

# THE INSURANCE ACT, 1980

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Fourth Session First Parliament Republic of Trinidad  
and Tobago

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REPUBLIC OF TRINIDAD AND TOBAGO

**Act No. 6 of 1980**

[L.S.]

AN ACT to revise and consolidate the law providing for  
the regulation of insurance business and for other  
purposes related to or connected with such business  
and for the regulation of privately administered  
pension fund plans.

[Assented to 11th June, 1980]

ENACTED by the Parliament of Trinidad and Tobago as Enactment  
follows:—

1. This Act may be cited as the Insurance Act, 1980. Short title
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Application of  
Act

## 2. (1) This Act applies to—

(a) all companies, whether or not established in Trinidad and Tobago, which carry on in Trinidad and Tobago insurance business of all or any of the classes specified in the First Schedule;

## First Schedule

(b) privately administered pension fund plans whether administered by individual trustees or by trust corporations.

(2) For the purposes of this Act the reinsurance of liabilities under insurance policies shall be treated as insurance business of the class to which the policies would have belonged had they been issued by the reinsurer, and all the provisions of this Act shall apply to such reinsurance save that a company or an association of underwriters carrying on such reinsurance shall not be required to make in respect thereof the deposit required to be made by section 29 or section 189.

## PRELIMINARY

## Interpretation

## 3. (1) In this Act—

“actuary” means a Fellow by examination of the Institute of Actuaries in England, of the Faculty of Actuaries in Scotland or of the Society of Actuaries in the United States of America or an actuary possessing such other qualifications as may from time to time be approved by the Supervisor;

“adjuster” means any person who for compensation, a fee, a commission or a salary investigates and negotiates settlement of claims arising under insurance contracts, solely on behalf of either the insurer or the insured, but does not include—

(a) a salaried employee of an insurer while acting on behalf of such insurer in the adjustment of losses; or

(b) an agent of an insurer;

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

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

"approved securities" means such securities as may from time to time be prescribed to be approved securities;

"assets" does not include goodwill;

"assignment" in relation to a policy, does not include a surrender of the policy to the company liable under the policy;

"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;

"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 thereof on behalf of existing or prospective policy holders;

"carrying on insurance business" includes the receipt of proposals for or the issuing of policies of insurance in Trinidad and Tobago or the collection or receipt in Trinidad and Tobago of renewal premiums on policies issued in Trinidad and Tobago by an insurer or through an agent or as an agent but does not include—

- (a) the collection or receipt in Trinidad and Tobago of renewal premiums under a policy issued
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outside of Trinidad and Tobago to a person who is temporarily resident in Trinidad and Tobago but at the date of issue of the policy was resident outside of that country; or

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

“chief executive officer” means a person employed by an insurance company, who either alone or jointly is, subject to any directions of the directors of the company, responsible for the conduct of all the insurance business of the company;

“class” means any class of insurance business specified in the First Schedule;

“company” means a body corporate which carries on or proposes to carry on insurance business in Trinidad and Tobago;

“controller” means a director or a chief executive officer of a company or any person who is entitled to control at least one-third of the voting power at any general meeting of the company; a controller of a company which has an insurance company as a subsidiary shall be deemed to be a controller of the insurance company;

“court” means a court of competent jurisdiction;

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

“foreign company” means a company which is incorporated outside of Trinidad and Tobago;

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

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“industrial policy” means a policy in respect of which the premiums are contracted to be paid at intervals of less than two months 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 business” means the business of or in relation to the issue of or 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 but does not include—

- (a) business in relation to the benefits provided by a friendly society or a trade union for its members or their dependents; or
- (b) business in relation to a scheme under which superannuation benefits, pensions or payments to employees or their dependents on retirement, disability or death are provided by an employer, or his employees, or by both, wholly through an organisation established solely for those purposes by the employer or his employees, or by both;

“insurer” means a company registered to carry on insurance business in Trinidad and Tobago and includes an underwriter and an association of underwriters, but does not include an insurance agent as such nor, where an insurance agent is also an insurer, it does not refer to that part

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of his business done as an insurance agent;

“local company” means a company incorporated under the Companies Ordinance or any other enactment;

“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; and

(c) in relation to any company, insurance business carried out by the company as incidental only to either of the classes of business referred to in paragraphs (a) and (b);

“Minister” means the member of the Cabinet to whom responsibility for the subject of Finance is assigned;

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

“officer” includes the manager, secretary, treasurer, actuary 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 policy” means a policy under which no future premiums are required;

“policy” means any written contract of insurance whether contained in one or more documents;

“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 for the time being assigned;

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"policy in Trinidad and Tobago" means in relation to—

- (a) long-term insurance business, a policy issued or effected by a company registered under this Act, upon the life of a person for the time being resident in Trinidad and Tobago;
- (b) property insurance business, a policy issued or effected by a company registered under this Act upon property situated in Trinidad and Tobago; 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 Trinidad and Tobago at the time the policy was issued;

"principal representative" means a person appointed by a foreign company pursuant to section 17;

"salesman" means an individual contracted by an insurer or an agent to solicit applications for insurance or negotiate insurance on behalf of the insurer, or the agent as the case may be;

"statutory fund" in relation to a company means a statutory fund maintained by the company under section 37;

"superannuation allowances" includes payment of a lump sum on retirement;

"Supervisor" means the officer designated to be the Supervisor of Insurance under section 4;

"Trinidad and Tobago policy-holder" means the legal holder for the time being of a policy in Trinidad and Tobago;

"underwriter" includes any person named in a policy as liable to pay or contribute

towards the payment of the sum secured by the policy.

(2) For the purposes of this Act a person shall not be treated as carrying on insurance business in Trinidad and Tobago if the only reason for so treating the person is the fact that the risk covered by a policy of insurance issued by such person is situated in Trinidad and Tobago.

## PART I

### ADMINISTRATION

Minister may  
designate officer  
to be Supervisor

4. (1) The Minister may designate a person employed in his Ministry to be the Supervisor of Insurance.

(2) The Minister may, whenever it is considered necessary, cause arrangements to be made for the services of an actuary or any other competent person to be made available for the purpose of advising the Supervisor on matters arising under this Act.

Supervisor to  
administer Act

5. The Supervisor shall be charged with the general administration of this Act and in the exercise of his powers and the performance of his duties he shall conform with any general or special directions given to him by the Minister.

Supervisor may  
delegate powers  
or duties

6. (1) The Supervisor may, by instrument in writing, delegate to any person employed in the Ministry of Finance, all or any of his powers or duties under this Act except the power conferred on him by this section.

(2) A delegation under subsection (1)—

(a) shall be revocable at will and shall not preclude the Supervisor from exercising the power or performing the duty which has been delegated;

(b) may be made subject to a power of review and alteration, within such period as may be specified in the instrument of delegation, by the Supervisor of any act done in pursuance of the delegation.



7. (1) The Supervisor shall, within three months after the thirty-first day of December, in each year, furnish to the Minister for laying before Parliament—

Annual report and returns to be furnished

- (a) a report on the working of this Act during the year; and
- (b) printed copies of summaries of the documents lodged with him under sections 56, 60, 113, 184, 185 and 191, during that year.

(2) The Supervisor may attach to any printed copies of summaries furnished pursuant to paragraph (b) of subsection (1) such comments on the document as he thinks necessary, together with a copy of any correspondence relating to the document.

(3) The Minister shall, as soon as possible after receiving the report of the Supervisor and the printed copies of summaries, cause a copy of the report and the printed copies of summaries to be laid before Parliament.

8. (1) Subject to subsection (2), where in relation to a policy, a dispute or difference arises between a company and a policy-holder, the Supervisor may upon the written request of either party act as arbitrator of the dispute or difference.

Supervisor may act as arbitrator

(2) An arbitration under this section shall be conducted in accordance with the Arbitration Ordinance, Ch. 7. No. 1 Ordinance.

9. The Supervisor shall maintain such registers as may be required or authorised to be maintained under this Act or the regulations and in particular shall maintain separate registers of—

Supervisor to maintain registers

- (a) companies which are registered to carry on the various classes of insurance business in Trinidad and Tobago;
- (b) privately administered pension fund plans; and
- (c) associations of underwriters.

## PART II

## REGISTRATION

Non-application  
of Part

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

Restriction on  
carrying on  
insurance business

11. (1) Subject to this Act, no person may carry on insurance business in Trinidad and Tobago unless that person is—

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(a) a company within the meaning of the Companies Ordinance or any other enactment; or

(b) a company incorporated outside of Trinidad and Tobago which has an established place of business in Trinidad and Tobago.

(2) A company referred to in subsection (1) shall not carry on insurance business of any of the classes specified in the First Schedule as insurer unless it is registered by the Supervisor in respect of that class of business.

(3) The provisions of subsection (2) shall not apply to a company carrying on insurance business in Trinidad and Tobago immediately before the commencement of this Act so as to require the company—

(a) to make a deposit before the expiration of three months; or

(b) to be registered, subject to section 15 before the expiration of six months, from the commencement of this Act.

(4) A company which is carrying on insurance business in Trinidad and Tobago immediately before the commencement of this Act shall not, at any time after the expiration of six months from the commencement of this Act or of such longer period as may be specified in an Order made under subsection (5) carry on any class of insurance business in Trinidad and Tobago unless it is registered by the Supervisor to carry on such class of insurance business.

(5) The Minister may by Order published in the *Gazette* extend the period referred to in subsection (4).

(6) A company which contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars and in the case of a continuing offence to a further fine of one thousand dollars for each day on which the offence is continued after conviction thereof.

12. (1) A local company which is carrying on insurance business in Trinidad and Tobago shall not—

- (a) transact insurance business in Trinidad and Tobago with an unregistered insurer;
- (b) employ an unregistered broker for the transaction of insurance business in Trinidad and Tobago; or
- (c) carry on insurance business outside of Trinidad and Tobago without the prior approval of the Supervisor, except that a local company carrying on such business at the commencement of this Act, may, without the approval of the Supervisor, continue to do so for a period of twelve months or such longer period as may be specified in an Order made under subsection (3).

(2) For the purposes of paragraph (c) of subsection (1), the transaction of insurance business does not include the ceding of insurance business to reinsurers outside of Trinidad and Tobago.

(3) The Minister may by Order published in the *Gazette* extend the period referred to in paragraph (c) of subsection (1).

(4) A company which contravenes the provisions of subsection (1) is guilty of an offence and liable on summary conviction to a fine of five thousand dollars.

13. (1) Subject to this Act, no company may be registered to carry on ordinary long-term insurance business unless it has a paid-up share capital of not less than three million dollars, 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 three million dollars.

Share capital  
necessary for  
registration

(2) A company which immediately before the commencement of this Act is registered to carry on ordinary long-term insurance business, shall within two years of the commencement of this Act, increase its paid-up share capital to not less than three million dollars or, in the case of a mutual company increase its uncommitted reserves to at least three million dollars.

(3) Notwithstanding the provisions of subsection (1), a company which is carrying on both ordinary long-term and industrial life insurance business shall be required to have a paid-up share capital of at least three million dollars, such capital to be fully paid up in cash, or in the case of a mutual company, uncommitted reserves of at least three million dollars.

(4) No company may be registered to carry on any class of insurance business other than ordinary long-term insurance business, unless it has a paid-up share capital of not less than one million dollars, 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 one million dollars.

(5) A company which immediately before the commencement of this Act is registered to carry on any class of insurance business, other than ordinary long-term insurance business, shall within two years of the commencement of this Act, increase its paid-up share capital to not less than one million dollars, or in the case of a mutual company, increase its uncommitted reserves to one million dollars.

(6) The provisions of subsections (1), (3) and (4) shall not apply for a period of two years after the commencement of this Act to any company which was registered to carry on any class of insurance business immediately before the commencement of this Act in relation to such class of insurance business.

**Application for  
registration**

**14. (1)** A company may apply to the Supervisor for registration under this Act to carry on insurance business.

(2) An application shall be made in the prescribed form, shall be signed by a director in the case of a local company and by its principal representative in the case of a foreign company and shall specify—

- (a) the situation of the head office of the company;
  - (b) the names of the directors and of the auditors and in the case of a foreign company the name and address of its principal representatives;
  - (c) the name of the actuary of the company in the case of a company seeking registration to carry on long-term insurance business;
  - (d) the countries outside of Trinidad and Tobago, if any, in which the company carries on insurance business; and
  - (e) the class of insurance business which the company is carrying on or proposes to carry on.
- (3) An application shall be accompanied by—
- (a) a copy of the instrument establishing the company or any other duly certified proof of incorporation;
  - (b) a copy of the memorandum of the company;
  - (c) a copy of the articles of association or other rules of the company;
  - (d) a copy of the latest revenue account and balance sheet of the company prepared in accordance with the prescribed forms and a copy of the latest actuarial valuation report on the financial position of the company;
  - (e) details of any reinsurance arrangements in respect of each class of insurance business which the company proposes to carry on;
  - (f) except in the case of a company carrying on insurance business immediately before the commencement of this Act, a statement of projections of revenue and expenditure for a period of at least three
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years, such statement to be prepared by an actuary in the case of a company carrying on long-term insurance business.

- (g) a statement showing its nominal, subscribed and paid-up capital and the amount of the capital paid-up in cash, in the case of a company which has shareholders;
- (h) a copy of the premium rate book in use or to be used by the company in Trinidad and Tobago, in the case of a company carrying on or proposing to carry on long-term insurance business;
- (i) specimens of the various standard forms of proposals and policies to be used and issued in Trinidad and Tobago;
- (j) such further information as the Supervisor considers necessary for the purpose of determining whether or not the company is capable of complying with the requirements of this Act.

Application for registration by companies carrying on insurance business before commencement of this Act

**15.** (1) Every company carrying on insurance business in Trinidad and Tobago immediately before the commencement of this Act shall, within three months of the commencement of this Act, apply for registration in accordance with section 14.

(2) The Supervisor shall, where he 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.

(3) Where the Supervisor is not satisfied that the requirements referred to in subsection (2) have been complied with he may grant to the company temporary registration for a period not exceeding twelve months.

(4) Notwithstanding the provisions of subsection (1) and (3) the Minister may, where he is satisfied that the interest of Trinidad and Tobago policy-holders so requires, by Order published in the *Gazette*, extend the periods specified in those subsections to such periods as may be specified in the Order.

(5) A company which has not been registered under this Act shall, so long as it continues to be under liability to Trinidad and Tobago policy-holders comply with the provisions of sections 29 and 37 and such other provisions of this Act as may be applicable to it.

**16.** Subject to section 17, a company shall be registered where the Supervisor is satisfied—  
Registration of company

- (a) that the application for registration is made in accordance with the provisions of this Act; and
- (b) that the company—
  - (i) is registrable under section 13; and
  - (ii) is likely to be able to comply with such provisions of this Act as are applicable to it.

**17.** (1) A company shall not be registered in respect of any class of insurance business unless the Supervisor is satisfied that—  
Supervisor may refuse to register company

- (a) the company has made in respect of that class of insurance business the deposit required to be made under section 29;
- (b) the company has made adequate arrangements for the reinsurance of that class of insurance business or that there is no justification for making such arrangements;
- (c) the managing director or controller of the company is a fit and proper person to manage it or to be a controller thereof;
- (d) in the case of a company which is carrying on or proposes to carry on some other form of business in addition to insurance business, the carrying on of that other form of business is not or would not be contrary to public interest;

- (e) in the case of a foreign company it has appointed a person resident in Trinidad and Tobago to be its principal representative in the country and has informed the Supervisor of the name and address of that person;
- (f) 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
- (g) that the policy and practice of the company in dealing with claims are conducive to the efficient and speedy settlement thereof.

(2) A company which applies for registration to carry on general insurance business shall not be registered to carry on such business unless, in addition to complying with the requirements of subsection (1), it satisfies the Supervisor that the value of its admissible assets exceeds the amount of its liabilities by at least two hundred and fifty thousand dollars or twenty per cent of its general premium income net of reinsurance premiums computed as at the end of its last financial year whichever amount is the greater.

(3) Information regarding the knowledge and competence of the manager and other officers of the company shall be submitted to the Supervisor in such form as may from time to time be prescribed.

Mode of execution  
of documents on  
foreign company

**18.** Service of any notice, writ, summons or other document on the principal representative of a foreign company shall be deemed to be service on the company of the notice, writ, summons or other document.

Conditions precedent to appointment  
of managing  
director or chief  
executive officer

**19. (1)** No insurance company may appoint a person as its chief executive officer unless—

- (a) the company has served on the Supervisor a written notice—
  - (i) stating that it proposes to appoint the person to that position; and
  - (ii) containing such particulars as may be prescribed; and



(b) the Supervisor has—

- (i) notified the company in writing that there is no objection to the appointment; or
- (ii) failed to serve on the company a written notice of objection within one month from the date on which the company's notice was served on him.

