. Other Reports		
8. Auditor Fees		
9. Consultant and Other Professional Fees		
Total Professional Fees		
<b>IV ACCOMMODATION EXPENSES</b>		
10. Rent		
11. Water and Lighting		
12. Furniture, Machines and Equipment		
Total Accommodation Expenses		
<b>V. TAXATION</b>		
13. Insurance Taxes, Licenses, etc.		
TOTAL TAXATION		
<b>VI. REAL ESTATE</b>		
14. Real Estate Expenses		
TOTAL REAL ESTATE		
<b>VII. MISCELLANEOUS EXPENSES</b>		
15. Advertising		
16. Insurance		
17. Printing and Stationery		
18. Postage, telephone and Express Services		
19. Collection and Bank Charges		
20. Entertainment		
21. Travelling Expenses		

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a. Local Travel		
b. Foreign Travel		
22. Associations and Bureaus		
23. Donations to Charities		
24. Other Sundry Expenses		
Total Miscellaneous Expenses		
GRAND TOTALS		
Less Investment Expenses		
<b>TOTAL MANAGEMENT EXPENSES</b>		

#### NOTES ON FORM E

Item 1. *Salaries and Wages*

Salaries, wages, bonuses, fixed allowances, overtime and other compensation to employees, also consultants employed on a monthly or weekly basis.

Item 2. *Directors Fees*

EXCLUDE salaries to full time directors, or commissions payable in connection with the procurement of business.

Item 3. *Pensions and other Employee Benefits*

Contributions to staff pensions and insurance, national insurance and national health insurance: payments to employees under self insurance programmes.

EXCLUDE employer's liability insurance, or insurance on the lives of employees where the company is the beneficiary.

Item 4. *Training Expenses*

Cost of training material, courses, examination, fees, books, membership fees of employees in and company contributions to professional organisations.

EXCLUDE salaries, stationery, furniture and equipment used in training: scholarships to non-employees.

Item 5. *Other Welfare Items*

Cost of advertising for recruitment of staff; medical examinations of and character and credit reports on employees or on applicant for employment; employee uniforms; outings and entertainment for employees; subsistence and other payments for meals for employees; donations to or on behalf of employees.

**Item 6. *Legal Fees***

Retainers fees and other expenses payable to legal practitioners.

EXCLUDE fees and expenses in connection with claims (Claim Cost).

**Item 7. *Underwriting Reports*****a. *Underwriting Surveys.***

Cost of survey, credit, moral hazard, character reports obtained for underwriting purposes, including fire reports, inspection and engineering reports; maps; fees to independent auditors for auditing payroll and other premium bases.

**b. *Medical Examination Reports***

Medical examination, laboratory and diagnostic reports in connection with the underwriting of insurances of the person.

EXCLUDE character, credit or medical reports on member of staff or applicants for employment (Item 5); or reports in connection with claims (Claims Costs.)

**Item 8. *Auditors Fees***

EXCLUDE fees for accounting services, valuation of shares, secretarial or other services (Item 9).

**Item 9. *Consultants and Other Professional Fees***

Retainers fees and other expenses of independent consultants, but excluding fees and other payments in connection with claims.

**Item 10. *Rent***

Rent of Branch and Head Offices; rent for space occupied in buildings owned (optional); rental of safety deposit boxes; alterations and repairs to leased premises; cost of janitorial services, towels, toiletries, electric lamp replacements and other incidental maintenance charges.

EXCLUDE salaries and wages, and real estate expenses

**Item 11. *Water and Lighting***

Water and Lighting in leased premises only; (but see Item 14).

**Item 12. *Furniture, Machines and Equipment***

Depreciation expenses; rental and repairs to furniture, equipment and office machines.

**Item 13 *Insurance Taxes, Licences and Fees***

Fire Brigade Charges; Insurance License Fees; Premium Taxes; advertising required by law; business licences and fees; stamp duties on policies; withholding taxes on reinsurance remittances.

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EXCLUDE real estate taxes, income or corporation tax on profits; withholding tax on profits or dividends; value added tax.