(2) A notice served under paragraph (a) of subsection (1) shall contain a statement signed by the person whom the company proposes to appoint (hereinafter referred to as the "proposed appointee") to the effect that it is served with his knowledge and consent.

(3) Subject to subsections (4) and (5) the Supervisor may serve a notice of objection on a company where it appears to him that the proposed appointee is not a fit and proper person to be appointed to such a position.

(4) The Supervisor shall, before serving a notice of objection on a company, serve on the company and on the proposed appointee a preliminary notice stating that—

- (a) he is considering the service on the company of a notice of objection on the ground that it appears to him that the proposed appointee is not a fit and proper person to be appointed to such a position; and
- (b) the company and the proposed appointee may, within seven days from the date on which the preliminary notice was served, make representations in writing to the Supervisor.

(5) The Supervisor shall, before serving a notice of objection, consider any representations made under paragraph (b) of subsection (4).

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Condition precedent  
to becoming a  
controller

**20.** (1) No person may become a controller of an insurance company, except by virtue of an appointment in relation to which section 19 applies, unless—

(a) he has served on the Supervisor a written notice—

(i) stating that he intends to become a controller of the company; and

(ii) containing such particulars as may be prescribed; and

(b) the Supervisor has—

(i) notified him in writing that there is no objection to his becoming a controller of the company; or

(ii) failed to serve on him a written notice of objection within a period of three months from the date on which the notice referred to in paragraph (a) was served on the Supervisor.

(2) The provisions of subsections (3), (4) and (5) of section 19 shall, with the necessary adaptations, apply to this section.

Supervisor to be  
notified of appoint-  
ment, etc.

**21.** Where a person is appointed, becomes or ceases to be Chief Executive Officer or controller of a company, the company shall before the expiration of fourteen days beginning with the day next following that on which the person has been appointed, becomes or ceases to be its Chief Executive Officer or controller, give written notice of such fact to the Supervisor.

Certificate of  
registration

**22.** (1) The Supervisor shall issue to every company registered under this Act a certificate to the effect that the company has been so registered.

(2) A certificate issued under subsection (1) shall—

(a) specify the class of insurance business in respect of which the company is registered;

- (b) be subject to such conditions as the Supervisor may consider necessary to impose; and
- (c) be *prima facie* evidence that the company named in the certificate has been registered under this Act.

**23.** Where subsequent to the registration of a company under this Act there is any change—

Company to notify Supervisor of any change in particulars specified in the company's application

- (a) in the particulars specified in the application of the company;
- (b) in the particulars of the documents required under paragraphs (a) to (e) and (g) to (i) of subsection (3) of section 14 to accompany the application; or
- (c) in any further information which the company is required to furnish under paragraph (j) of subsection (3) of section 14,

the company shall, within thirty days of such change, notify the Supervisor in writing of the change.

**24.** (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 the issue of a new form of policy or of the use of a standard form of endorsement or of a form of application for a policy, furnish the Supervisor with a copy of the standard form of policy or of the standard form of endorsement or of the form of application.

Duty of company to furnish Supervisor with copy of form of policy, form of endorsement or form of application

(2) The Supervisor may prohibit a company from issuing or using a new form of policy, a standard form of endorsement or a form of application for a policy the issue or use of which, in his opinion, is fraudulent, unjust or not in the public interest.

(3) A company which continues to issue or use a form of policy, a standard form of endorsement or a form of application for a policy the issue or use of which is prohibited by the Supervisor under subsection (2) is guilty of an offence.

Cancellation of  
registration

**25.** (1) A company which ceases to carry on insurance business of a class in respect of which it is registered under this Act shall immediately notify the Supervisor in writing to this effect and on being so notified the Supervisor shall subject to subsection (4) cancel the registration of the company in respect of that class.

(2) Where a company is registered under this Act and the Supervisor reasonably believes that the company has not carried on insurance business within a year of its registration or for a period of more than one year he may serve on the company a notice requiring it to satisfy him, within one month after the date of service of the notice, that it is carrying on insurance business in Trinidad and Tobago.

(3) The Supervisor may cancel the registration of a company on which a notice is served under subsection (2) where the company does not, within the time specified in that subsection, satisfy the Supervisor that it is carrying on insurance business in Trinidad and Tobago.

(4) The Supervisor shall not cancel the registration of a company in respect of any particular class of insurance business so long as the company is under liability to Trinidad and Tobago policy-holders whose policies belong to that class unless he is satisfied that—

- (a) reasonable provision has been or is being made to meet that liability; and
- (b) adequate arrangements have been or are being made for payment in Trinidad and Tobago of premiums and claims on those policies.

(5) The Supervisor may cancel the registration of a company where—

- (a) he is satisfied that the company obtained registration as a result of any misleading or false representation;
- (b) he is satisfied that there is unreasonable delay in the settlement of claims payable under policies issued by it;

- (c) one month has elapsed since the date before which the company was required under this Act to furnish information to the Supervisor and the company has, without reasonable excuse, failed to furnish the information or failed so to do in the manner specified in this Act;
  - (d) the company is insolvent within the meaning of section 77;
  - (e) any of the reinsurance arrangements of the company is not satisfactory; or
  - (f) a final judgment obtained against the company in any court and from which no appeal is pending remains unsatisfied for at least two months.
- (6) The Supervisor 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 within twenty-eight days of the cancellation or such shorter period as may be specified in the notice.

**26.** The Supervisor shall, where he refuses to register a company or where he cancels the registration of a company, within fourteen days of his refusal to register or of his cancellation of the registration notify the company in writing of his reasons for so doing.

**27.** (1) Where the registration of a company is cancelled in respect of any class of insurance business, the company shall not, after the date on which it was notified of the cancellation, enter into any new contract of insurance falling within that class.

(2) For the purposes 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 26 is renewed or varied after that date.

(3) Nothing in this section shall be construed as relieving an insurance company the registration of which has been cancelled from the obligation to maintain the deposit required to be made under section 29 and the statutory fund required to be maintained under section 37.

(4) A company which contravenes the provisions of subsection (1) is guilty of an offence.

**Appeals**

**28.** (1) A company which is aggrieved by the decision of the Supervisor to refuse to register it or to cancel its registration may appeal against that decision in the manner specified in section 205.

(2) On appeal the Court of Appeal or a Judge in Chambers as the case may be, may confirm or reverse the decision of the Supervisor.

**Amount and form  
of deposits**

**29.** (1) A company may not be registered under this Act to carry on and may not carry on any class of insurance business unless it has made the appropriate deposit prescribed in this section.

(2) A foreign company which intends to carry on long-term insurance business in Trinidad and Tobago shall deposit with the Supervisor the sum of two hundred and fifty thousand dollars.

(3) A company which intends to carry on motor vehicle insurance business shall deposit with the Supervisor the sum of two hundred and fifty thousand dollars or an amount equivalent to forty per cent of the premium income, net of reinsurance premiums of the company with respect to Trinidad and Tobago motor insurance business during the financial year last preceding the date of the deposit, whichever amount is the greater.

(4) A company which intends to carry on insurance business other than long-term or motor vehicle insurance business shall deposit with the Supervisor the sum of one hundred thousand dollars or an amount equivalent to forty per cent of its premium income net of reinsurance with respect to Trinidad and Tobago insurance business, other than long-term insurance business or motor vehicle insurance business, during the financial year last preceding the date of the deposit, whichever amount is the greater.

(5) At the end of each subsequent financial year a company which made the deposit required to be made under subsection (3) or (4) shall, where necessary deposit or be refunded an amount equal to the difference between the last preceding deposit and forty per cent of the relevant premium income during such financial year, but a company shall not at any time have a deposit with the Supervisor of less than two hundred and fifty thousand dollars with respect to motor vehicle insurance business or one hundred thousand dollars with respect to insurance business other than long-term or motor vehicle insurance business.

(6) A deposit made under this section may be in the form of cash or in the form of approved securities or partly in the form of cash and partly in the form of approved securities.

**30.** (1) All deposits made by a company pursuant to this Act shall be deemed to form part of the assets of the company. Deposits to form part of assets

(2) All interest and dividends accruing due on any approved securities deposited under section 29 shall be paid to the company.

(3) A deposit made under section 29 in respect of any class of insurance business shall be retained by the Supervisor until the company ceases to be registered in respect of that class of insurance business or the deposit is required in the winding-up of the company.

(4) Where a company ceases to be registered the deposit or part of it may be further retained for the purpose of and in accordance with any provision for settling liabilities in respect of policies as required by subsection (4) of section 25.

**31.** (1) A company may apply in writing to the Supervisor for a release of its deposit. Application for a release of deposit

(2) On making an application under subsection (1) the company shall—

- (a) file with the Supervisor a list of Trinidad and Tobago policy-holders whose risks have not been provided for and who have not surrendered their policies;

(b) publish at least once a week for twelve consecutive weeks in the *Gazette* and in at least one daily newspaper circulating in Trinidad and Tobago a Notice—

(i) of its intention to apply to the Supervisor for the release of its deposit on a date specified in the Notice being a day not less than four months after the date of the publication of the first Notice; and

(ii) requesting any policy-holder who is opposed to the release of the deposit to file his opposition with the Supervisor on or before the date specified in the Notice.

(3) After the date specified in the Notice published pursuant to subsection (2), the Supervisor, with the concurrence of the Minister and where he is satisfied on reasonable grounds that the deposit retained by him is substantially in excess of the requirements of this Act in respect of continuing policy-holders—

(a) may release to the company such portion of the excess as he considers proper in the circumstances;

(b) shall continue to hold the remainder of the deposit for the protection of continuing policy-holders in the manner provided by this Act; and

(c) shall as continuing policies lapse or where proof is adduced that they have been satisfied, release from time to time further amounts from the deposit retained by him.

Supervisor may  
release deposit to  
liquidator or  
refund deposit to  
company

**32. (1)** Notwithstanding the provisions of sections 30 and 31 where a company is in liquidation, the deposit made by the company under section 29 shall on the order of any court having jurisdiction under this Act or the Companies Ordinance, be released by the Supervisor to the liquidator.



(2) Where pursuant to section 25 the registration of a company is cancelled because it has not carried on insurance business for either of the periods specified in subsection (2) of that section, the Supervisor shall refund and deliver to the company any moneys or approved securities, or both, deposited by it under section 29.

33. The Supervisor shall, where a company so demands, furnish it with a certificate in writing setting out the nature and extent of any deposit held by the Supervisor under this Act in respect of the company together with particulars of any approved securities forming the whole or part of the deposit.

Supervisor to furnish certificate of deposit

34. (1) Where the Supervisor is satisfied that by reason of depreciation in the value of securities or for any other cause the value of approved securities deposited by a company under section 29 falls short of the value required by this Act, he shall by notice in writing require the company to deposit with him money or approved securities, or both, to a value which he considers sufficient to bring the amount of the deposit up to the value required by this Act.

Deposit to be increased where securities have depreciated

(2) A company which fails to deposit with the Supervisor moneys or approved securities or both, when required so to do by notice under subsection (1) is guilty of an offence and the Supervisor may, where he considers it necessary in the interest of policyholders, cancel the registration of the company.

35. Where any moneys or approved securities, or both, retained by the Supervisor as, or as part of the deposit required to be made by a company under section 29 are, while so retained, lost, stolen, destroyed or damaged, the injury or loss suffered by all persons interested in the moneys or the approved securities shall be remedied by the payment of moneys appropriated by Parliament for that purpose.

Responsibility for lost securities

36. A company may at any time substitute for any moneys or approved securities retained by the Supervisor as, or as part of the deposit required to be made under section 29, any other moneys or approved

Substitution of deposit

securities where the total amount then deposited is not less than the amount required to be deposited under this Act; the moneys or approved securities so substituted shall be subject to the same charge or liability as the moneys or approved securities for which they were substituted.

#### STATUTORY FUNDS

Establishment of  
statutory fund

**37.** (1) Every company registered under this Act to carry on long-term insurance business or motor vehicle insurance business, or both, shall establish and maintain a statutory fund in respect of each such class of business.

(2) The statutory fund shall be established at the date—

- (a) on which the company commences to carry on either class of business referred to in subsection (1); or
  - (b) of the commencement of its financial year next after the commencement of this Act,
- whichever is the later date.

(3) The fund referred to in subsection (1) shall be established and maintained—

- (a) in the manner set out in subsections (4), (5) and (6); and
- (b) under an appropriate name in respect of each class of insurance business referred to in subsection (1).

(4) Every company carrying on long-term insurance business in Trinidad and Tobago shall place in trust in Trinidad and Tobago assets equal to its liability and contingency reserves with respect to its Trinidad and Tobago policy-holders as established by the balance sheet of the company as at the end of its last financial year.

(5) Every company carrying on the motor vehicle insurance business in Trinidad and Tobago shall place in trust in Trinidad and Tobago assets equal to its liability and reserves less the amount deposited on account of such business pursuant to this Act with respect to its Trinidad and Tobago policy-holders as established by the revenue account of the company as at the end of its last financial year.

(6) Assets required to be placed in trust pursuant to subsections (4) and (5) shall be so placed not more than one month after the end of the financial year to which the balance sheet or the revenue account, as the case may be, of the company relates.

**38.** (1) Subject to subsections (2) and (3) the assets representing each statutory fund of a company shall not be applied directly or indirectly to any class of business other than that in respect of which the fund was established and is being maintained. Restriction on use of assets representing statutory funds

(2) Where the value of the assets mentioned in subsection (1) is shown on an actuarial investigation made under this Act to exceed the amount of the liabilities attributable to the class of insurance business referred to in section 37, the restriction imposed by subsection (1) shall not, subject to section 116, apply to so much of those assets as represents the excess.

(3) Nothing in subsection (1) shall be construed as precluding an insurance company from exchanging, at fair market value, assets representing each statutory fund for other assets of the company.

(4) The provisions of subsection (1) shall apply notwithstanding any arrangements for the subsequent repayment to the fund of any money out of the receipts of any other class of insurance business.

(5) Any mortgage or charge (including a charge imposed by a court on the application of a judgment creditor) shall be void to the extent to which it contravenes the provisions of subsection (1).

(6) No insurance company carrying on long-term insurance business or motor-vehicle insurance business and no company of which any such insurance company is a subsidiary, shall declare a dividend at any time when the value of the assets representing each fund established and maintained by the Company as determined in such manner as may be prescribed, is less than the amount of the liabilities attributable to such business.

(7) A company carrying on more than one class of insurance business in respect of which it is required to establish and maintain a statutory fund shall keep such books of accounts and other records as are necessary for the purpose of identifying—

(a) the assets representing each statutory fund; and

(b) the liabilities attributable to each class of insurance business.

Method of  
creating trust

**39.** (1) A trust referred to in subsections (4) and (5) of section 37 shall be created by trust deed the contents and the trustees of which shall be approved by the Supervisor before the trust is created and the deed shall be in such form as may be prescribed.

(2) Notwithstanding the provisions of subsection (1), the Supervisor may on such terms and conditions as the Minister thinks fit, allow the assets required to be held in trust in Trinidad and Tobago to be placed in trust outside of Trinidad and Tobago.

(3) The Supervisor may for the purposes of this section allow the assets required to be placed in trust to be held by a bank to the order of or on behalf of the Supervisor and such assets shall be deemed to be placed in trust and the bank shall be deemed to be a trustee.

Restriction on  
trustee dealing  
with assets

**40.** (1) A trustee may not deal with any assets held in trust by him without the prior general or specific approval of the Supervisor.

(2) A trustee shall submit to the Supervisor in such form and at such times as may be prescribed, a list of the assets held in trust by him pursuant to section 39.

(3) A trustee who contravenes the provisions of subsection (1) shall be under the same liability as if the appropriate policy-holders had been beneficiaries of the trust.

41. A company shall, within three months after the date on which it established its statutory fund and thereafter within six months of the expiration of each of its financial year, furnish to the Supervisor a statement in the prescribed form showing—

Company to furnish particulars of liabilities and assets with respect to fund

- (a) particulars of the liabilities of the company in respect of which the fund is established, as at the date of the establishment of the fund; and
- (b) particulars of the assets comprising the fund.

42. (1) Where it appears to the Supervisor that—

Inaccurate or misleading particulars

- (a) a statement furnished to him under section 41 is in any respect unsatisfactory, incomplete, inaccurate, misleading or otherwise fails to comply with the requirement of that section; or
- (b) the value of the assets or of the assets included in a particular class as shown by the statement is insufficient or excessive,

he may, after considering any explanation made by or on behalf of the company, give to the company such directions in writing as he thinks necessary for the variation of the statement or for an increase or decrease in the value of the assets.

(2) A company shall comply with any directions given to it by the Supervisor under subsection (1) within thirty days of receiving them.

43. A company shall where requested by the Supervisor so to do, within thirty days of the request furnish him with such information as he considers necessary for the purpose of exercising his powers under section 42.

Company to furnish Supervisor with information

44. (1) A company aggrieved by a direction of the Supervisor under section 42 may appeal against that direction in the manner specified in section 205.