Item 14. *Real Estate Expenses*

Operating and maintenance and insurance costs, including wages and salaries to janitors, caretakers, maintenance and security personnel (especially if real estate is not used directly and exclusively for the insurance business); foreclosure expenses including advertising in connection with real property on which the company holds a lien or mortgage; depreciation costs; rates and taxes on real estate.

EXCLUDE security services for the exclusive protection of the insurance business, or for the collection or transport of cash in connection with the operation of the insurance business.

Item 15. *Advertising*

EXCLUDE cost of advertisements for the recruitment of staff (Item 5); or in connection with owned real estate or in connection with the foreclosure of mortgaged properties (Item 14); advertising required by law (Item 13).

Item 16. *Insurance*

Fidelity and surety bonds on employees and agents; public liability, employer's liability and other insurances.

EXCLUDE insurances for the benefit of employee or dependants (Item 3); insurance on owned real estate.

Item 17. *Printing and Stationery*

Stationery and office supplies; printing; purchase of books, newspaper and periodicals; but exclude printing equipment (Item 12).

Item 18. *Postage, Telephone and Express services*

Express freight and cartage; courier services, postage, telephone; rental of post office boxes.

EXCLUDE rent, repairs and depreciation of postage franking or facsimile machines.

Item 19 *Collection and Bank Charges*

EXCLUDE overdraft and other interest (deduct from interest income).

Item 20. *Travel Expenses*

a. Local Travel

Depreciation, insurance, repairs, maintenance and operating expenses of company vehicles: rental of vehicles; transportation, subsistence, hotel and other expenses including telephone, of employees while travelling within national boundaries.

b. Foreign Travel

Transportation, hotel, subsistence and other expenses while travelling overseas.

Item 21. *Entertainment*

Cost of entertainment of guests; cost of favours and presents to persons other than employees; dues and subscriptions to social and civic clubs.

Item 22 *Associations and Bureaus*

Dues, charges, fees (including payment for rate manuals and experience data) to associations, bureaus and other organisations to which the company may belong, but excluding subscriptions to social and civic clubs.

Item 23. *Donations to Charities*

Donations to charities whether under deed of covenant or not.

Item 24. *Other Sundry Expenses*

Other expenses not entered elsewhere.

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## **INSURANCE COMPANIES (REINSURANCE) REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

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#### **SCHEDULE**

**177**





## **INSURANCE COMPANIES (REINSURANCE) REGULATIONS – SECTION 167**

(Statutory Instrument 80/1995)

Commencement [9 December 1995]

### **1. SHORT TITLE**

These Regulations may be cited as the Insurance Companies (Reinsurance) Regulations

### **2. INTERPRETATION**

In these Regulations—

“**classes of insurance business**” means the classes of business set out in Schedule 1 to the Insurance Act;

“**slip**” means a paper submitted by a reinsurance broker to an underwriter which identifies the risk and the underwriters participating in the risk and the extent of their participation;

“**underwriting year**” means the period covered by the company’s reinsurance treaty.

### **3. SUBMISSION OF REINSURANCE TREATIES**

Every company registered to transact general insurance business in Saint Lucia shall, within 14 days of the commencement of its underwriting year, submit to the Registrar in respect of each class of insurance business to be transacted, details of its reinsurance treaties for that underwriting year.

### **4. INFORMATION TO BE SUPPLIED ON REINSURANCE TREATY**

Information on the items specified in the Schedule shall be supplied in respect of each reinsurance treaty, in the form of a slip, a cover note or a summary prepared by the reinsurance broker, reinsurance company or the management of the company.

### **5. SUBMISSION OF REINSURANCE POOLS, ETC**

In addition to reinsurance treaties, the company shall submit details of reinsurance pools and other arrangements in which it participates.

## **SCHEDULE**

(Regulation 4)

- (a) Name of reinsured;
- (b) Location;
- (c) Period of cover;
- (d) Type of reinsurance treaty;
- (e) Class of insurance business;
- (f) Territorial scope;
- (g) Retention;
- (h) Premium or commission;
- (i) Reinsurers and percentage share of the treaty;
- (j) Terms of portfolio transfer (if applicable);
- (k) Exclusions, special wordings and general conditions;
- (l) Reinsurers and the proportions written by each.