Appeal against direction by Supervisor

(2) On an appeal the Court of Appeal or a Judge in Chambers, as the case may be, may confirm, reverse or vary the direction of the Supervisor.

Assets in the statement deemed to be assets in statutory fund

**45.** The assets shown as assets of a particular statutory fund in a statement furnished to the Supervisor pursuant to section 41 or in any variation of such statement shall be deemed to form part of the assets of that fund unless they more properly form part of the assets of some other statutory fund.

Investment of assets of statutory fund

**46.** (1) The assets of a statutory fund shall not be invested except in the securities specified in the Second Schedule.

(2) The Minister may from time to time by Order published in the *Gazette* amend the Second Schedule.

Local assets ratio

**47.** (1) Every company shall have invested in assets in Trinidad and Tobago an amount equal to at least eighty per cent of the Trinidad and Tobago dollar liability in each statutory fund.

(2) For the purposes of subsection (1), assets not exceeding ten per cent of the Trinidad and Tobago dollar liability in each statutory fund shall be deemed to be assets in Trinidad and Tobago where such assets—

- (a) are approved by the Supervisor; and
- (b) originate in any of the member states of the Caribbean Community.

(3) Where a company establishes and maintains a statutory fund in respect of long-term insurance business for the purpose of determining whether the company is complying with the provisions of subsection (1), policy loans shall be excluded from the assets and deducted from the liabilities of the company.

(4) For the purposes of this section—

“assets in Trinidad and Tobago” means assets which—

- (a) originate in Trinidad and Tobago;
- (b) are denominated in Trinidad and Tobago dollars; and
- (c) are physically held in Trinidad and Tobago;

“Caribbean Community” means the Caribbean Community established by the Treaty done at Chaguaramas on the 4th day of July, 1973.

**48. (1) A local company shall not after the commencement of this Act directly or indirectly—**

Prohibitions with respect to acquiring shares or lending funds

- (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; nor shall a company registered under this Act lend any of its funds to another company where more than one-third 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 of an officer or by any combination of such persons;
- (c) grant unsecured credit to any person, except for temporary cover which in the case of general insurance does not exceed forty-five days; and
- (d) pay any dividend on its shares until all its capitalised expenditure (including preliminary expenses, organisation expenses, share-selling commission and brokerage) not represented by tangible assets, has been completely written off.

(2) The provisions of subsection (1) shall apply to a foreign company in respect of such insurance business as the company is carrying on in Trinidad and Tobago.

**49. (1) All investments and deposits of the funds of a local company shall be made in its corporate name and no director or officer of the company and no member of a committee which can exercise any authority**

Investments to be made in corporate name

over the investment or disposition of the funds of the company shall—

- (a) either directly or indirectly be a beneficiary or accept any fee, brokerage, commission, gift or other consideration for or on account of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of the company;
- (b) be pecuniarily interested in any purchase, sale or loan made by or on behalf of the company, whether as principal or agent and whether solely or jointly,

save that where the director, officer or member of the committee is a policy-holder he is entitled to all the benefits accruing to him under the terms of his contract.

(2) Nothing in this section shall be construed as precluding a local company from making in the name of or transferring or assigning to another person or company the investments and deposits necessary to comply with the laws of any state or country where—

- (a) the local company transacts or is about to transact insurance business in that state or country; and
- (b) the laws of the state or country require that the investments and deposits shall be made in the name of or be transferred or assigned to any person or company other than the local company.

(3) In this section and in section 48 “funds” means all funds of a company.

#### ACCOUNTS, BALANCE SHEETS, RECORDS AND AUDIT

Duty of company  
to keep books,  
vouchers, etc.

**50.** (1) Every company shall keep at its head office or at the office of its principal representative in Trinidad and Tobago, 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 Supervisor, a statement of the insurance business carried on by it in Trinidad and Tobago.



(2) The statement referred to in subsection (1) shall be in such form as may be prescribed.

(3) The Supervisor may examine the books, vouchers, records, receipts and other documents relating to the insurance business carried on by a company in Trinidad and Tobago and the schedules or other documents relating to or forming part of such business in order to verify the accuracy of the statement transmitted to him pursuant to subsection (1).

(4) In the exercise of the power conferred on him by subsection (3) the Supervisor or a member of his staff authorised by him in writing so to do may enter the offices of a local company or of its agents or in the case of a foreign company the offices of its principal representative or of its agents.

(5) A company shall cause its books, vouchers, records, receipts, schedules and other documents to be readily available for examination and shall assist as far as possible in facilitating the examination.

51. (1) The Supervisor may require any company registered under this Act or the director, manager, auditor, actuary or secretary thereof to furnish him, within such time as he 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.

Supervisor may request information in order to ascertain ability of company to meet its obligations

(2) A company or any director, manager, auditor, actuary or secretary thereof who without reasonable excuse fails to comply with the requirements of subsection (1) is guilty of an offence.

52. (1) Where on a perusal of the information furnished pursuant to subsection (1) of section 51 it appears to the Supervisor—

Supervisor may request appraisal of real property

- (a) that the value placed by the company on any real property owned by it in Trinidad and Tobago 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,

he may request the company to have the real property appraised by a valuator approved by him and failing compliance with such request he 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 pursuant to subsection (1) of section 51, the Supervisor 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 Supervisor 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.

(4) A person who is aggrieved by a decision of the Supervisor in the exercise of his power under subsections (2) and (3) may appeal against that decision in the manner specified in section 205.

Apportionment of receipts and payments between insurance business and other business

**53.** Where a company is carrying on insurance business and other business and an amount received or paid by the company is not received or paid wholly in respect of that other business the company shall, for the purposes of section 50, apportion the amount in an equitable manner between the insurance business and the other business.

Apportionment of receipts and payments between various classes of insurance business

**54.** Where a company is carrying on more than one class of insurance business and an amount received or paid by the company is not received or paid wholly in respect of any one class of insurance business the company shall, for the purposes of section 50, apportion the amount in an equitable manner between the several classes of insurance business to which the receipt or payment may be applicable.

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**55.** Where there is an apportionment under sections 53 and 54 the auditors shall state in their report whether they are satisfied that the apportionment was made in an equitable manner. Certificate as to apportionment

**56.** (1) Subject to this section, every company shall at the expiration of each financial year prepare— Accounts and balance sheets

- (a) a revenue account for the year in respect of each class of insurance business carried on by it;
- (b) a profit and loss account for that year; and
- (c) a balance sheet as at the end of the year.

(2) Where a company is carrying on long-term insurance business, every balance sheet which it is required to prepare under subsection (1) shall bear a certificate signed by its actuary or the consulting actuary stating whether or not, in his opinion, the aggregate amount of the liabilities of the company in relation to its long-term insurance business at the end of its financial year exceeded the aggregate amount of the liabilities shown in the balance sheet of the company.

(3) Every revenue account, profit and loss account or balance sheet shall be prepared in such form as may be prescribed.

**57.** (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 subsection (1) of section 56 shall be accompanied by a report of the auditors addressed to the Supervisor, stating whether in their opinion— Audit

- (a) the accounts have been prepared in accordance with the provisions of 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 the provisions of section 168; 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) The provisions of paragraphs (e) and (f) of subsection (1) shall apply only to a company carrying on general insurance business in Trinidad and Tobago.

(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 or are not completely satisfied with such information.

Appreciation and depreciation of assets

**58.** Where a company treats any asset as having appreciated or depreciated in value the company shall, for the purposes of sections 53, 54, 55 and 56 regard the amount of the appreciation or depreciation as an item of income or expenditure as the case may be.

Restriction on appointment of auditor

**59.** (1) No person may be appointed auditor of a company unless—

- (a) he is a member of the Institute of Chartered Accountants of Trinidad and Tobago or such other professional association as may be prescribed;
- (b) the company has served on the Supervisor written notice of its intention to make such appointment; and

- (c) the Supervisor 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.

(2) In this section "person" includes a firm or a partnership.

#### DOCUMENTS TO BE FURNISHED TO THE SUPERVISOR

**60.** (1) A company shall, at the expiration of its Annual returns financial year, prepare separate returns in respect of each class of insurance business carried on by it.

(2) The returns referred to in subsection (1) shall be in such form as may be prescribed.

**61.** (1) Every account, balance sheet, abstract, statement and return which a company is required by Accounts, balance sheets, etc., to be signed and submitted this Act to prepare shall be printed and shall be signed by a director and the Secretary of the company.

(2) Every account, balance sheet, abstract, statement or return, signed in accordance with subsection (1) and at least five printed copies of each of these documents, shall be submitted to the Supervisor—

(a) in the case of accounts, balance sheets and returns required to be prepared under sections 56 and 60, within six months after the expiration of the financial year in respect of which they are prepared; and

(b) in the case of the abstracts, statements or reports required to be prepared under sections 113 and 185, within nine months after the date on which the investigation was made.

(3) In addition to the documents required to be submitted under subsection (2) a company incorporated outside of Trinidad and Tobago which is carrying on insurance business in Trinidad and Tobago is required to submit to the Supervisor two audited copies of the statements or accounts submitted to the supervising authority in the country of incorporation.

(4) The statements or accounts referred to in subsection (3) shall be submitted within six months after the expiration of the financial year in respect of which they are prepared.

(5) Every account and balance sheet submitted with the Supervisor in accordance with the provisions of this section shall be accompanied by a copy of any report on the business of the company submitted to the shareholders or the policy-holders of the company in respect of the financial year to which the account or balance sheet relates.

(6) Where it appears to the Supervisor that any account, balance sheet, abstract, statement or return lodged with him by a company in accordance with this section—

(a) is in any particular unsatisfactory, incomplete, incorrect or misleading; or

(b) does not comply with the requirements of this Act;

he may, by notice in writing served on the company, require such explanations as he considers necessary to be made by or on behalf of the company within such time, being not less than thirty days, as is specified in the Notice.

(7) After considering any explanations made by or on behalf of the company or where no explanations were made within the time specified in the Notice, the Supervisor may reject the account, balance sheet, abstract, statement or return and give such directions as he thinks necessary—

(a) for varying any of them within such time, being not less than thirty days, as he may specify; and

(b) for varying any other account, balance sheet, abstract, statement or return affected by the variation,

and the company shall comply with any directions so given.

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(8) A company which is aggrieved by a rejection of its account, balance sheet, abstract, statement or return or by any direction given to it by the Supervisor under subsection (7) may appeal against the decision in the manner specified in section 205.

(9) On an appeal the Court of Appeal or a Judge in Chambers may confirm, reverse or vary the decision of the Supervisor.

**62.** A company which fails to submit any account, balance sheet, abstract, statement or return with the Supervisor within the time specified in subsection (2) of section 61, is guilty of an offence and liable on summary conviction to a fine not exceeding five hundred dollars for each day on which there is non-compliance with the requirements of the section.

Offence for company not to lodge documents within the time specified

**63.** A printed copy of the latest account or balance sheet of a company lodged with the Supervisor in accordance with section 61 shall, on the application of a shareholder of the company, be forwarded to him by the company.

Copies to be furnished

**64.** (1) The Supervisor may require a company registered under this Act to carry on insurance business—

Power of Supervisor to request information

- (a) to furnish him at such time and in such manner as he may determine with such information in connection with its insurance business as he may specify;
- (b) to produce at such time and place as he may determine such books or papers in connection with its insurance business as he may specify; or
- (c) to produce forthwith to any person authorised in writing by the Supervisor such books or papers as the person may specify.

(2) A person who is authorised by the Supervisor pursuant to paragraph (c) of subsection (1) shall, where requested so to do, produce evidence of his authority to the company.

(3) The power conferred under subsection (1) on the Supervisor or on a person authorised by him may be exercised even where the books or papers are in the possession of another person, save that where the person who is in possession claims a lien on the books or papers the production thereof shall be without prejudice to the lien.

(4) The power conferred under subsection (1) on the Supervisor or on a person authorised by him includes a power—

- (a) to take copies of or extracts from the books or papers which have been produced; and
- (b) to require the company or the person in whose possession the books or papers were, or any other person who is or was a director, controller 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 or papers have not been produced, to require the company which or the person who was requested to produce them to give reasons for failing so to do.

(5) In this section the expression “books and papers” has the meaning assigned to it in the Companies Ordinance.

Power of Supervisor to intervene

**65.** (1) Subject to subsection (2) and to section 66, the Supervisor 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 Supervisor 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 Supervisor under or for the purposes of any provision 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 company and in respect of which he 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 which is carrying on general insurance business is deemed to be unable to pay its debts under section 77;
- (g) in the case of a company which is carrying on long-term insurance business, the value of the assets representing the statutory fund maintained in respect of such class of business does not exceed the liabilities of that business;
- (h) there has been unreasonable delay in the settlement of claims under policies issued by the company.

**66.** (1) The Supervisor shall, before exercising the power conferred on him by section 65, serve on the company a written notice to the effect that—

Supervisor to serve  
notice on company  
of his intention  
to intervene

- (a) he is considering exercising the power and the ground on which it may be exercised;
- (b) the company may within thirty days of the date on which the notice was served make written representations to the Supervisor.

(2) Before exercising his power of intervention the Supervisor shall take into consideration any representations made to him pursuant to paragraph (b) of subsection (1).

Supervisor may  
impose require-  
ments on a  
company

**67.** (1) The Supervisor may, where he exercises his power of intervention, require the company by instrument in writing—

(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 specific proportion 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 under section 56 and to be submitted to the Supervisor under subsection (2) of section 61;

- (f) to have an actuary or any other person appointed by the Supervisor investigate the financial position of the company in respect of its insurance business or any part thereof and to submit to the Supervisor a report of the investigation on or before a specified date; or
- (g) to take such action as appears to him 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 a company carrying on long-term insurance business, to fulfil the reasonable expectations of policy-holders or potential policy-holders.

(2) The Supervisor may request a company to comply with any or all of the requirements of paragraphs (a) to (g) of subsection (1) whether or not the power to intervene is exercisable under subsection (2) of section 65.

(3) The provisions of subsection (2) shall apply only—

- (a) within five years of the registration of a company under this Act; or
- (b) where a person has become a controller of a company, within five years of his becoming a controller.

(4) The Supervisor may, where he considers it desirable so to do rescind or vary any requirement imposed by him on a company pursuant to subsection (1).

(5) Notice of the imposition of a requirement or of the rescission or variation thereof may be published in the *Gazette* and in a daily newspaper circulating in Trinidad and Tobago.

#### JUDICIAL MANAGEMENT AND WINDING-UP

**68.** (1) The Supervisor 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,

Application for  
judicial manage-  
ment

after exercising his power of intervention under subsection (1) of section 65, he is of the opinion that it is necessary or proper to apply for such an Order.

(2) A company may, after giving the Supervisor 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 Supervisor 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 or unless the Court directs otherwise.

**Judicial management**

**69. (1)** An Order for the judicial management of a company or of any part of the business of a company shall be subject to the provisions of this section and of sections 70 to 75.

(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.

(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 from time to time issue to the judicial manager such directions regarding his 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 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 Supervisor such information as the Supervisor may from time to time require and shall report to the Supervisor whenever he intends to apply to the Court for instructions and shall, at the same time furnish the Supervisor with particulars of the application.

(9) The Supervisor is entitled to be heard on any application made pursuant to subsection (7) and may himself make an application to the Court to be heard on any matter relating to the conduct of the judicial management.

**70.** (1) The Judicial manager shall conduct the management with the greatest economy compatible with efficiency, and shall as soon as possible after his appointment, file with the Court a report stating which of the following courses is in the circumstances, in his opinion most advantageous to the general interests of the policy-holders of the company—

Report by judicial manager

- (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 Part (whether the policies of the business continue for the original sums insured, with the addition of bonuses that 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 has filed the report, furnish a copy thereof to the Supervisor 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 thereof 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 Supervisor determines.

Decision of court  
on report of  
judicial manager

**71.** (1) The Court shall on the hearing of an application made under subsection (2) of section 70—

- (a) after hearing the Supervisor, 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 notwithstanding anything in the instruments constituting the company or in the articles of association or other rules of the company.

Transfer of  
business to another  
company

**72.** 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 Part and until the scheme is confirmed by the Court under this Part the management of the company shall continue to be vested in the judicial manager.

Cancellation of  
contracts or  
agreements

**73.** The Court may, either of its own motion or on the application of the judicial manager, at any time while an Order made under section 69 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.

74. The judicial manager shall not be subject to any <sup>Indemnity</sup> 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 under this Part.

75. (1) The judicial manager or any interested person may at any time apply to the Court for the <sup>Cancellation of</sup> cancellation of an Order made by the Court under sub-<sup>judicial manage-</sup> section (1) of section 68.<sup>ment Order</sup>

(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.

76. (1) The Court may order the winding-up of a <sup>a Court may order</sup> company in accordance with the Companies Ordinance <sup>winding-up</sup> but subject to this section, sections 68 to 83 and to the modification that the company may be ordered to be wound-up—

- (a) on the petition of ten or more policy-holders owning policies of an aggregate sum assured of not less than one hundred thousand dollars; or
- (b) on the petition of the Supervisor.

(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 Supervisor shall be a party to any proceedings under the Companies Ordinance relating to the winding-up of a company and the liquidator in such a winding-up shall give him such information about the affairs of the company as he may from time to time 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 Trinidad and Tobago policy-holders.

Margin of solvency  
for general business

**77.** (1) A company carrying on general insurance business shall be deemed for the purposes of the Companies Ordinance to be unable to pay its debts where the value of its admissible assets does not exceed the amount of its liabilities by whichever is the greater of the following amounts—

(a) two hundred and fifty thousand dollars;  
or

(b) twenty per cent of the general premium income of the company computed as at the end of its last financial year,  
and the provisions of this Act relating to the winding-up of a company shall apply to such a company.

(2) For the purposes of this section—

(a) in computing the amount of the liabilities of a company, all contingent and prospective liabilities of the company in respect of policies shall be taken into account and shall be estimated in accordance with such rules as may be prescribed, but no account shall be taken of the liabilities of the company in respect of its share capital; and

(b) the general premium income of a company in any year shall be taken to be the net amount, after deducting any premiums paid by the company for reinsurance



received by the company in that year in respect of all insurance business other than long-term insurance business.

**78.** (1) An Order of the Court for the winding-up of a company shall be subject to the provisions of sections 79 to 82. <sup>Procedure on winding-up</sup>

(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 control of the Court and may apply to the Court at any time for instructions as to the manner in which he 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 purposes of exercising his 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 shall not effect any new 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 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 purposes of the winding-up.

(9) The liquidator shall furnish the Supervisor with such information as the Supervisor may from time to time require and shall report to him whenever he

intends to apply to the Court for instructions; particulars of the application shall be furnished simultaneously with the report.

(10) The Supervisor is entitled to be heard on an application under subsection (9) and may himself 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 and appoint some other person as such.

Ascertainment  
of value  
of liability under  
policies

**79.** (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 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 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.

Application of  
certain assets

**80.** (1) The value of the liabilities and of the assets of the statutory 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 statutory fund shall be applied to the discharge of any liabilities other than those in respect of that statutory fund except in so far as those assets exceed the liabilities of that statutory fund.

(2) Where, on the winding-up of a company the liabilities and assets of a statutory 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 statutory 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 statutory fund relates, which was allocated to shareholders and policy-holders during the ten years immediately preceding the commencement of the winding-up.

(3) The assets of the statutory fund referred to in subsection (2) shall be deemed to exceed the liabilities of that statutory 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 a statutory fund, the amount to be added shall be such amount as the Court directs.

81. (1) Where in the course of the winding-up of a company, the Court is satisfied that the amount of a statutory fund has been diminished by reason of any contravention of the provisions 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 proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the occurrence thereof.

*Liability of directors  
and officers*

(2) The Court may assess the sum by which the amount of the statutory fund has been diminished by reason of the misfeasance and may order any person found guilty of misfeasance to contribute to the statutory fund the whole or any part of that sum by way of compensation.

82. On the winding-up of a company the Supervisor 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 the provisions of this Act, apply such moneys and securities towards discharging the liabilities of the company in respect of policies issued by it.

*Application of  
deposits*

Winding-up of  
part of business  
of company

**83.** (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 68; or
- (b) by the judicial manager appointed in respect of the company, where the Order is made pursuant to section 71;

(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) The provisions of sections 78 to 82 shall apply, with such adaptations as are necessary, on a winding-up in accordance with a scheme under this section.

#### TRANSFER AND AMALGAMATION

Condition prece-  
dent to transfer,  
or amalgamation  
of insurance  
business

**84.** (1) A company shall not transfer or amalgamate any class of its insurance business, either in whole or in part, to or with the insurance business of any other company, except in pursuance of a scheme—

- (a) prepared in accordance with this section and with sections 85 to 87; and
  - (b) confirmed by the Supervisor.
-

(2) An application for the confirmation of a scheme shall be made to the Supervisor 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 Supervisor, is likely to be affected by the scheme or the proposed scheme.

(3) Where an application is made under subsection (2) the Supervisor shall set a date not less than two 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 a barrister or a solicitor; the Supervisor may hear such other evidence as he considers necessary and any person who, in the opinion of the Supervisor, is likely to be affected by the scheme is entitled to be heard.

(5) A company which is aggrieved by the refusal of the Supervisor to confirm a scheme may appeal against the decision in the manner specified in section 205.

(6) On an appeal the Court of Appeal or the Judge in Chambers may—

(a) confirm or reverse the decision of the Supervisor; or

(b) confirm the scheme subject to such directions and conditions as may be considered necessary.

(7) In the case of a foreign company the provisions of this section shall apply only to the transfer or amalgamation of insurance business relating to its policies in Trinidad and Tobago.

85. A scheme shall set out the terms of the agree-  
ment 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.

Scheme to set out  
terms of agree-  
ment or deed

Submission,  
confirmation and  
effect of schemes

**86. (1)** Before a scheme for the transfer or amalgamation of any class of insurance business of a company is confirmed by the Supervisor—

- (a) certified copies of the assets and liabilities of the companies engaged in the transfer or amalgamation shall be submitted to the Supervisor;
- (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 Supervisor;
- (c) copies of the scheme and of every report submitted to the Supervisor or summaries of the scheme and reports approved by the Supervisor shall, unless the Supervisor otherwise directs, be transmitted to every policy-holder of any class of insurance business affected by the scheme by the companies engaged in the transfer or amalgamation, at least fifteen 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) shall, not less than one month after the copy of the scheme is submitted to the Supervisor, be published in the *Gazette* and in such local newspapers as may be approved by the Supervisor;
- (e) the scheme shall be open for inspection by any policy-holder or shareholder affected by it, for a period of fifteen days after the publication of the notice, at the office of each company engaged in the transfer or amalgamation;
- (f) the Supervisor 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 Supervisor 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 Supervisor, the scheme shall be binding on all persons and shall have effect notwithstanding anything in the instruments constituting the company or in the articles of association or in any rules of the company; 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 Supervisor 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 Supervisor from the companies either jointly or severally.

**87.** Where any class of 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 Supervisor—

Return to be made  
in case of transfer  
or amalgamation

- (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 Chairman 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 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 III

#### AGENTS, BROKERS, SALESMEN AND ADJUSTERS

Registration of  
agents, brokers,  
salesmen and  
adjusters

**88.** (1) No person may, in respect of any class of insurance business, carry on business as broker, a salesman, an adjuster or an agent of an insurance company unless he is registered under this Part.

(2) A person who contravenes the provisions of this section is guilty of an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for twelve months or to both such fine and imprisonment.

Application for  
registration

**89.** (1) An application for registration shall be made to the Supervisor in the prescribed form and shall be accompanied by evidence of payment of the prescribed fee and such documents as may be prescribed.

(2) On receipt of an application the Supervisor may request the applicant to furnish such additional information as the Supervisor may consider necessary.

(3) Where a person wishes to be registered as an agent of more than one insurance company a separate application shall be made in respect of each agency.

Restrictions on  
registration

**90.** (1) No person may be registered under this Part to carry on business as a broker, salesman, an agent or an adjuster if he is—

- (a) under the age of eighteen years in the case of a salesman;



(b) under the age of twenty-one years in the case of a broker or an agent;

(c) an undischarged bankrupt, unless he has been granted leave to carry on such business by the court by which he was adjudged bankrupt; or

(d) mentally ill.

(2) No person may be registered to carry on business as a salesman in respect of any particular class of insurance business where the insurance company by which or the agent by whom he is employed or contracted at the time of his application for registration as a salesman—

(a) is not registered under this Act; or

(b) is carrying on the particular class of insurance business in contravention of this Act.

(3) No member, director or controller of a company carrying on brokerage business may be registered as a salesman or an agent.

(4) No director, officer or employee of an insurance company may apply for registration as a broker.

(5) No person registered to carry on business as a salesman or an agent may be registered to carry on business as a broker and no person registered to carry on business as a broker may be registered to carry on business as a salesman or an agent.

91. (1) Subject to this Part, the Supervisor may either unconditionally or subject to such conditions as he considers necessary, register an applicant as a salesman or an agent of the company by which he was employed or contracted or as a broker or an adjuster in respect of such class of insurance business as may be specified.

Supervisor to  
register person as  
salesman, agent,  
broker or adjuster

(2) The Supervisor may subject to sections 89 and 90 register an applicant as a salesman, an agent, a broker or an adjuster where he is satisfied—

(a) that the applicant is a person of good character;

- (b) that the applicant is competent to carry on business as a salesman, an agent, a broker or an adjuster in the particular class of insurance business in which he applied to be registered;
  - (c) in the case of a person applying to carry on business as a broker, that he has such professional indemnity cover as may be prescribed;
  - (d) in the case of an applicant who, before the commencement of this Part, was carrying on business in Trinidad and Tobago as a broker, a salesman, an agent or an adjuster for a period of not less than three years, that he carried on such business in an efficient manner;
  - (e) in the case of an applicant who, before the commencement of this Part was carrying on business as a broker, that no agreement relating to the preferential offer of insurance business and which is likely to impair the applicant's impartiality in placing insurance business has been made between the applicant and any other person carrying on insurance business;
  - (f) that the applicant has complied with any requirement imposed by regulations made under this Act relating to the passing of any examination;
  - (g) where the application is for registration to carry on business as a broker, an agent, or an adjuster and the applicant is a body, whether incorporated or not—
    - (i) that each of the persons managing or controlling the body or each of the partners is a fit and proper person to be registered to carry on such business; and
    - (ii) that having regard to the competence of the person managing or controlling 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;

- (h) in the case of a body corporate applying for registration as a broker that the business will be carried on under the management of an executive director who is a registered insurance broker.

(3) For the purpose of giving a true account of the state of his business the Supervisor shall require a broker to prepare and submit to him at such intervals as may be prescribed balance sheets and profit and loss accounts containing such information as may be prescribed.

(4) The Supervisor shall, where he refuses an application for registration under this Part, notify the applicant in writing of his refusal either generally or in respect of a particular class of insurance business and give reasons for his refusal.

92. (1) The Supervisor shall issue a Certificate of <sup>Certificate of</sup> Registration (hereinafter referred to as "a Certificate") <sup>registration</sup> to every person registered under this Part.

(2) A Certificate shall be in the prescribed form and 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 agent or a salesman specify the insurance company in respect of which the person is so registered.

(3) In the case of agents, brokers and adjusters the Certificate shall be prominently displayed at the principal place of business of the person to whom it

was issued and a copy thereof shall be similarly displayed at each of the branches in Trinidad and Tobago of the business of such person.

(4) A Certificate shall be *prima facie* evidence that the person named therein has been registered in the capacity stated therein.

(5) A person who—

- (a) without reasonable excuse fails to comply with the provisions of subsection (3); or
- (b) displays a Certificate which is not valid, is guilty of an offence and liable on summary conviction to a fine of five hundred dollars and to a further fine of fifty dollars for each day on which the offence continues after conviction therefor.

Certificate to be  
produced on request

**93.** (1) Every person registered under this Part shall produce his Certificate when requested so to do by—

- (a) the Supervisor or any other person authorised by him in writing;
- (b) the insurance company or a person in respect of which or whom he is registered to carry on business as a broker, a salesman, an agent or an adjuster;
- (c) an actual or a prospective client.

(2) A person who fails to comply with the provisions of subsection (1) is guilty of an offence.

Intention to cancel  
registration

**94.** (1) The Supervisor may, by instrument in writing, notify a person who is registered under this Part that he proposes to cancel the registration of the person in respect of all or any of the classes of insurance business he was registered to carry on.

(2) The power conferred on the Supervisor under subsection (1) shall be exercisable where he 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) that the person has become mentally ill;
  - (d) in the case of a person who is registered to carry on business as an agent, a salesman or a broker, that the person is not carrying on such business in accordance with sound insurance principles and practice;
  - (e) that the person has demonstrated that he cannot carry on efficiently the class of insurance business which he is registered to carry on, or in the case of a body, whether corporate or otherwise that all the persons managing or controlling the body or all the partners thereof have demonstrated that they cannot carry on efficiently the class of insurance business which they are registered to carry on;
  - (f) that the person has been guilty of unreasonable or repeated delay in transmitting moneys received for the account of an insurer or a client to the person entitled thereto;
  - (g) that one month has elapsed since the date by which such person was required under this Act to furnish information to the Supervisor and the person has without reasonable excuse failed so to do;
  - (h) that the person is guilty of a fraudulent or dishonest practice or any other practice which is generally regarded in the insurance business as being undesirable;
  - (i) in the case of a person who is registered to carry on business as a broker, that he has entered into an agreement relating to the preferential offer of insurance business which is likely to impair his impartiality in placing insurance business or has been guilty of partiality or discrimination in placing insurance business.
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(3) The Supervisor shall, on notifying a person that he proposes to cancel his registration, inform him of the reason for taking the action contemplated by him and also of his right to appeal to the Tribunal in accordance with section 98.

(4) Where a person has exercised his right of appeal, the Supervisor may suspend the registration of that person pending the outcome of the appeal; notice of the suspension shall be brought to the knowledge of the person.

(5) The Supervisor shall cancel the registration of a person—

(a) where the person fails to exercise his right of appeal within the time specified in section 98; or

(b) where on an appeal the decision of the Supervisor to cancel the registration is upheld.

(6) Where the Supervisor suspends or cancels the registration of a person registered under this Part the person shall forthwith surrender to the Supervisor his Certificate and every copy thereof.

(7) A person who fails to comply with the provisions of subsection (6) is guilty of an offence and is liable on summary conviction to a fine of five hundred dollars and to a further fine of fifty dollars for each day on which the offence continues after conviction therefor.

**Cancellation of  
registration**

**95.** The Supervisor may at any time cancel the registration of a person registered under this Part—

(a) where he is satisfied that the person has not carried on business in Trinidad and Tobago as a broker, an adjuster, an agent or a salesman within a year of his being registered to carry on such business or has not carried on such business in Trinidad and Tobago for a period of more than one year;

(b) in the case of a person registered as an agent or salesman, where the Supervisor 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 agent or a salesman has been cancelled or that the agency or the salesman's contract has been terminated; or

- (c) where the person requests that his registration be cancelled.

**96.** (1) For the purposes of section 98 there is hereby established a Tribunal which shall consist of a Chairman who shall be a legally qualified person of not less than seven years' standing and two other members, one of whom shall be a representative of the insurance industry.

Establishment and  
composition of  
Tribunal

(2) The members of the Tribunal shall be appointed by the President and shall, subject to the provisions of subsections (4), (5) and (6), hold office for such period, not exceeding three 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 Chairman may at any time resign his office by instrument in writing addressed to the Chairman who shall cause it to be transmitted to the President.

(4) The Chairman of the Tribunal may at any time resign his office by instrument in writing addressed to the President.

(5) The President may at any time revoke the appointment of the Chairman or any other member of the Tribunal.

(6) At any meeting of the Tribunal the Chairman 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) Subject to this section, the Tribunal may regulate its own procedure.

**97.** Where a member of the Tribunal is for any reason temporarily unable to perform his duties under this Part, the President may appoint some other person to act as a temporary member of the Tribunal during such

Appointment of  
temporary members  
to Tribunal

inability; save that where the member is the chairman the person appointed to act in his stead shall be a legally qualified person of not less than seven years' standing.

Right of appeal  
to Tribunal in  
certain cases

**98.** A person who is aggrieved by the decision of the Supervisor to refuse to register him or to cancel his registration as an agent, a broker, a salesman or an adjuster may, within one month of the decision, appeal to the Tribunal established under section 96.

Notice of termina-  
tion of agency to  
be given

**99.** (1) Where an agency in respect of which a person is registered under this Part to carry on business as agent has been terminated, notice in writing in the prescribed form shall forthwith be given to the Supervisor both by the person and by the insurance company or the person in respect of which or whom he was registered to carry on such business.

(2) Where the contract of a salesman registered under this Part is terminated, notice in writing in the prescribed form shall forthwith be given to the Supervisor by the salesman and by the insurance company by which he was contracted and where the salesman enters into any new contract with an insurance company registered under this Act, notice in writing in the prescribed form shall forthwith be given to the Supervisor by the insurance company.

(3) A person who fails to comply with the provisions of this section is guilty of an offence.

Supervisor may  
request information

**100.** (1) The Supervisor 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 a broker, a salesman, an adjuster or an agent.

(2) A person who fails to comply with a request made of him under subsection (1) is guilty of an offence.