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## **INSURANCE (ADMISSIBLE ASSETS AND VALUATION OF ASSETS) REGULATIONS**

### **ARRANGEMENT OF REGULATIONS**

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#### **SCHEDULE**

**186**



## **INSURANCE (ADMISSIBLE ASSETS AND VALUATION OF ASSETS) REGULATIONS – SECTION 167**

(Statutory Instrument 81/1995)

Commencement [9 December 1995]

### **1. SHORT TITLE**

These Regulations may be cited as the Insurance (Admissible Assets and Valuation of Assets) Regulations.

### **2. INTERPRETATION**

(1) In these Regulations—

“**Act**” means the Insurance Act;

“**approved financial institution**” means—

- (a) any institution in which a company is required to invest its funds for the purposes of sections 80(5) and 93(1) of the Act; or
- (b) any institution the Minister may, by Gazette Notification, approve;

“**asset**”, for the purpose of the business of general insurance companies, means admissible assets and includes part of an asset;

“**computer equipment**” means the electro-mechanical and electronic units which make up a computer configuration and includes a software package used under the business of a company;

“**debenture**” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“**debt**” means an obligation to pay premiums or other monies outstanding to the account of an insurance company;

“**insurance liabilities**” means in relation to an insurance company, any debt due from or other liabilities of the company under any contract of insurance to which it is a party;

“**intermediary**” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurance company;

“**liability**” includes a contingent or prospective liability and a part of a liability, but does not include a liability in respect of share capital;

“**middle market price**” means—

- (a) in relation to an investment for which 2 prices are quoted in the official list published for the relevant market, the average of the 2 prices so quoted for the day on which the investment falls to be valued or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published;
- (b) in relation to an investment for which one price is quoted in the official list for the relevant market, the price so quoted for the day on which the investment falls to be valued or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) which is published or can be reasonably ascertained from information which is published;

**“parent company”** means a company incorporated in Saint Lucia or elsewhere which owns or controls directly or indirectly more than 50% of the voting shares of one or more companies whether incorporated in Saint Lucia or elsewhere;

**“proper valuation”** means in relation to land, a valuation made by a qualified valuer not more than 3 years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any hypothec or charge;

**“qualified valuer”** means a person who is—

- (a) a fellow or associate of the Royal Institute of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or the Rating and Valuation Association and has knowledge and experience in the valuation of land; or
- (b) approved by the Minister by instrument in writing as a qualified valuer for the purpose of these Regulations;

**“quoted”**, in relation to an investment, means the grant of a quotation or permission to deal in respect of that investment on any stock exchange which is a recognised stock exchange approved by the Minister for the purpose of these Regulations;

**“relevant date”** means in relation to the valuation of any asset for any purpose for which these Regulations apply, the date when the asset falls to be valued for that purpose;

**“share”** includes a stock;

**“subsidiary company”** means a company, whether incorporated in Saint Lucia or elsewhere, in which another company holds more than 50% of its shares.

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### **3. DEPENDANT COMPANY**

For the purpose of these Regulations, a company is a dependant of another where –

- (a) that other company, either alone or with any associate or associates is entitled to exercise, or control the exercise of 1/3 or more of the voting power at any general meeting of the first-mentioned company; or
- (b) the first-mentioned company is a dependant of any company which is that other company's dependant.

### **4. APPLICATION OF REGULATIONS**

- (1) These Regulations apply with respect to the determination of the value of assets of insurance companies.
- (2) Any asset to which these Regulations apply (other than cash) for the valuation of which no provision is made in these Regulations shall, unless approved by the Minister, be left out of account for the purposes specified in subregulation (1).
- (3) Where it is provided by these Regulations that the value of any asset is to be no greater than as determined in accordance with these Regulations and in all circumstances of the case it appears that the asset is of a lesser value, such lesser value shall be the value of the asset.

### **5. SHARES IN AND DEBTS DUE FROM DEPENDANTS**

- (1) The value of any share in a dependant of an insurance company shall be no greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.
- (2) In this Regulation "net asset value", in relation to a dependant company, means the amount by which the value of its assets, as determined in accordance with these Regulations, exceeds the amount of its liabilities including contingent and prospective liabilities but not including liabilities in respect of share capital.
- (3) The value of any debt due, or to become due, to an insurance company from a dependant shall be the amount which would reasonably be expected to be recovered in respect of that debt (due respect being taken of any security held in respect thereof) if the dependant were in liquidation.
- (4) Any share in a dependant—
  - (a) in which there is no such excess of assets over liabilities as is specified in subregulation (2);
  - (b) in relation to which an insurance company cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of subregulation (2), shall be left out of account for the purposes for which these Regulations apply.