Agent or salesman  
deemed to be  
agent of insurer

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



**102.** An agent, a broker or a salesman is personally liable to the insured on all contracts of insurance unlawfully made by or through him directly or indirectly with any insurer not registered to carry on insurance business in Trinidad and Tobago in the same manner as if such agent, broker or salesman had been the insurer. Liability for unlawful contracts

**103.** (1) No agent, salesman or broker may 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. Misleading advertisements

(2) A person who contravenes the provisions of subsection (1) is guilty of an offence.

**104.** Where, at the date of placing or negotiating insurance a person is not registered as an agent, a broker or a salesman, no insurer and no officer, employee or agent of the insurer shall 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 Trinidad and Tobago. Restriction on payment of compensation for placing or negotiating insurance

**105.** (1) No insurer and no officer, employee or agent of an insurer and no broker or salesman shall directly or indirectly— Rebating

- (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 Trinidad and Tobago.

(2) An insurer or any other person who contravenes the provisions of subsection (1) is guilty of an offence.

Exemption for  
payment of divi-  
dend to salaried  
employee

**106.** Nothing in sections 104 and 105 shall affect any payment by way of dividend, bonus, profit or savings, which is provided for by the policy or shall be construed so as to prevent an insurer from compensating a *bona fide* salaried employee of its head or branch office or the spouse or a child of such employee, in respect of insurance issued by the employing insurer upon the life or property of such person or so as to require such employee to be registered as an agent under this part to effect such insurance.

Insurer to make  
return to  
Supervisor

**107.** Every insurer shall make a return to the Supervisor in such form and at such times as he requires, showing all persons, partnerships and companies—

- (a) registered as its agents or salesmen in Trinidad and Tobago;
- (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 Trinidad and Tobago or negotiating the continuance or renewal of such insurance or for attempting so to do.

Authority of agents

**108.** (1) No agent shall—

- (a) be an agent for more than one insurer;
- (b) act or purport to act on behalf of more than one insurer;
- (c) represent himself to the public by advertisement or otherwise as the agent of more than one insurer.

(2) Where an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer in respect of which he is registered to carry on business (in this section referred to as “the principal”) the agent may procure the insurance from another insurer if that insurer obtains in each case the consent in writing of the principal and files a copy of such consent with the Supervisor within seven days of its receipt.

(3) Notwithstanding the provisions of subsection (1), an agent may with the approval of the Supervisor act on behalf of more than one insurer where he is acting on behalf of each insurer—

- (a) in respect of a different and separate class of insurance business; or
- (b) in respect of a different and separate type of insurance business within any one class of insurance business.

(4) The Supervisor may refuse to grant or may revoke an approval granted under subsection (3) where he is satisfied that the granting or continuance of such approval is not in the public interest.

**109.** The Minister may by Order published in the *Gazette* specify the maximum rate of commission payable by an insurer to a person in respect of a particular class or risk.

Minister to specify maximum rate of commission

**110.** An agent or a salesman is guilty of an offence where he—

Offence to procure payment of premium by fraudulent representations etc.

- (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.

**111.** (1) An agent, a salesman or a broker is guilty of an offence where he receives money from an insurer for the account of an insured or 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 may by agreement be entitled, to the person entitled thereto within thirty days from the date on which he receives such money.

Offence to fail to pay premium to insurer

(2) Where an insurer at the request of a broker provides temporary cover on credit for a period not exceeding forty-five days, the 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 broker as a civil debt.

## PART IV

## LONG-TERM INSURANCE BUSINESS

*Actuarial Investigations*

Company to  
appoint actuary

**112.** (1) Every company carrying on long-term insurance business in Trinidad and Tobago shall appoint an actuary, as a member of its staff or as a consulting actuary.

(2) The company shall, within three 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 fourteen days of appointing another actuary notify the Supervisor in writing of the appointment.

(4) No person may carry out the functions of an actuary unless the Supervisor is satisfied that he is a fit and proper person and possesses the necessary qualifications to carry out such functions.

Actuarial reports  
and abstracts and  
statements of long-  
term insurance  
business

**113.** (1) Every company carrying on long-term insurance business shall, as at the date of the expiration of its financial year expiring next after the date of the commencement of this Act or as at such later date as the Supervisor approves and thereafter every three years or at such shorter intervals as the company notifies the Supervisor to be the intervals adopted by it for the purposes of this section and sections 114 to 116—

- (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 Supervisor with a report of the result of the investigation;
  - (b) cause an abstract of the report of the actuary to be prepared in accordance with such regulations as may be prescribed; and
  - (c) cause a statement of its long-term insurance business to be prepared in accordance with such regulations as may be prescribed.
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(2) Where a company causes an investigation to be made and the results of the investigation are made public, the company shall cause an abstract of the report of the actuary to be prepared in accordance with such regulations as may be prescribed.

(3) The company shall cause a separate abstract and a separate statement or, in the case of an investigation referred to in subsection (2), a separate abstract, to be prepared in respect of each class of long-term insurance business carried on by it.

(4) A valuation balance sheet shall be annexed to every abstract prepared under this section.

(5) The valuation balance sheet shall, in accordance with the method approved by the Supervisor, show the net liabilities in respect of policies on Registers in Trinidad and Tobago separately from the net liabilities of other policies.

**114.** (1) The provisions of subsections (2), (3) and (4) shall apply to valuations made in pursuance of sections 113, 115 and 116. Provisions relating to valuations

(2) 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.

(3) The value placed on the aggregate liabilities of a statutory fund in respect of policies by reason of the adoption of any basis of valuation shall not be less than it would have been if it had been calculated on the Minimum Basis in accordance with such regulations as may be prescribed.

(4) The actuary who makes the valuation shall certify whether, in his opinion, the value placed by the valuation on the aggregate liabilities of a statutory fund in respect of policies is not less than the value which would have been placed on those aggregate liabilities if it had been calculated on the Minimum Basis in accordance with such regulations as may be prescribed.

Actuary to certify  
dealings with assets  
of statutory fund

**115.** A company shall not pay, apply, allocate or transfer any part of the assets of its statutory fund except with the approval of the Supervisor and on the certificate of its actuary.

Distribution of  
surplus

**116.** (1) Where, as a result of the latest valuation in respect of a company which is either—

(a) a valuation made in pursuance of subsection (1) of section 113; or

(b) a valuation, other than a valuation made in pursuance of subsection (1) of section 113, made in the course of an investigation into the financial condition of the company, being a valuation—

(i) the results of which are made public; and

(ii) in respect of which the provisions of subsections (2), (3) and (5) of section 113 and section 114 have been complied with,

the valuation balance sheet in respect of the class of long-term insurance business to which a statutory fund relates discloses that the balance of the revenue account or, where there is more than one revenue account in respect of that business, the sum of the balances of the revenue accounts, is greater than the amount of the net liabilities of the company in respect of that business, the company may, with the approval of its actuary and subject to subsection (2), pay, apply, allocate or transfer the surplus or a part of it in a manner consistent with the provisions of the instruments constituting the company and the articles of association or other rules of the company.

(2) The sum of the amount paid or allocated to or for the benefit of the shareholders of the company and the amount transferred to another statutory fund under subsection (1) in respect of that part of the surplus which is derived from participating policies registered in Trinidad and Tobago shall not exceed one-quarter of the amount paid or allocated to or for the benefit of the holders of these policies.

(3) Where in the latest valuation referred to in subsection (1), there were included as liabilities bonuses which—

(a) were attached to policies at the date of the commencement of this Act; or

- (b) become attached to policies as a result of an allocation of surplus made in pursuance of this section,

the company may, without regard to the conditions and limitations specified in subsections (1) and (2), pay or apply, in respect of those bonuses, money forming part of the assets of the statutory fund or a part of any statutory fund which relates to the business in which those policies are included.

### ISSUE OF POLICES

**117.** (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. Rates of premium

(2) The Supervisor may at any time require the company to obtain and to furnish him 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.

**118.** Where a rate of premium is approved by an actuary (in this section referred to as "the 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— Restriction on commission to be paid or reduction of premium to be allowed

- (a) the maximum rate of commission or reduction of premium to which the actuary had regard when approving the rate of premium; or

(b) the maximum rate of commission or reduction of premium payable by the company, immediately prior to the commencement of this Act, in respect of policies of that class, if any, issued at the rate of premium so approved, whichever is greater.

Form of proposal  
to be approved by  
the Supervisor

**119.** (1) A company shall not issue or accept any form of proposal or policy unless the standard form has been approved by the Supervisor.

(2) The Supervisor shall not approve a standard form unless it complies with the provisions of this Act or it is not likely to mislead a proponent or a policy-holder.

(3) A form of proposal shall be framed so as to require a person making a proposal for a life policy to specify the place and date of birth of the person whose life is proposed to be insured and the person making the proposal shall supply those particulars to the best of his knowledge and belief.

Company may give  
notice requiring  
proof of age

**120.** Where a company issues a life policy which provides that proof of age of the life of the insured is a condition precedent to the payment of the sum insured, the company shall unless the age of the life insured has already been admitted by it, issue on or with the policy a printed notice stating that proof of age of the life insured may be required prior to the payment of the sum insured.

Procedure where  
company declines  
to accept proof of  
age tendered

**121.** (1) Where a company declines to accept the proof of age tendered in respect of a policy, whether issued before or after the commencement of this Act, the policy-holder or his legal personal representative may apply to a Judge in Chambers, by summons, for an Order directing the company to accept the proof tendered.

(2) On an application made under subsection (1), the Judge in Chambers may make such Order as he thinks just and such Order shall be binding on the company.

Policy not to be  
avoided by reason  
only of mis-state-  
ment of age of the  
life insured or  
other incorrect  
statement

**122.** (1) A policy is not avoided by reason only of a mis-statement 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 issued after the 10th day of December, 1966 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 three 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 the earlier,

Minors may effect policies or take assignments of policies

**123.** (1) A minor who has attained the age of ten years but has not attained the age of sixteen years may, with the written consent of his parent or of a person standing in *loco parentis* to the minor—

(a) effect a policy upon his own life or upon another life in which he has an insurable interest; or

(b) take an assignment of a policy.

(2) A minor who has attained the age of sixteen years—

(a) may effect a policy upon his own life or upon another life in which he 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 is the holder as he would had he been of full age.

(3) A minor who has attained the age of sixteen years may assign or mortgage a policy with the prior consent in writing of his parent or of a person standing in *loco parentis* to the minor.

(4) This section does not—

(a) impose on a minor any liability to which, but for this section, he would not be subject;

(b) confer on a minor any power or capacity which, but for this section, he 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.

Persons who are deemed to have insurable interests

**124.** (1) An insurable interest shall be deemed to be had by—

(a) a parent of a child under eighteen 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 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) Nothing in this section shall be construed as in any way limiting or restricting the meaning of insurable interest as understood at the commencement of this Act.

### ASSIGNMENTS AND MORTGAGES OF POLICIES

125. (1) Subject to section 128 every assignment of a policy shall be by deed or by other instrument, if by other instrument, such instrument shall be in accordance with or substantially in accordance with the form set out as Form A or B in the Third Schedule, as the case may require.

Assignment of  
policies  
Form A and B  
Third Schedule

(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 Trinidad and Tobago.

(3) Every company shall register in the Register of Policies required to be kept by section 161 (hereinafter referred to as "the Register"), the date and purport of every assignment of which it receives notice and the date on which the notice is received.

(4) A copy of an entry made in accordance with subsection (3), and certified in accordance with section 35 of the Companies Ordinance shall—

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(a) as regards the registration and the date of registration of the assignment, be conclusive evidence thereof; and

(b) as regards the date on which the notice was received, be *prima facie* evidence thereof.

(5) Priority of claims under any assignment shall be determined according to the order in which notice is received by the company, except that a subsequent assignee

does not, by giving notice first, obtain priority over a previous assignment of which he had notice when taking the assignment.

(6) An assignee under a duly registered assignment shall have all the powers and be subject to all the liabilities of the assignor under the policy, and may sue in his name on the policy, but nothing in this section shall be construed so as to admit the assignee to membership of a company or to deprive the assignor of his membership in respect of a policy, except as provided in the instruments constituting the company or in its articles of association or other rules.

(7) The receipt of the assignee shall be a discharge to the company for all moneys paid by the company under the policy.

(8) The company shall be notified in writing of every trust, right, equity or interest created in respect of a policy.

**Effect of notice**

**126.** (1) Notwithstanding anything contained in section 125, a company shall not be entitled to any protection under that section or to rely upon any of the provisions of 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 Supervisor any money payable under the policy, and the receipt of the Supervisor for the money shall be a valid discharge to the company for the money so paid.

(3) Money paid to the Supervisor pursuant to subsection (2), shall be paid by the Supervisor to such person or persons as the Court orders.

**Assignment of  
policy to company  
not to extinguish  
rights and liabilities**

**127.** (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) Notwithstanding anything to the contrary in section 125, 126 or 128, 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 Supervisor whose decision shall be final.

128. Where a company is satisfied that a policy has been issued or transferred to or the ownership of a policy is otherwise vested in persons as trustees and those persons are no longer the trustees for the purposes of the trust the company may, if it sees fit, at the request in writing of the persons claiming to be trustees for the time being for the purposes of the trust and on the evidence of a Statutory Declaration by one of those persons verifying the claim, record the names of those persons as the holders of the policy, and thereupon those persons shall become the holders of the policy.

129. (1) Upon the 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 in the form set out as Form C in the Third Schedule and shall, where the assignment was by deed, also execute a deed of release in favour of the assignor.

(2) Upon the presentation of the memorandum of discharge to the company, the company shall register the discharge in the Register.

130. (1) Notwithstanding the provisions of regulation 3 of the Insurance (Assignments and Mortgages of Policies) Regulations, 1968, (in this section referred to as "the Regulations") the Regulations shall be deemed to have had effect only in respect of policies assigned after the date on which the Regulations came into operation.

(2) Every assignment of a policy made prior to the coming into operation of the Regulations or made under the Regulations and subsisting at the date of the revocation thereof and every notice of an assignment or of a trust, right, equity or interest of any person, if valid when made or given shall, without prejudice to anything contained therein, have effect for all purposes, as if made or given under this Act.

(3) Every assignment registered in a Register in accordance with the Regulations and subsisting at the date of revocation thereof shall be deemed to have been registered in the Register and such registration shall have effect for all purposes as a registration under this Act.

#### PROTECTION OF POLICIES

Interest of insured  
to be protected in  
certain cases

**131.** (1) The property and interest of any person in a policy effected before or after the commencement of this Act upon his own life shall not be liable to be applied or made available in payment of his debts by any judgment, order or process of any court.

(2) Where a person who has effected a policy on his life dies after the commencement of this Act, the moneys payable upon his death under or in respect of such policy shall not be applied or made available in payment of his debts by any judgment, order or process of any court, or by retainer by 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 Will or other testamentary instrument executed by him 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 deemed to be an express direction for the purposes of subsection (2).

(4) Nothing in this section shall affect the provisions of the Bankruptcy Ordinance or of the Married Persons Act, 1976.

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#### PAID-UP POLICIES, SURRENDER VALUES AND NON-FORFEITURE

Application to  
class of policy

**132.** (1) Sections 133 to 138 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.

(2) The Minister, may on the recommendation of the Supervisor declare by regulations that the provisions of this section and of sections 133 to 138 shall apply in respect of any policy or class of policies with such modifications as may be prescribed by the regulations and where such a declaration is made the provisions of this section and of sections 133 to 138 shall apply in respect of that policy or class of policies accordingly.

**133.** (1) A policy-holder who desires to discontinue further premium payments on a policy on which not less than three years' premiums have been paid in cash 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. Paid-up policies

(2) Where a paid-up policy is issued pursuant to 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.

**134.** The owner of a policy which has been in force for at least three years, shall, on application to the company, be entitled to surrender the policy and to receive not less than the cash surrender value of the policy less the amount of any debt owing to the company under or secured by the policy. Surrender of policies

**135.** The Supervisor may on an application by a company, suspend or vary for such period and subject to such conditions as he thinks fit the obligation of the company to pay surrender values pursuant to section 134 where in his opinion the payment of cash of those surrender values would be prejudicial to the financial stability of the company or to the interests of its policy-holders. Supervisor may suspend or vary obligation of company to pay surrender value

**136.** (1) An ordinary policy shall not be forfeited by reason only of non-payment of any premiums (in this section referred to as "the overdue premiums") where— Non-forfeiture of ordinary policies in certain cases of non-payment of premiums

(a) not less than three years' premiums have been paid in cash on the policy; and

(b) 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) Notwithstanding the provisions of subsection (1), an ordinary policy on which not less than three years' premiums have been paid in cash 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 twenty-eight 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 thirty 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.

Non-forfeiture of  
industrial policy in  
certain cases of  
non-payment of  
premiums

137. (1) An industrial policy on which 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 four weeks after it became due.

(2) An industrial policy on which not less than one year's but less than two 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 eight weeks after it became due.



(3) An industrial policy on which not less than two 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 twelve weeks after it became due.

(4) Where an industrial policy on which not less than three 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 policy-holder, 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 pursuant to 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.

(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.

138. Where in pursuance of any provision of 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—

Treatment of debts  
on issue of paid-up  
policies

(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, on a basis approved by the Supervisor, the debt owing to the company and thereupon the debt shall cease to be owing to the company.

## PAYMENT OF POLICY MONEYS

Money payable to  
beneficiary

**139. (1)** Notwithstanding any rule of law to the contrary where a policy of insurance is effected by a person on his own life and is expressed to be for the benefit of a named beneficiary, the money payable under such a policy shall not, on the death of the policy-holder form part of his estate, but shall be paid to the person named as the beneficiary.

(2) The provisions of subsection (1) shall apply to a policy effected before or after the commencement of this Act.

Payment of policy  
moneys without  
production of grant  
of probate or  
letters of adminis-  
tration in certain  
cases

**140. (1)** Where under a policy money is payable by a company to the legal personal representative of a deceased person the company may, without requiring the production of any grant of probate or letters of administration, pay the money together with any bonuses, which have been added to the policy, to a person who satisfies the company that he is entitled—

(a) under the will or on the intestacy of the deceased person, to the property of such person; or

(b) to obtain probate of the will of the deceased person or to take out letters of administration of his estate, but the company shall not in the aggregate pay to such person more than five thousand dollars and shall retain an amount equal to ten per cent of the total sum due under the policy for payment to the Commissioner of Inland Revenue for the purposes of the Estate Duty and where applicable the Succession Duty due on the estate of the deceased.

(2) Every person to whom money is paid pursuant to this section shall apply the money in administering the estate of the deceased and, if the company thinks fit, it may require those persons to give sufficient security by bond or otherwise that the money paid will be so applied.

(3) Nothing in this section shall affect the provisions of the Married Persons Act, 1976.

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141. Where a company makes a payment pursuant to section 140, the company shall be discharged from all further liability with respect to—

Company discharged from further liability in certain cases

- (a) the money paid to the Commissioner of Inland Revenue; and
- (b) the application of the money paid under any policy issued by it.

142. (1) Subject to this section, where the holder of a policy, not being the person whose life is insured by the policy, pre-deceases the person whose life is so insured and a person satisfies the company which issued the policy that he is entitled—

a Declaration that certain requirements have been satisfied may be endorsed on policy in certain cases

- (a) under the Will or on the intestacy of the deceased holder, to the benefit of the policy; or
- (b) to obtain probate of the Will or to take out letters of administration of the estate of the deceased holder,

the company may, without requiring the production of any grant of probate or of letters of Administration, endorse on the policy a declaration that the requirements of paragraph (a) or (b) have been satisfied and that the person is the holder of the policy and thereupon that person becomes, subject to subsection (2), the holder of the policy.

(2) Subsection (1) does not confer on a person declared to be the holder of a policy any beneficial interest in the policy which he would not otherwise have had.

(3) This section applies to a policy referred to in subsection (1) whether the deceased policy-holder dies before or after the commencement of this section.

(4) This section does not apply to—

- (a) a policy the surrender value of which at the date of the death of the deceased policy-holder, exceeds two thousand dollars; or
- (b) a policy which is one of two or more policies held by the deceased policy-holder and issued by the same company if the aggregate of the surrender values of those policies at the date of the death of the deceased holder, exceeds two thousand dollars.

(5) For the purposes of subsection (4), the surrender value of a policy is the amount (including any amount in respect of bonus additions) which would be paid by the company issuing the policy upon its surrender.

(6) Nothing in this section shall affect the provisions of the Married Persons Act, 1976.

Company may pay  
money to the  
Supervisor

**143.** (1) A company may pay to the Supervisor 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 Supervisor 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.

Unclaimed money

**144.** (1) A company shall, within sixty days of its financial year, deliver—

- (a) to the Supervisor a statement of all unclaimed moneys as at that date; and
- (b) to the Comptroller a copy of the statement referred to in paragraph (a).

(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 last known address; and
- (c) the amount due and the date on which it became due.

(3) The company shall pay to the Comptroller at the time of the delivery of the copy 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 Comptroller under this section and he 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 Comptroller shall pay 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 in pursuance of this section a company has paid to the Comptroller an amount in respect of a policy and the company satisfies the Comptroller that the amount paid exceeds the amount which would have been payable under the policy to the policy-holder, the Comptroller shall refund to the company the amount of the excess.

(6) On payment to the Comptroller 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 any provision of this section is guilty of an offence.

(9) In this section—

“Comptroller” means the Comptroller of Accounts;

“unclaimed moneys” 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 policy or an endowment insurance policy which are not claimed within seven years after the maturity date of the policy.

#### PROVISIONS RELATING TO INDUSTRIAL LIFE INSURANCE BUSINESS

145. (1) Where within twenty-eight days of the delivery of an industrial policy by a company—

Objection to  
policies

(a) to the policy-holder; or

- (b) at the place of abode of the policy-holder, to some other person residing at that place and apparently not less than sixteen 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 forthwith refund any premium 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 at the time at which it would reach him in the ordinary course of post.

(3) For the purposes of this section, a policy shall be deemed to have been returned to a company with an objection if the policy and the written objection are posted for transmission to the company by registered letter.

Return of industrial policy and premium receipt-book after inspection

**146.** Where a company which carries on industrial life insurance business, or any person authorised by such company takes possession of an industrial policy or a premium-receipt book or any 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 twenty-eight days from the receipt thereof, 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 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.

Falsification

**147.** A person who wilfully makes or orders or allows 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 a premium-receipt book, with intent to falsify the book or to evade any of the provisions of this Act, is guilty of an offence.

148. (1) Where an agent or a 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, notwithstanding any agreement to the contrary between the proponent and the company, a policy issued in pursuance of the proposal shall not be avoided by reason only of an incorrect or untrue statement contained in such particulars unless the incorrect or untrue statement was in fact made by the proponent to the agent or servant for the purposes of the proposal.

Avoidance of policy  
by reason of  
particulars in pro-  
posal filled in by  
agent or servant  
of a company

(2) The burden of proving that an incorrect or untrue statement was made by the proponent lies on the company.

(3) Nothing in this section shall be deemed 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 the provisions of this section.

149. Every industrial policy issued by a company shall contain—

Particulars to be  
specified in policies

(a) an endorsement or a statement in distinctive type specifying whether the policy is or is not a participating policy; and

(b) a short statement in a form approved by the Supervisor setting out—

(i) the right of the policy-holder to be granted a paid-up policy;

(ii) the right of the policy-holder to surrender his policy and to receive in cash the surrender value of the policy; and

(iii) the conditions under which the policy may be forfeited.

150. (1) A company shall, in respect of each industrial policy issued by it, issue to the policy-holder a premium-receipt book.

Issue of premium-  
receipt book

(2) A company shall not issue or permit to be used one premium-receipt book in respect of two or more policies held by different policy-holders who are not members of the same household.

(3) Every premium-receipt book issued by a company shall contain in respect of each policy to which it relates—

- (a) an endorsement or a statement in distinctive type of the particulars referred to in section 149;
- (b) an entry made by the company of the following matters—
  - (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 date and number of the policy;
  - (iii) 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.

Premium-receipt  
book to show date  
to which premiums  
have been paid

**151.** (1) Every payment in respect of premiums under an industrial policy made to an agent or a 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) where it is the first entry on a page of the premium-receipt book, be signed by the agent or servant with his usual signature; and
- (b) where it is not such an entry, be signed by the agent or servant with his usual signature or be initialled by him.

(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 state the policy or policies in respect of which no payment or an insufficient payment is made, and the agent or the servant shall clearly record the fact stated in the premium-receipt book (hereinafter referred to as "the original premium-receipt book").



(3) The company shall, unless the amount of the deficiency referred to in subsection (2) is paid before any further premiums are paid—

- (a) cause a separate premium-receipt book to be issued in accordance with section 150 in respect of any policy in relation to which the deficiency exists; and
- (b) cause to be cancelled the particulars and entry relating to any such policy in the original premium-receipt book.

152. Any provision in an agreement, whether made before or after the commencement of this Act, whereby the guarantor of an agent of any company is or may be required to pay to the company the amount of any commissions repayable by the agent on account of lapsed industrial policies shall be void. Guarantor not liable to refund commission on lapsed policies

153. Any provision in an agreement whereby the production in any legal proceedings of a certificate signed by an officer or a servant of a company may be deemed to be conclusive evidence of the indebtedness or the amount of the indebtedness to the company of any agent or of any guarantor of an agent shall be void. Certificate as to agent's or guarantor's indebtedness not conclusive evidence thereof

### MUTUALISATION

154. (1) Notwithstanding anything in its memorandum or other instruments of incorporation or in its articles or other rules, or in this Act, a company may, with the approval of the Supervisor, establish and implement a plan in accordance with the provisions of this Part. Conversion into mutual company

(2) In this section and in sections 156 to 160—

“company” means a company incorporated in Trinidad and Tobago 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 of the company or the conversion of the shares into debentures.

Application to  
establish a plan

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

Appointment of  
independent actuary

**156.** (1) Where the Supervisor receives an application made in accordance with section 155 he 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 investigation, furnish the Supervisor with a report of his 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 Supervisor may require.

Approval of  
application

**157.** Where after considering the report of the actuary appointed under section 156 the Supervisor is satisfied that the paid-up capital of the company has ceased to be an important factor in safe-guarding 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 company relative to its liabilities;
- (c) the nature of the business carried on by the company; and
- (d) any other considerations which the Supervisor may consider relevant,

the Supervisor may approve the application referred to in section 155.

Detailed plan to  
be submitted to  
Supervisor

**158.** Where an application is approved by the Supervisor, the Board of Directors of the company shall prepare and submit to the Supervisor 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 and articles of association; and
- (d) such other information as the Supervisor may require.

159. (1) When a plan is approved by the Supervisor—Acceptance of plan by share-holders and policyholders

- (a) it shall be laid as a special resolution before the share-holders 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 or against confirmation of the resolution;
- (b) the board of Directors shall send by post to each policy-holder of the company at his last known address—
  - (i) a ballot-paper; and
  - (ii) a circular approved by the Supervisor, 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 fifty per cent of the votes cast by the share-holders at the special general meeting and by not less than fifty per cent 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 share-holders shall sell their shares to the company at such price as may be approved by the Supervisor.

160. All expenses incurred by the Supervisor 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 Supervisor summarily as a civil debt. Recovery of expenses

## MISCELLANEOUS

## Register to be kept

**161.** (1) A company shall keep in accordance with section 162 at its principal office in Trinidad and Tobago (hereinafter referred to as "the registry") a register of policies.

(2) A company shall have a representative in charge of the registry.

(3) The Supervisor shall be notified in writing of the situation of the registry and of the name of the representative in charge thereof and of any change in the situation of the registry or in the identity of the representative in charge thereof.

## Registration of policies

**162.** (1) Every policy in Trinidad and Tobago existing at the date of the commencement of this Act shall as at that date be registered by the company in the register required to be kept under subsection (1) of section 161.

(2) A company shall specify its principal office in Trinidad and Tobago on every policy issued by it.

(3) Every policy in Trinidad and Tobago issued by a company after the commencement of this Act shall immediately after issue be registered by the company in the register.

(4) All moneys payable in respect of a policy shall, unless the company and the policy-holder otherwise agree, be payable at the registry at which the policy is for the time being registered.

(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 of Trinidad and Tobago to a register in Trinidad and Tobago, or from a register in Trinidad and Tobago to a register outside of Trinidad and Tobago.

(6) All expenses incurred in connection with the transfer of a policy pursuant to subsection (5) shall be borne by the policy-holder.

## Lost policy

**163.** (1) Where—

(a) the holder of a policy; or

(b) a person claiming the benefit of the provisions of section 140 or 142 in respect of a policy,

alleges that the policy (in this section referred to as "the original policy") is lost or has been destroyed, the company liable under the original policy may, subject to this section, on written application by the holder of the original policy or by the person referred to in paragraph (b) and upon such evidence as to the loss or destruction of the original policy as the company deems sufficient, issue to the applicant a special policy in substitution for the original policy.

(2) Where an application under subsection (1) is made by a person referred to in paragraph (b) of that subsection, the company shall not issue a special policy to such a person unless it is satisfied that the provisions of section 140 or 142 should be applied in favour of the applicant.

(3) A special policy shall—

- (a) be a copy, as nearly as can be ascertained, of the original policy in substitution for which it is issued;
- (b) contain copies of every endorsement on the original policy registered by the company; and
- (c) state the reason for the issue of such a policy.

(4) Where the amount insured exclusive of bonus additions, exceeds five thousand dollars the company shall, before issuing a special policy give at least one month's notice of its intention so to do in the *Gazette* and in a newspaper published in Trinidad and Tobago and approved by the Supervisor.

(5) The costs of the advertisement and all other costs incurred in the issue of a special policy shall be paid by the applicant at the time when the application is made.

(6) The fact that a special policy has been issued and the reason for its issue shall be recorded by the company in the appropriate register.

(7) Where a company fails to issue a special policy within six months after the receipt of a written application under subsection (1) of section 163 the Court may, on an application by summons and upon such evidence as to the loss or destruction of the original policy as it deems sufficient, order the company, upon such terms and within such time as the Court thinks fit, to issue a special policy to the applicant.

(8) Where the holder of a special policy or a person claiming the benefit of the provisions of section 140 or 142

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in respect of a special policy, claims that the special policy is lost or has been destroyed the provisions of this section shall apply as if the special policy were an original policy issued by the company.

Effect of capital  
punishment or  
suicide on policy

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

Condition as to  
war risk void

**165.** 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 the death of the life insured occurring as a result of war, 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.

Policy not invali-  
dated in certain  
cases

**166.** Failure on the part of a company to comply with any provision of this Act shall not in any way invalidate a policy issued by the company.

## PART V

### GENERAL INSURANCE

#### *Conditions*

Application of  
sections

**167.** This section and sections 168 to 172 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.

**168.** Every company shall, in respect of its outstanding unexpired policies, include in its liabilities in its annual statement deposited with the Supervisor reserves computed on such basis as the Minister may prescribe.

**169.** No dividend may be paid by any local company—  
(a) while its assets are less than the amount required for solvency by section 77; or

- (b) where the dividend would reduce its assets below the amount referred to in paragraph (a) or would impair its capital.

**170.** (1) Where it appears to the Supervisor that the assets of any company fall below the amount required for solvency by section 77 the Supervisor, after giving the company a reasonable time to be heard by him, shall— Contravention

- (a) forthwith withdraw the company's certificate of registration;
- (b) on such terms and conditions as he considers necessary, specify a time 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 section 168 or where the company has contravened the requirements of section 169, withdraw its certificate of registration.

(2) The certificate of registration of a company shall not be withdrawn during the time given the company to make good any deficiency referred to in paragraph (b) of subsection (1).

(3) Where a company fails to make good a deficiency within the time specified by the Supervisor pursuant to paragraph (b) of subsection (1), the Supervisor shall withdraw the certificate of registration of the company.

**171.** (1) A local company shall at the end of each year appropriate towards surplus at least twenty-five per cent of its profits for the preceding 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 168. Appropriation of profits towards surplus

(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 168.

**172.** (1) Every company shall, in addition to the reserves required to be included pursuant to section 168, provide reserves for meeting outstanding claims. Additional reserves

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(2) Every company shall furnish to the Supervisor details of the methods used in calculating the reserves to be provided under subsection (1).

(3) The Supervisor may disallow any method used in calculating the reserves referred to in subsection (2) where he is satisfied that the method does not result in the provision of adequate reserves.

Rates of premium  
to be prescribed

**173.** The Minister may from time to time prescribe minimum rates of premium in respect of various categories of motor vehicle insurance business.

## PART VI

### PENSION FUND PLANS

Plan to be  
registered

**174.** (1) No person may establish or operate a pension fund plan (hereinafter referred to as "a plan") in Trinidad and Tobago unless the plan is registered under this Part.

(2) The provisions of subsection (1) shall not apply to a plan which was registered under the Insurance Act, 1966.

Qualifications for  
registration of plan

**175.** (1) Subject to the provisions of this Part, where a plan establishes a fund under trusts which are subject to the laws of Trinidad and Tobago, in connection with an undertaking or a combination of undertakings carried on wholly or partly in Trinidad and Tobago, 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 I of the Fourth Schedule.

Fourth Schedule



(2) Where a plan establishing a fund for any of the purposes set out in paragraph (a), (b) or (c) of subsection (1) is in operation before the commencement of this Act that plan shall, subject to such directions as to the amendment of its rules as the Supervisor 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 Trinidad and Tobago; or
- (b) the plan does not comply with the requirements set out in Part I of the Fourth Schedule.

**176.** (1) An application for the registration of a plan <sup>Registration</sup> under this Part shall be addressed to the Supervisor and shall—

- (a) be in the form prescribed;
- (b) be signed by the trustees of the plan;
- (c) specify the address at which communications concerning the plan will be received (hereinafter referred to as “the address of the plan”);
- (d) be accompanied by—
  - (i) two copies 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 prescribed.

(2) Where an application is made in accordance with the provisions of this Part for the registration of a plan the Supervisor shall register the plan and the rules thereof where he is satisfied that the plan has qualified for registration.

(3) The Supervisor shall on registering a plan under this Part enter in the register the address of the plan and the names and addresses of the trustees.

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## (4) Where—

- (a) the trust deed or the rules, or both, of a plan registered under this Part (hereinafter 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 twenty-one days of the amendment or the change, apply for the registration of the amendment or for the correction of the register in respect of the change.

(5) An application for an amendment or for the correction of the register in respect of a change shall be addressed to the Supervisor and shall—

- (a) be in the form prescribed;
- (b) be signed by one of the trustees of the plan; and
- (c) shall be accompanied—
  - (i) in the case of an amendment, by two copies thereof 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 register.

Amendment not  
valid until  
registered

**177.** (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 subsection (5) of section 176, the Supervisor shall register the amendment where he is satisfied—

- (a) that the trust deed or the rules, or both, as amended would not have disqualified the plan from registration under this Part; or
  - (b) in the case of a plan which should be harmonized with the system of national insurance established under the National Insurance Act, 1971, that the plan otherwise complies with the requirements of any regulations made under that Act for the purpose of harmonization.
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**178.** (1) The Supervisor 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 (hereinafter referred to as "a Certificate").

Certificate of  
registration

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

**179.** (1) The registration of a registered plan shall not be cancelled unless the plan has been wound-up.

Cancellation of  
registration

(2) The trustees of a registered plan shall, within fourteen days of the completion of the winding-up of the plan, notify the Supervisor in writing that the winding-up has been completed.

(3) On receiving notice in writing that a registered plan has been wound-up, the Supervisor shall cancel the registration of the plan where he 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.

**180.** (1) The fees payable in respect of—

Fees to be  
prescribed

- (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 register 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.

(2) Notwithstanding the provisions of subsection (1) no fees shall be payable in respect of the registration of any amendment to the rules of a registered plan where the amendment is solely for the purpose of complying with the requirements of any regulations made under the National Insurance Act, 1971, for the purpose of harmonization.

Power to delete provisions for avoiding the rule against perpetuities

**181.** (1) Where an application is made under this Part for the registration of a plan the rules of which were made before the commencement of this Act, and the Supervisor is satisfied that the rules of the plan contain provisions which were embodied only for the purpose of avoiding the application to the trusts of the plan of the rule of law relating to perpetuities he may, at the request of the trustees who made the application—

(a) amend the rules by deleting those provisions; and

(b) make any further amendments which are, in his opinion necessary as a result of the deletion.

(2) Where the rules of a plan are amended by the Supervisor pursuant to subsection (1), the rules shall, when registered, have effect subject to the amendments.

Supplementary provisions as to powers of Supervisor

**182.** (1) The Supervisor 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 Supervisor 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 Supervisor shall have the same remedies in all respect for the breach of trust as if he were a person beneficially interested in the plan.

(3) The Supervisor or any person authorised by him 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.

Penalties for default

**183.** (1) Every trustee and the secretary of a registered plan are guilty of 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 register 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 Supervisor 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 Supervisor to furnish any information or explanation which could with reasonable diligence be furnished by him makes default in complying with any such requirement within fourteen days after written notice thereof has been delivered to him, is guilty of an offence.

(4) A person who is guilty of an offence under this Part is liable on summary conviction to a fine of five thousand dollars and in the case of a continuing offence to a further fine of one hundred dollars for every day during which the offence is committed after conviction therefor.

**184.** (1) The trustees of each plan registered under this Part shall—

Annual accounts  
and balance sheet  
to be submitted

(a) submit annually to the Supervisor a balance sheet and statement of accounts for each accounting year within six months of the expiration of that accounting year;

(b) file with the Supervisor 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 Supervisor, be audited by an auditor approved by him; and

(b) be prepared in accordance with the forms set out as Forms A and B respectively of Part II of the Fourth Schedule.

Forms A and B  
Fourth Schedule

**Actuarial  
Investigation**

**185.** (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 findings.

(2) An investigation under subsection (1) shall be made every three years or at such shorter intervals as the Supervisor may specify.

**Part III  
Fourth Schedule**

(3) A copy of the report prepared in accordance with Part III of the Fourth Schedule and signed by the actuary shall be furnished to the Supervisor.

(4) The provisions of 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) together with the Tables set out in Part III of the Fourth Schedule shall be deposited by the trustees with the Supervisor.

**Investment**

**186.** (1) The trustees of a registered plan may invest the assets of the plan only in such securities as a company may by section 46, invest the assets of its statutory fund.

(2) No trustee may 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.

(3) The Minister may prescribe the percentage which a plan's assets originating in Trinidad and Tobago shall bear to the total of its assets.

**Rule of law against  
perpetuities not  
to apply**

**187.** The rule of law relating to perpetuities shall not apply and shall be deemed never to have applied to the trusts of a registered plan.

**PART VII****ASSOCIATIONS OF UNDERWRITERS****Registration of  
associations of  
underwriters**

**188.** (1) No association of underwriters may carry on insurance business in Trinidad and Tobago—

(a) unless it is registered under this Part; and

(b) except in accordance with the provisions of this Part.

(2) An application for registration of an association shall be accompanied by—

- (a) a copy of its statute or deed of association;
- (b) a certificate stating, in the case of an association established outside of Trinidad and Tobago—
  - (i) that the association has been established for at least five years;
  - (ii) that the law of the country in which it was established provides for the regulating of associations of underwriters; and
  - (iii) that the association is operating in accordance with that law;
- (c) a list of the names and addresses of persons appointed as its agents or brokers in Trinidad and Tobago; and
- (d) any further information the Supervisor may require.

(3) The Supervisor may register an association of underwriters as an insurer where he is satisfied that the association complies with the provisions of this Part.

(4) Where an association of underwriters is registered under this Part no member of that association may carry on insurance business, other than long-term insurance business, in Trinidad and Tobago until the President by Proclamation declares the date from which such business may be carried on.

**189.** (1) An association of underwriters may not be registered under this Part to carry on, or carry on, any class of insurance business unless it has deposited with the Supervisor an amount equal to three hundred and fifty thousand dollars or to forty per cent of the premium income of its members, which ever amount is the greater, with respect to Trinidad and Tobago insurance business during the financial year last preceding the date of the deposit.

Deposit by  
association of  
underwriters

(2) Where an association of underwriters has made a deposit as required by subsection (1), it shall at the end of

each financial year where necessary, deposit or be refunded an amount equal to the difference between the last preceding deposit and forty per cent of the relevant premium income during such financial year, except that an association of underwriters shall not have as a deposit with the Supervisor an amount less than three hundred and fifty thousand dollars.

(3) A deposit made in pursuance of this section may be either in the form of cash or in the form of approved securities or partly in the form of cash and partly in the form of approved securities.

(4) The provisions of sections 30 to 34 shall apply to a deposit made in pursuance of this section except that the words "association of underwriters" shall be substituted for the word "company".

Applicant to be  
informed of Super-  
visor's decision  
with respect to  
application

**190.** (1) An applicant who applies for registration as an insurer shall be notified in writing by the Supervisor whether it is proposed to register him or to reject his application.

(2) Where the Supervisor proposes to reject the application he shall state in writing his reasons for so doing.

(3) An association which is aggrieved by the decision of the Supervisor to reject its application may appeal against the decision in the manner specified in section 205.

Documents and  
information relat-  
ing to insurance  
business to be  
furnished to  
Supervisor

**191.** An association of underwriters registered under this Part, shall within six months of the end of each financial year furnish to the Supervisor, in the case of an association established in Trinidad and Tobago such documents and information as he may require and in the case of an association established outside of Trinidad and Tobago—

(a) 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 established;

(b) a certificate, signed by the Chairman or other presiding officer of the association and by or on behalf of the responsible Minister or other public authority stating whether the association has complied with the requirements of the law governing the regulating of associa-



tions of underwriters in the country in which it is established;

- (c) the latest annual list of the names of its members and the names of the members its committee or other governing body; and
- (d) a statement of receipt and expenditure by its members in Trinidad and Tobago during the preceding year.

**192.** (1) The Supervisor may prohibit a registered association from writing new policies in any class of insurance business where he is satisfied that it is in the interest of the policy-holders or prospective policy-holders so to do. Registered association may be prohibited from writing business

(2) Where the Supervisor exercises the power conferred on him by subsection (1), he shall notify the registered association in writing of his decision and shall state the reasons therefor.

(3) A registered association which is aggrieved by the decision of the Supervisor may appeal against the decision in the manner specified in section 205.

**193.** (1) The Supervisor may cancel the registration of an association— Cancellation of registration

- (a) where he is not satisfied that the insurance business of its members is being conducted in accordance with sound insurance principles;
- (b) where the association fails to comply with any requirements imposed upon it under this Part;
- (c) where he is satisfied that the members of the association have not commenced business within one year of registration or have ceased to carry on business in Trinidad and Tobago; or
- (d) at the request of the association.

(2) Where the Supervisor cancels the registration of an association, he shall state in writing his reasons for so doing.

(3) An association which is aggrieved by the decision of the Supervisor to cancel its registration may appeal against the decision in the manner specified in section 205.

(4) On an appeal the Court of Appeal or the Judge in Chambers may confirm or reverse the decision of the Supervisor.

Policies issued  
before rejection of  
application or  
cancellation of  
registration

194. An association of underwriters, the application for registration of which has been rejected or the registration of which has been cancelled, shall continue to carry on business relating to policies issued by it before the date on which it was notified of the rejection or cancellation unless the Supervisor is satisfied that it has made suitable arrangements for its obligations under such policies.

## PART VIII

### MISCELLANEOUS

Jurisdiction of  
local courts

195. (1) Where a policy is issued after the 5th of October, 1966 and the premiums in respect of that policy are payable or paid in Trinidad and Tobago—

- (a) such premiums shall be payable or paid; and
- (b) any sums payable or paid upon the maturity of such policy shall be payable or paid, in Trinidad and Tobago currency.

(2) Every policy issued in Trinidad and Tobago through a person or an office in Trinidad and Tobago shall, notwithstanding any agreement to the contrary, be governed by the laws of Trinidad and Tobago and shall be subject to the jurisdiction of the courts of Trinidad and Tobago.

Issue of capital  
by company

196. (1) A person shall not publish in respect of a company or in respect of a company proposed to be formed after the commencement of this Act a prospectus, notice, circular, advertisement or other invitation offering to the public for subscription any shares in the company or proposed company unless the prospectus, notice, circular, advertisement or other invitation is first submitted to and approved by the Supervisor.

(2) A person who is acting as the promoter of any such proposed company shall not accept any office of profit in the company or any payment or pecuniary advantage other than as provided in the prospectus, notice, circular, advertisement or other invitation.

197. (1) A company which does not have shareholders shall, notwithstanding anything contained in the instruments constituting the company or in the articles of association or other rules of the company, within one year of its registration under this Act make arrangements for—

Voting by post

- (a) the establishment of a postal voters' roll in relation to voting in contested elections of directors of the company or on questions pertaining to the alterations of the instruments constituting the company or of the articles of association or other rules of the company;
- (b) the enrolment on the postal voters' roll of any member of the company entitled to vote in such elections or on such questions, who applies to be enrolled;
- (c) the voting by post in any such election or on any such question by every member enrolled; and
- (d) the inspection of the postal voters' roll and the taking of copies of or extracts from the roll on and after the close of nominations and before the close of the voting in any such election, by any person nominated for election as a director of the company.

(2) All regular votes of members given in pursuance of the arrangements referred to in subsection (1) shall be valid and effectual for all purposes.

(3) Where a member who is enrolled on the postal voters' roll of a company fails to exercise his right to vote by post on three consecutive occasions on which he is entitled so to do, the company may remove his name from the roll, but the member is eligible for re-enrolment.

(4) The provisions of this section do not apply to a company which is incorporated outside of Trinidad and Tobago.

198. Any person may, upon payment of such fee as may be prescribed, inspect at the office of the Supervisor any document submitted to the Supervisor pursuant to subsection (2) of section 61 and make a copy of or extract from that document.

Inspection of documents

Documents to be  
received in  
evidence

**199.** Every document purporting to be—

- (a) certified by the Supervisor to be a document submitted to him under the provisions of this Act; or
- (b) certified by the Supervisor to be a copy of such a document,

shall be deemed to be such a document or copy thereof and shall be received in evidence as if it were the original document unless some variation between it and the original document is proved.

Publication of  
authorised sub-  
scribed and paid-up  
capital

**200.** Where any notice, advertisement or other official publication of a company contains a statement of the authorised capital of the company, the publication shall also contain a statement of the amount of the capital which has been subscribed and the amount which has been paid-up.

Power to collect  
statistics

**201.** (1) The Supervisor shall collect at such times as may be prescribed such statistics in relation to insurance business as may be prescribed.

(2) Every company shall, for the purpose of enabling the Supervisor to collect statistics under this section, furnish the Supervisor in accordance with the prescribed form and at such times as may be prescribed such particulars as may be specified in that form.

(3) A person shall not publish any particulars furnished by a company to the Supervisor under this section in such form as to disclose the details of those particulars, and a person shall not publish the number of returns received where such number is less than five.

Serving of notice

**202.** (1) Where a notice is required or permitted by this Act to be given to or served upon a person, the notice shall be in writing and may be given or served—

- (a) where the notice is addressed to a person other than a company, by serving it upon him personally or by sending it by registered post addressed to him at his usual or last known place of abode or business; and
- (b) where the notice is addressed to a company, by serving it personally upon the person last known to the Supervisor as being a director or the principal representative or an officer of

the company or by sending it by registered post addressed to such person at his address last known to the Supervisor.

(2) Where a notice is sent by registered post, it shall be deemed to have been given or served on the date on which it would have been delivered in the ordinary course of post.

(3) In this section "company" includes a body corporate which has ceased carrying on insurance business in Trinidad and Tobago.

**203.** Any document required by or under this Act to be signed by a director or the principal representative of a company may be signed by any other officer of the company where—

Authority to sign documents

(a) the officer is authorised so to do by the Board of Directors; and

(b) the Board of Directors has notified the Supervisor in writing of the authorisation.

**204.** Where a document is by this Act required to be printed, the Supervisor may permit it to be typewritten or lithographed or to be reproduced by such mechanical means as he may approve.

Printing of documents

**205.** (1) Except where otherwise provided by this Act or the Regulations, an appeal shall lie to a Judge in Chambers from any decision, direction, refusal, ruling or order of the Supervisor given or made under this Act.

Appeals

(2) Notwithstanding that an appeal lies under this Act or under the regulations from any decision, direction, refusal, ruling or order of the Supervisor, such decision, direction, refusal, ruling or order shall be binding upon the appellant unless—

(a) within fifteen days of the receipt of the notification of the decision, direction, refusal, ruling or order, he serves on the Supervisor notice of his intention to appeal therefrom setting forth the grounds of appeal; and

(b) within fifteen days after serving the notice he files his appeal with the Registrar of the Supreme Court and prosecutes the same with due diligence.

(3) Where the conditions specified in paragraphs (a) and (b) of subsection (2) are satisfied no action may be taken by the Supervisor on any decision, direction, refusal, ruling or order given or made by him under this Act until the Judge in Chambers determines the matter.

(4) On an appeal the appellant and the Supervisor as respondent may appear personally or be represented by counsel or solicitor or by any other person.

(5) An appeal from the determination by a Judge in Chambers shall be to the Court of Appeal the decision of which shall be final.

(6) On an appeal a Judge in Chambers or the Court of Appeal, as the case may be, may confirm, reverse or vary any decision, direction, refusal, ruling or order made or given by the Supervisor.

No. 12 of 1962

(7) The Rules Committee established under the Supreme Court of Judicature Act, 1962 may make rules prescribing the conduct of appeals filed under subsection (1) and the time within which notice of appeal to the Court of Appeal shall be given.

Offences

**206.** (1) A person who contravenes—

(a) any provision of this Act or of any order or regulation made thereunder with which he was required to comply;

(b) any direction, order or requirement given or made by the Supervisor or an authorised person,

is guilty of an offence unless he proves that he did not knowingly commit such contravention.

(2) Where the offence committed is as a result of a default in complying with any provision of this Act or of any order or regulation made thereunder or with any direction, order or requirement referred to in paragraph (b) of subsection (1), the offence shall be deemed to be continued so long as the default continues.

(3) In this section “person” includes a company.

Offence to sign  
false document

**207.** A person is guilty of an offence who signs any document, required by or under this Act to be signed by him, which contains any false particulars known to him to be false.

208. (1) A company which fails to comply with any direction given to it by the Supervisor under section 42 within the time specified in that section may be ordered by the Supervisor to cease issuing new policies.

(2) A company which continues to issue new policies after it has been ordered by the Supervisor to cease doing so is guilty of an offence.

209. A person who—

(a) by knowingly making a false, misleading or deceptive statement;

(b) by recklessly making (dishonestly or otherwise) any statement which is false, misleading or deceptive; or

(c) by dishonestly concealing material facts,

induces or attempts to induce another person to enter into or offer to enter into any contract of insurance is guilty of an offence.

Offence to induce  
person to enter  
into insurance  
contract by means  
of false statement

210. (1) No person may after such date as may be fixed by the Minister by Notice published in the *Gazette*, issue an insurance advertisement except in accordance with regulations made under this Act.

Restriction on  
issuing insurance  
advertisement

(2) A person who contravenes the provisions of subsection (1) is guilty of an offence.

211. (1) A person who in the ordinary course of his business issues an insurance advertisement on behalf of or to the order of another person, the issue of which by that other person would constitute an offence under subsection (1) of section 210 is guilty of an offence unless he proves that the matters contained in the insurance advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.

Person who issues  
insurance adver-  
tisement on behalf  
of another is guilty  
of offence unless  
contents not  
devised by him

(2) For the purposes of subsection (1) an insurance advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person.

(3) For the purposes of any proceedings instituted under subsection (1) an insurance advertisement inviting persons to enter into or to offer to enter into insurance

contracts with a person specified in the advertisement shall be deemed, unless the contrary is proved, to have been issued by that person.

(4) In this section and in section 210—

“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 cinematograph films or by way of sound broadcasting.

Director, etc.,  
deemed to be  
guilty of offence

**212.** Where an offence against this Act is committed by 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, principal representative or any other officer or any actuary or auditor of the company, that person as well as the company shall be deemed to be guilty of the offence.

Penalties

**213.** All offences against this Act for which no other penalty is specified is punishable, in the case of a company, by a fine not exceeding five thousand dollars and in the case of an individual by a fine not exceeding one thousand dollars or to imprisonment for six months.

Regulations

**214.** (1) The Minister may make such regulations as he considers necessary for the purpose of giving effect to this Act and in particular may make regulations—

- (a) prescribing anything which is required or authorised to be prescribed by this Act;
- (b) governing reinsurance business;
- (c) governing the holding and conduct of examinations for persons applying to be registered as brokers, salesmen or agents and the exemption of persons from such examinations;
- (d) determining the remuneration or allowances payable to persons who have been appointed examiners for the purposes of paragraph (c);
- (e) governing the solvency of brokers and agents;
- (f) relating to the provision of identification cards for persons who are registered under this Act as brokers, salesmen, agents or adjusters;



- (g) controlling, restricting or prohibiting the making of linked long-term insurance contracts by a company which is registered in Trinidad and Tobago to carry on insurance business in that country;
- (h) specifying what registers are to be kept for the purposes of this Act;
- (i) governing the form and contents of insurance advertisements;
- (j) relating to contracts of the class specified in paragraph 1 of the First Schedule;
- (k) governing the valuation of assets;
- (l) relating to provisions for the writing off of preliminary expenses and the deferring of acquisition costs in respect of new insurance business.

(2) Regulations made under paragraphs (a) to (g) of subsection (1) may authorise the Supervisor—

- (a) to exempt from the provisions of this Act any class of insurance business where the Minister considers such exemption necessary having regard to the class of insurance business and to the provisions of this Act; or
- (b) to approve, in relation to any company, the use of any prescribed form with such modifications as he thinks fit, where the Minister is satisfied that the modification would not substantially affect the purpose of the form.

(3) Regulations made under paragraph (g) of subsection (1) shall be limited to the contracts specified in that paragraph which—

- (a) are entered into by insurance companies to which Part II of this Act applies or by members of Lloyds or of any other association of underwriters approved by the Supervisor for the purposes of Part VII of this Act; and
  - (b) are contracts under which the benefits payable to the policy-holder are wholly or partly to be determined by reference to the value of or the income from property of any description, or by reference to fluctuations in or in an
-

index of the value of property of any description, whether or not specified in the contract.

(4) Regulations made under paragraph (g) of subsection (1) may make different provisions in relation to different cases or circumstances, and the Minister may, on the application of any insurer alter the provisions of any such regulations so as to adapt those provisions to the special circumstances of an insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.

(5) Regulations made under paragraph (g) of subsection (1) may make provision—

- (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
  - (b) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining the benefits referred to in paragraph (a);
  - (c) requiring insurers under contract to appoint valuers to carry out valuations of property of any description in order to determine the benefits referred to in paragraph (a);
  - (d) prescribing the qualifications of a valuer and his relationship with the insurer;
  - (e) requiring insurers under the contract to furnish in such manner and at such times as may be specified in the regulations, such information relating to the value of the benefits under the contracts as maybe specified in the regulations;
  - (f) requiring insurers under the contracts to furnish to the Supervisor in such manner and at such times as may be specified in the regulations, such information as may be specified therein relating to the contracts or with any class or description of the contracts;
  - (g) enabling the Supervisor to publish the information referred to in paragraph (f) in such ways as he thinks appropriate.
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(6) Regulations made under paragraph (i) of subsection (1) may make different provisions in relation to insurance advertisements of different classes of descriptions.

(7) Regulations requiring insurers to furnish information as required by paragraph (e) of subsection (6) may, in relation to notices which are required to be sent to policyholders impose requirements which would ensure that the notices are easily legible.

**215.** (1) The Insurance Act, 1966 is repealed.

Repeal  
No. 24 of 1966

(2) Notwithstanding the repeal of the Insurance Act, 1966, regulations made under that Act shall, in so far as they are applicable continue to have full force and effect until regulations are made under this Act.

**216.** This Act shall come into operation on such date as the President may by Proclamation published in the *Gazette* appoint and the President may by Proclamation appoint different dates for the coming into operation of different Parts of this Act.

Commencement

(Section 2)

#### FIRST SCHEDULE

##### *Classes of Insurance Business*

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 specified class, if, in the absence of special circumstances specifically provided for in such contracts, they cannot be terminated before the expiration of five 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 certificates 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 purposes 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.

3. "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 two months and which are received by means of collectors.

4. "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.

5. 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 purposes 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.

6. "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 whatever 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 transit risks (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 the foregoing paragraphs.

7. 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 purposes 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 subparagraphs (a) to (g) of paragraph 6.

8. "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 risk but exclusive of transit risks.

9. 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.

10. "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 their incurring unforeseen expenses; and
- (e) neither falling within any of the foregoing paragraphs 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.

11. 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 purposes 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 subparagraphs (c) and (d) of paragraph 10.

12. "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.

13. 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 purposes 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.

14. "Property insurance business" means the business of effecting and carrying out contracts of insurance against risks of loss of 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.

## SECOND SCHEDULE

(Section 46)

### *Assets in which the Statutory Funds may be invested*

A company may invest its statutory funds in assets of the following classes—

1. (a) the bonds, debentures, stocks, or other evidence of indebtedness of or guaranteed by the Government of—
  - (i) Trinidad and Tobago;
  - (ii) any Commonwealth country or dependency or the Republic of Ireland;
  - (iii) the country in which the head office of the company is situated or a province or state thereof; or
  - (iv) any country approved by the Minister.
- (b) the bonds, debentures or other evidence of indebtedness of a corporation incorporated in Trinidad and Tobago which are fully secured by a statutory charge upon real estate or upon the plant or equipment or other tangible assets of the corporation used in the transaction of its business;
- (c) the bonds, debentures or other evidence of indebtedness issued by an authority or other body without share capital established and empowered pursuant to a statute of Trinidad and Tobago to administer, regulate the administration of, provide or operate port, harbour, airport, bridge, highway, tunnel, transportation, communication, sanitation, water, electricity, or gas services or facilities and for any of these purposes to levy, impose or make taxes, rates, fees or other charges which may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operation, maintenance and debt service charges;

- (d) the bonds, debentures or other securities of, or those guaranteed by the International Bank of Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development or any other international financial institution approved by the Minister;
  - (e) guaranteed investment certificates issued by a trust company incorporated in any country listed in subparagraph (a) which at the date of vesting thereof in trust, complied with the requirements set out in subparagraph (f) in respect of the payment of dividends;
  - (f) the fully paid ordinary shares, preferred shares, bonds debentures or other evidence of indebtedness of a company incorporated in any country listed in subparagraph (a) which during a period of five years ending less than one year before the date of purchase thereof has either paid a dividend in each such 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 four per cent of the average value at which the shares were carried in the capital stock account of the company during the year in which the dividend was paid or in which the company had earnings available for the payment of dividends, as the case may be;
  - (g) ordinary shares, preferred shares, bonds or debentures of a company incorporated in Trinidad and Tobago and approved by the Minister.
2. Mortgages and other titles for repayment of loans secured by—
- (a) real estate or leaseholds for a term of years or other estate or interest in real estate in Trinidad and Tobago where the amount of the loan together with the amount of indebtedness under any mortgage or other charge on the real estate or interest therein ranking equally with or superior to the loan does not exceed seventy-five per cent of the value of the real estate or interest therein, subject to the exception that a company—
    - (i) may upon the sale of real estate in which its funds are invested, accept a mortgage or other title for repayment on such real estate, as part payment and secured thereon for more than seventy-five per cent of the sale price of such real estate; or
    - (ii) may invest in a mortgage or other title for repayment on real estate where the amount of indebtedness under any mortgage or other charge on such real estate or interest therein ranking equally with or superior to the loan does not exceed ninety per cent of the value of the real estate as long as that portion of the indebtedness in excess of seventy-five per cent of the value of the real estate is guaranteed by the National Housing Authority or by a company registered under this Act to carry on that class of insurance business;

- (b) real estate or leaseholds in Trinidad and Tobago notwithstanding that the loan exceeded the amount which the company may otherwise invest in, if the excess is guaranteed or insured by the Government or through an agency of the Government of Trinidad and Tobago;
- (c) ground rents, mortgages or hypothecs on real estate or leaseholds in Trinidad and Tobago or in the country in which the head office of the company is situated, where the amount of the mortgage or hypothec together with the amount of indebtedness under any mortgage or hypothec on the real estate or leasehold ranking equally with or superior to the mortgage or hypothec which is invested in does not exceed three-quarters of the value of the real estate or leasehold covered thereby.

3. Real estate or leaseholds—

- (a) real estate or leaseholds in Trinidad and Tobago for the production of income either alone or jointly with any other company transacting insurance business in Trinidad and Tobago or with any other company incorporated in Trinidad and Tobago where—
    - (i) a lease of the real estate or leasehold is made to or guaranteed by the Government of Trinidad and Tobago or an agency of the Government or a municipality in Trinidad and Tobago and the lease provides for a net revenue sufficient to yield a reasonable interest return during the period of the lease and to repay at least eighty-five per cent of the amount invested in the real estate or leasehold within the period of the lease but not exceeding thirty years from the date of investment.
    - (ii) the real estate or leasehold has produced in each of the three years immediately preceding the date of investing therein net revenue in an amount which, if received in each year following the date of investment, would be sufficient to yield a reasonable interest return on the amount invested in the real estate or leasehold and to repay at least eighty-five per cent of that amount within the portion of the economic lifetime of the improvements to the real estate or leasehold which remain at the date of investment but not exceeding forty years from that date.
  - (b) real estate in Trinidad and Tobago required by the company for its actual use or occupation or reasonably required by it for the natural expansion of its business or acquired by it for the natural expansion of its business or acquire by foreclosure of a mortgage on real estate where the mortgage
-



is an investment under this Act, save that the total amount of investment in real estate either for the production of income or for the use and natural expansion of the business of the company shall not exceed—

- (i) in the case of a company carrying on long-term insurance business, twenty per cent of the total value of assets required to satisfy the statutory fund requirement; or
- (ii) in the case of a company carrying on general insurance business, such amount as may be approved by the Supervisor not exceeding the amount referred to in subparagraph (i).

(4) Cash balances deposited with—

- (a) any bank in Trinidad and Tobago;
- (b) any financial institution licensed under the Financial Institutions (Non-Banking) Act, 1979;
- (c) any building society which may from time to time be approved by the Minister.

5. The total accepted value of the statutory fund assets of any company invested in ordinary shares shall not at any time exceed forty per cent of the accepted value of the total of such assets in Trinidad and Tobago of the company.

6. The total accepted value of the real estate or leaseholds invested in accordance with this Schedule shall not exceed—

- (a) in respect of a company carrying on long-term insurance business twenty per cent of the total value or assets required to satisfy the statutory fund requirement for;
- (b) in respect of a company carrying on other than long-term insurance business such amount as may be approved by the Supervisor.

7. No single mortgage included as an asset in the statutory fund of a company may exceed ten per cent of the total assets of the company.

8. A company shall not invest in trust bonds, debentures or other evidence of indebtedness on which payment of principal or interest is in default.

9. A company shall not purchase more than thirty per cent of the ordinary shares of any corporation.

10. A company registered to carry on life insurance business shall not, in respect of that business, purchase the shares of a company, incorporated in Trinidad and Tobago and carrying on such business.

## THIRD SCHEDULE

(Section 12, Act)

## FORM A

## Absolute Assignment

Policy Number.....on the life of.....

Policy Owner (if not the above).....

Assignee (Name) .....

(Address) .....

In consideration of .....

the undersigned, hereby assigns and transfers all right, title, and interest  
in and to the above-mentioned policy, issued by..........  
unto the above-named assignee, his executors, administrators, successors  
and assigns including the right to surrender the same for the surrender  
value and to receive any dividends and other amounts payable thereunder,  
whose receipt or acquittance for all amounts payable shall be a full  
discharge of all claims thereunder.

Dated at.....this.....day of.....19..

Signed in the presence of

.....  
Witness.....  
Policy OwnerNOTE: Additional lines are provided for signature of persons with  
beneficial interests.

## FORM B

(Section 125(1))

**Assignment as Security**

Policy Number.....on the life of.....

Policy Owner (if not the above).....

Assignee: (Name) .....

(Address) .....

In consideration of .....  
the undersigned, hereby assigns and transfers as security all rights, title  
and interest in and to the above-mentioned policy issued by.....

.....  
unto the above-named assignee, his executors, administrators, successors  
and assigns whose receipt or acquittance for all the amounts payable  
under the said policy shall be a full discharge of all claims thereunder.

Dated at.....this.....day of.....19.....

Signed in the presence of:

.....  
*Witness*

.....  
*Policy Owner*

NOTE: Additional lines are provided for signature of persons with  
beneficial interests.

## FORM C

(Section 129)

**Memorandum of Discharge**

Policy Number.....Life Assured.....

Policy Owner (if not the above).....

In consideration of .....

all the rights, title and interest in and to the above-mentioned policy

assigned to the undersigned on.....

as security.....for securing.....

are hereby relinquished and the policy discharged.

Dated at.....this.....day of.....19.....

.....

*Witness*

.....

*Signature of Assignee***FOURTH SCHEDULE**

(Section 175(1))

**PART I****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) the whole of 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 a 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.

(Section 184)

## PART II—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 employer		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)			

\*May be omitted for an insured pension fund plan

## FORM B

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

Balance Sheet as at.....19.....for.....  
Pension Fund Plan.

Liabilities	\$	Assets	\$
Amount of fund as at		Mortgage	
		Stock Exchange Securities	
Pensions due but not yet paid		Other assets (to be specified)	
Other benefits (to be specified) due but not yet paid			

## DETAILS OF MORTGAGES

Name of borrower	Nature of security	Original amount of loan	Date	Method of repayment	Rate of interest	Amount outstanding on the valuation date	Date or outstanding period of repayment

## DETAILS OF STOCK EXCHANGE SECURITIES

Security	Date of redemption	Nominal amount	Rate of interest or dividend	Market value as at the valuation date	Book value	Value used in valuation

## PART III

## ACTUARIAL VALUATION

1. The first part of the report shall contain statistics as at the valuation date in respect of the following—

(a) Changes in the membership of the fund during the intervalation period as well as the membership of the fund on the valuation date as follows—

Age Group	Number of members at beginning of period	Number of new entrants	NUMBER OF CESSATIONS OF MEMBERSHIP				Number of members at the end of the period
			Transfer or on deferred pensions	Withdrawal	Death	Retirement	
Under 25 ... ..							
25-30 ... ..							
30-35 ... ..							
35-40 ... ..							
40-45 ... ..							
45-50 ... ..							
50-55 ... ..							
55-60 ... ..							
60-65 ... ..							
TOTAL ... ..							

(b) Changes in the number of pensioners of the fund during the intervaluation period as follows—

[illegible]



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 invested or not during each year in the inter-valuation 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.

Passed in the House of Representatives this 26th day of November, 1979.

**J. E. CARTER**

*Clerk of the House*

Passed in the Senate this 5th day of February, 1980.

**R. L. GRIFFITH**

*Clerk of the Senate*