- (5) Where an insurance company is unable to determine the value of any debt due or to become due to the company from a dependant because it cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with subregulation (3), the debt shall be left out of account for the purposes for which these Regulations apply.
- (6) In determining the net asset value of a dependant company which is an insurance company the value of its assets and the amount of its liabilities shall be determined in accordance with any valuation regulations applicable for the purpose of section 34 of the Act, in the case of general insurance business and for the purpose of any investigation to which section 95 of the Act applies in the case of long-term insurance business.
- (7) In determining for the purpose of this Regulation the net asset value of a dependant company, which is not an insurance company, the value of the assets of the dependant company shall be determined in accordance with these Regulations as if they were assets of an insurance company.

## **6. DEBTS AND OTHER RIGHTS**

- (1) The value of any debt due, or to become due, to an insurance company other than a debt to which subregulation (2), (3) or (5) of this regulation or regulations 9 and 13 apply shall be—
  - (a) in the case of any such debt which is due, or will become due within 12 months of the relevant date (including any debt which would become due within that period if the company were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of any security being held in respect thereof); and
  - (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt together with the benefit of any security held in respect of it.
- (2) The value of any debt due, or to become due, to the company which is secured on a policy of insurance issued by the company and which (together with any other debt secured on that policy) does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.
- (3) Any debt due, or to become due, to the company from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date shall be left out of account for the purposes for which these Regulations apply.
- (4) Any recovery due, or to become due, to the company by subrogation shall be left out of account for the purposes for which these Regulations apply.



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- (5) The value of any salvage right of the company shall be the amount which can reasonably be expected to be recovered by virtue of the exercise of that right.

## **7. IMMOVABLE PROPERTY**

The value of any land of an insurance company (other than land held by the company as a security for a debt or to which regulation 10 applies) shall, where an amount representing such value has been put into the account for the first time or where a change is made reflecting an increase in the relevant amount stated or shown in a previous account, not be greater than the amount which, after deduction of the reasonable expenses of sale, would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the company and any such land of which there is no proper valuation shall be left out of account for the purposes of these Regulations.

## **8. EQUIPMENT**

The value of any computer equipment, office machinery, furniture and motor vehicles of an insurance company—

- (a) when purchased in the second 6 months of the financial year, shall not be greater than 85% of the cost thereof to the company;
- (b) when purchased in the first 6 months of the financial year, shall not be greater than 75% of that cost;
- (c) in the first financial year thereafter, shall not be greater than 50% of that cost;
- (d) in the second financial year thereafter, shall not be greater than 25% of that cost; and
- (e) in any subsequent financial year, shall be left out of account for the purposes for which these Regulations apply.

## **9. QUOTED INVESTMENTS**

The value of any quoted debenture which is not a debenture issued by a dependant of the insurance company, and of any quoted share which is not a share in such a dependant shall be the greater of the middle market price or the average of the middle market prices during the last 3 months before the day on which the investment falls to be valued.

## **10. LIFE INTEREST, REVERSIONARY INTERESTS, ETC**

The value of any asset consisting of a right in relation to immovable property which itself is considered an immovable property under the Civil Code and can be transferred or assigned for consideration shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

**11. UNIT TRUST**

The value of any holding of units, or other beneficial interest, under a unit trust scheme shall be the published price at which the managers or management, as the case may be, under the unit trust scheme would purchase the holding of units or other beneficial interest if required to do so.

**12. UNQUOTED SHARES**

The value of any unquoted share, which is neither an equity share nor a share in a dependant of the insurance company, shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

**13. OTHER ASSETS**

The value of any securities issued or guaranteed by any government or public authority shall be—

- (a) in the case of quoted securities, the middle market price;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

**14. ASSETS, TO BE TAKEN INTO ACCOUNT TO A SPECIFIED EXTENT ONLY**

Insurance company assets of any of the descriptions specified in the Schedule shall be taken into account only to the extent of the percentages specified in the Schedule, of the total assets or net premium, as the case may be, of the insurance company.

**SCHEDULE****ASSETS, TO BE TAKEN INTO ACCOUNT TO A SPECIFIED EXTENT  
ONLY**

Description of Assets	(Regulation 14) <i>Percentage of total assets of the company</i>
1. Debts, other than quoted debentures, debts to which regulation 6(1) or (2) or regulation 7 applies which are due or to become due to the insurance company within 12 months of the relevant date (including debts which would become due within that period if the company were to exercise any right to which it is entitled to	

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- require payment of the same) from—
- (a) any one connected company (not being an approved financial institution); 2.5
  - (b) any one un-incorporated body of persons (not being an approved financial institution). 2
- 5
- 2. Quoted shares in any one connected company. 2.5
  - 3. Unquoted shares in any one connected company. *Percentage of general business or long-term business net premium income*
- 4. Amounts recorded in the insurance company's books as due in respect of premium (other than premiums in respect of treaty reinsurance accepted) which either—
    - (a) have not been paid; or
    - (b) have been received by an intermediary on behalf of the company, but have not been paid to the company by the intermediary, less any rebates, refunds and commission recorded in the company's books as allowable or payable in respect of any such amounts. 30
  - 5. In this Schedule, a company is a connected company of an insurance company where it is –
    - (a) a subsidiary of the insurance company;
    - (b) the holding or parent company of the insurance company;
    - (c) a subsidiary of the holding company referred to in (b);
    - (d) a dependant of the insurance company; or
      - (i) a dependant of the company, or
      - (ii) a subsidiary of the company.



Revision Date: 31 Dec 2008

## INSURANCE (BROKERS' RETURNS FORMS) REGULATIONS – SECTION 167

(Statutory Instrument 126/2002)

Commencement [16 December 2002]

### 1. CITATION

These Regulations may be cited as the Insurance (Brokers' Returns Forms) Regulations.

### 2. INTERPRETATION

In these Regulations, the “Act” means the Insurance Act.

### 3. PRESCRIPTION OF BROKERS' RETURNS FORMS

The following forms are hereby prescribed for purposes of section 69 of the Act—

#### RETURNS FROM BROKERS FOR THE YEAR ENDED

\_\_\_\_\_ 20 \_\_\_\_\_

1.	Name:
2.	Business Address:
3.	Corporate Status:

#### 4. Premium Handled: (In respect of all arrangements other than Lloyds)

Class of Business	Paid to Insurers in St. Lucia			Paid to Insurers outside St. Lucia		
	Company Name	Direct	Reinsurance	Company Name	Direct	Reinsurance
Property						
Marine, Aviation and Transport						
Motor						

Personal Accident						
Liability						
Pecuniary						
<b>Total – General Insurance</b>						
Ordinary Life						
Industrial Life						
<b>Total Long-term Insurance</b>						

#### 5. Business Details – in respect of Lloyds Representatives\Cover Holders

Class of Business	Direct			Reinsurance		
	Premium Written	Claims Paid	Claims Outstanding	Premiums Paid	Claims Paid	Claims Outstanding
Property						
Marine, Aviation and Transport						
Motor						
Personal Accident						
Liability						
Pecuniary Loss						
<b>Total</b>						
Ordinary Life						

#### 6. Remuneration

- a) Basis of remuneration in each class:

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b) Actual income from brokerage and commissions during the year:	
7. Powers: a) Do you hold a Power of Attorney or a binding authority from any insurer or group of underwriters? b) If so give brief details (attach specimen). c) Are you authorized to issue any documents (policies, cover notes, certificates etc.) to your clients? Give brief details. d) Are you authorized to collect premiums and settle claims? If so give brief details of extent of authority.	
8. Please state mode and periodicity of remittance of dues to insurers.	
9. Please provide information on premiums due to each insurer and list the aging of the sums outstanding.	
10. Do you work as a full-time broker? If it is conducted in conjunction with any other business, please give brief details (including agency representations of insurers, if any).	

I/We hereby declare that the information given above are true and correct to the best of our knowledge and belief.

.....

*Signature*

Date: