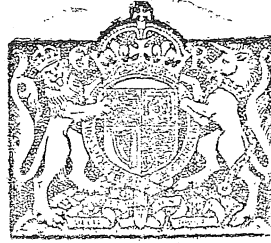


*Amended by Order 19/47.*

*Amended by Order 10/44*  
*" " " 31/44*  
*" " " 19/47.*



TRINIDAD AND TOBAGO.

Published as a Supplement to the Gazette Extraordinary,  
issued on the 29th day of March, 1943.

No. 11—1943.

[L.S.]

I ASSENT,

B. E. H. CLIFFORD,

*Governor.*

26th March, 1943.

AN ORDINANCE to regulate the carrying on of assurance or insurance business and for purposes incidental thereto.

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

[29th March, 1943.]

Commencement.

1. This Ordinance may be cited as the Assurance Companies Ordinance, 1943. Short title.

2. In this Ordinance—

Interpretation.

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

- “annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade, or employment, or of the dependants of such persons ;
- “chairman” means the person for the time being presiding over the board of directors or other governing body of an assurance company ;
- “Court” means the Supreme Court ;
- “financial year” means each period of twelve months at the end of which the balance of the accounts of an assurance company is struck or if no such balance is struck, then the calendar year ;
- “policy holder” means the person who for the time being is the legal holder of the policy for securing the contract with the assurance company ;
- “prescribed” means prescribed by rules made under this Ordinance.

*Companies to which Ordinance applies.*

Companies  
to which  
Ordinance  
applies.

3. (1) Save as hereinafter provided, this Ordinance shall apply to all persons or bodies of persons, whether corporate or unincorporate, not being registered under the Ordinances relating to friendly societies or to trade unions (which persons and bodies of persons are hereinafter referred to as “assurance companies”), whether established before or after the commencement of this Ordinance and whether established within or without the Colony, who carry on within the Colony assurance business of all or any of the following classes :—

- (a) life assurance business ; that is to say, the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life ;
- (b) fire insurance business ; that is to say, the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire ;

- (c) accident insurance business; that is to say, the issue of, or the undertaking of liability under, policies of insurance upon the happening of personal accidents, whether fatal or not, disease or sickness, or any class of personal accidents, disease, or sickness;
- (d) employer's liability insurance business; that is to say, the issue of, or the undertaking of liability under, policies insuring employers against liability to pay compensation or damages to workmen in their employment;
- (e) bond investment business; that is to say, the business of issuing bonds or endowment certificates by which the company in return for subscriptions payable at periodical intervals of less than six months contracts to pay the bond-holder a sum at some future date, and not being life assurance as hereinbefore defined, or sinking fund or capital redemption insurance business;
- (f) motor vehicle insurance business; that is to say, the business of effecting contracts of insurance against loss of, or damage to or arising out of or in connection with the use of, motor vehicles including third party risks;
- (g) aircraft insurance business; that is to say, the business of effecting contracts of insurance for the purpose of insuring owners or hirers of any aircraft against loss of, or damage to or arising out of or in connection with the use of, the aircraft, including third party risks;

subject as respects any class of assurance business to the special provisions of this Ordinance relating to business of that class.

(2) For the purposes of paragraph (g) of subsection (1), a person shall be deemed to be a hirer of an aircraft if, but only if, the aircraft has been demised, let or hired out to him for a period exceeding fourteen days by the owner of the aircraft, and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner.

Ch. 31. No. 1

(3) A company registered under the Companies Ordinance which transacts assurance business of any such class as aforesaid in any part of the world shall for the purposes of this provision be deemed to be a company transacting such business in the Colony.

(4)

*Deposits and Funds.*

Deposit.

4. (1) Every assurance company shall deposit and keep deposited with the Accountant General a deposit of the value of forty-eight thousand dollars: Provided that, in the case of assurance companies carrying on assurance business at the commencement of this Ordinance, the deposit aforesaid may be made within one month after such commencement.

(2) The deposit may be made by the subscribers of the memorandum of association of the company, or any of them, in the name of the proposed company, and, upon incorporation of the company, shall be deemed to have been made by, and to be part of the assets of, the company, and the Registrar General shall not issue a certificate of incorporation of the company until the deposit has been made.

(3) The deposit may be of cash, or of securities approved by the Accountant General (hereinafter referred to as "approved securities"), or partly of cash and partly of approved securities.

(4) When approved securities are so deposited—

- (a) the depositor shall, if so required by the Accountant General, take, at or before the time they are deposited, such steps as the Accountant General may require to vest the same in the Accountant General;
- (b) the value of the securities for the purposes of this section shall be their market value from time to time.

(5) So long as the total value of the deposit is at all times not less than forty-eight thousand dollars, the Accountant General may permit the substitution of other approved securities for those previously deposited, or the substitution of cash for approved securities or *vice versa*.

See Sec. 2 of  
Order 10/44.

(6) Whenever the value of the deposit of an assurance company falls below forty-eight thousand dollars, the Accountant General may, by notice under his hand, require the assurance company to make a further deposit of a value equal to the amount of the deficit and the assurance company shall comply with such notice within twenty-one days from the date of receipt thereof.

(7) Every deposit with the Accountant General under this section shall be deemed to form part of the assets of the assurance company in respect of which it is made and the interest or dividends accruing due on any approved securities (if any) forming part of the deposit shall be payable to the assurance company.

(8) Where an assurance company carries on, or intends to carry on, assurance business of more than one class, a separate deposit shall be made and kept deposited under this section as respects each class of business, and the deposit made in respect of any class of business in respect of which a separate assurance fund is required to be kept shall be deemed to form part of that fund, and all interest or dividends accruing due on any approved securities forming part of the deposit shall be carried by the assurance company to that fund.

5. (1) In the case of an assurance company transacting other business besides that of assurance or transacting more than one class of assurance business, a separate account shall be kept of all receipts in respect of the assurance business or of each class of assurance business, and the receipts in respect of the assurance business, or, in the case of a company carrying on more than one class of assurance business, of each class of business, shall be carried to and form a separate assurance fund with an appropriate name: Provided that nothing in this section shall require the investments of any such fund to be kept separate from the investments of any other fund. Separation of funds.

(2) A fund of any particular class shall be as absolutely the security of the policy holders of that class as though it belonged to a company carrying on no other business than assurance business of that class, and shall not be liable for any contracts of the company for which it would not have

been liable had the business of the company been only that of assurance of that class, and shall not be applied, directly or indirectly, for any purposes other than those of the class of business to which the fund is applicable.

*Accounts and documents.*

Accounts and  
balance  
sheets.

6. Every assurance company shall, at the expiration of each financial year of the company, prepare—

- (a) a revenue account for the year in the form or forms prescribed and applicable to the class or classes of assurance business carried on by the company ;
- (b) a profit and loss account in the prescribed form, except where the company carries on assurance business of one class only and no other business ;
- (c) a balance sheet in the prescribed form.

Actuarial  
report  
and abstract.

7. (1) Every assurance company shall, once in every five years, or at such shorter intervals as may be specified in the instrument constituting the company, or in its regulations or bylaws, cause an investigation to be made into its financial condition, including a valuation of its liabilities, by an actuary, and shall cause an abstract of the report of such actuary to be made in the form or forms prescribed and applicable to the class or classes of assurance business carried on by the company.

(2) The foregoing provisions of this section shall also apply whenever at any other time an investigation into the financial condition of an assurance company is made with a view to the distribution of profits, or the results of which are made public.

Statement of  
assurance  
business.

8. Every assurance company shall prepare a statement of its assurance business at the date to which the accounts of the company are made up for the purposes of any such investigation as aforesaid in the form or forms prescribed and applicable to the class or classes of assurance business carried on by the company: Provided that, if the investigation is made annually by any company, the company may prepare such a statement at any time, so that it be made at least once in every five years.

9. (1) Every account, balance sheet, abstract, or statement hereinbefore required to be made shall be <sup>or typewritten</sup> printed, <sup>Deposit of accounts, &c., with Registrar-General.</sup> and two copies thereof which shall be signed by the chairman and two directors of the company and by the principal officer of the company and, if the company has a managing director, by the managing director, shall be deposited at the office of the Registrar General within six months after the close of the period to which the account, balance sheet, abstract, or statement relates: Provided that, if in any case it is made to appear to the Registrar General that the circumstances are such that a longer period than six months should be allowed, the Registrar General may extend that period by such period not exceeding three months as he thinks fit.

*Amended by  
Sec. 2 of 19/47.*

(2) The Registrar General shall consider the accounts, balance sheets, abstracts, and statements so deposited, and, if any such account, balance sheet, abstract, or statement appears to the Registrar General to be inaccurate or incomplete in any respect, the Registrar General shall communicate with the company with a view to the correction of any such inaccuracies and the supply of deficiencies.

(3) There shall be deposited with every revenue account and balance sheet of a company any report on the affairs of the company submitted to the shareholders or policy holders of the company in respect of the financial year to which the account and balance sheet relate.

(4) Where an assurance company registered under the Companies Ordinance in any year deposits its accounts and balance sheet in accordance with the provisions of this section, it shall not be necessary for the company to send to the Registrar General the documents contemplated by subsection (3) of section 108 of the said Ordinance. Ch. 31. No. 1.

(5) Section 129 of the Companies Ordinance shall not apply to an assurance company to which the provisions of this Ordinance as to the accounts and balance sheet to be prepared annually and deposited by such a company apply, if the company complies with those provisions.

ended by  
c 2 of 19/47

Right of  
share-  
holders, &c.,  
to copies of  
accounts, &c.

10. A printed <sup>or typewritten</sup> copy of the last deposited accounts, balance sheet, abstract, or statement, shall on the application of any shareholder or policy holder of the company be forwarded to him by the company by post or otherwise.

Audit of  
Accounts.

Ch. 31. No. 1.

11. Where the accounts of an assurance company are not subject to audit in accordance with the provisions of the Companies Ordinance, relating to audit, the accounts of the company shall be audited annually in such manner as the Registrar General may direct, and the directions given for the purpose may apply to any such company the provisions of the Companies Ordinance, relating to audit, subject to such adaptations and modifications as may appear necessary or expedient.

List of share-  
holders.

12. Every assurance company shall keep a "Shareholders Address Book" in which the Secretary shall from time to time enter in alphabetical order the corporate names and places of business of the several shareholders of the company, being corporations, and the surnames of the several other shareholders with their respective christian names, places of abode and descriptions, so far as the same shall be known to the company. On the application of any shareholder or policy holder of the company, the company shall furnish to him a copy of such book, on payment of a sum of twelve cents for every hundred words required to be copied.

Deed of  
settlement.  
Ch. 31. No. 1.

13. Every assurance company which is not registered under the Companies Ordinance shall cause a sufficient number of copies of its deed of settlement or other instrument constituting the company to be printed, and shall, on the application of any shareholder or policy holder of the company, furnish to him a copy of such deed of settlement or other instrument on payment of a sum of twenty-four cents.

Publication of  
authorised,  
subscribed,  
and paid-up  
capital.

14. Where any notice, advertisement, or other official publication of an assurance company contains a statement of the amount 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 paid up.

*Amalgamation and Transfer.*

15. (1) Where it is intended to amalgamate two or more assurance companies, or to transfer the assurance business of any class from one assurance company to another company, the directors of any one or more of such companies may apply to the Court, by petition, to sanction the proposed arrangement. Amalgamation  
of transfer.

(2) The Court, after hearing the directors and other persons whom it considers entitled to be heard upon the petition, may sanction the arrangement if it is satisfied that no sufficient objection to the arrangement has been established.

(3) Before any such application is made to the Court—

- (a) notice of the intention to make the application shall be published in the *Royal Gazette*; and
- (b) a statement of the nature of the amalgamation or transfer, as the case may be, together with an abstract containing the material facts embodied in the agreement or deed under which the amalgamation or transfer is proposed to be effected, and copies of the actuarial or other reports upon which the agreement or deed is founded, including a report by an independent actuary, shall, unless the Court otherwise directs, be transmitted to each policy holder of each company through the post directed according to the registered address or other known address of the policy holder: Provided that it shall not be necessary to transmit such statement and other documents to policy holders other than life, endowment, sinking fund, or bond investment policy holders, nor in the case of a transfer to such policy holders if the business transferred is not life assurance or bond investment business; and

(c) the agreement or deed under which the amalgamation or transfer is effected shall be open for the inspection of the policy holders and shareholders at the offices of the companies for a period of fifteen days after the publication of the notice in the *Royal Gazette*.

(4) No assurance company shall amalgamate with another, or transfer its business to another, unless the amalgamation or transfer is sanctioned by the Court in accordance with this section.

Statements  
in case of  
amalgamation  
or transfer.

**16.** Where an amalgamation takes place between any assurance companies, or where any assurance business of one such company is transferred to another company, the combined company or the purchasing company, as the case may be, shall, within ten days from the date of the completion of the amalgamation or transfer, deposit with the Registrar General—

- (a) certified copies of statements of the assets and liabilities of the companies concerned in such amalgamation or transfer, together with a statement of the nature and terms of the amalgamation or transfer; and
- (b) a certified copy of the agreement or deed under which the amalgamation or transfer is effected; and
- (c) certified copies of the actuarial or other reports upon which that agreement or deed is founded; and
- (d) a declaration under the hand of the chairman of each company, and the principal officer of each company, that to the best of their belief every payment made or to be made to any person whatsoever on account of the amalgamation or transfer is therein fully set forth, and that no other payments beyond those set forth have been made or are to be made either in money, policies, bonds, valuable securities, or other property by or with the knowledge of any parties to the amalgamation or transfer.

*Winding up.*

17. The Court may order the winding up of an assurance company, in accordance with the Companies Ordinance, and the provisions of that Ordinance shall apply accordingly, subject, however, to the following modification —

Special provisions as to winding up of assurance Companies. Ch. 31. No. 1.

The company may be ordered to be wound up on the petition of ten or more policy holders: Provided that such a petition shall not be presented except by the leave of the Court, and leave shall not be granted until a *prima facie* case has been established to the satisfaction of the Court and until security for costs for such amount as the Court may think reasonable has been given.

18. (1) A petition for the winding up of an assurance company on the ground that it is unable to pay its debts within the meaning of sections 161 and 162 of the Companies Ordinance, may, with the leave of the Court, be presented by the Registrar General.

Powers and duties of Registrar-General. Ch. 31. No. 1.

(2) The Registrar General may, by notice in writing served upon an assurance company, require it to furnish to the Registrar General within such time as may be specified in the notice such explanations, information, accounts, balance sheets, abstracts, and statements, as he considers to be necessary for the purpose of determining whether the company is insolvent, or was insolvent at any date (not earlier than the close of the period to which the last deposited accounts and balance sheet of the company relate) specified in the notice, and may, by the notice, require any such explanations, information, accounts, balance sheets, abstracts, or statements to be signed by such number of the directors and by such officers of the company, and to be accompanied by such copies of documents, as may be specified in the notice, and to be certified as correct by an auditor approved by the Registrar General, or by an actuary so approved, or by both such an auditor and such an actuary.

(3) If after such a notice as aforesaid has been served upon an assurance company, either—

- (a) the company does not, before the expiration of the time limited by the notice, comply with all the requirements of the notice, other than such requirements, if any, as may have been withdrawn by the Registrar General; or
- (b) the Registrar General, after considering the material furnished pursuant to the said requirements, considers it to be expedient for the purpose aforesaid so to do;

the Registrar General may serve upon the company a notice in writing stating that he proposes to appoint one or more inspectors to investigate the affairs of the company and to report thereon in such manner as the Registrar General may require, and unless the company within a period of seven days from the date of the service of the notice upon it gives notice in writing to the Registrar General that it objects to such an appointment being made, the Registrar General may, after the expiration of that period, make such an appointment.

(4) If the company within the said period gives notice in writing to the Registrar General that it objects to such an appointment being made, the Registrar General may apply to the Court for leave to make such an appointment, and the Court shall grant leave unless it is satisfied by the company that such an appointment cannot reasonably be required for the purpose aforesaid, and on leave being granted the Registrar General may make such an appointment.

Ch. 31. No. 1. (5) Where an appointment is made under this section, the provisions of subsections (3), (4) and (5) of section 133 of the Companies Ordinance shall apply with respect to an inspector appointed under this section in like manner as they apply to an inspector appointed under that section, and any such refusal as is, or might be, made the ground of the punishment of an officer or agent of the company

under the said subsection (5) shall also be a ground upon which the company may, on the petition of the Registrar General presented by leave of the Court, be wound up by the Court in accordance with the provisions of the Companies Ordinance.

(6) The expenses of and incidental to an investigation carried out by an inspector appointed under this section shall be defrayed by the Registrar General: Provided that—

(a) where the Court grants leave to make an appointment, the Court may, if it thinks fit, direct the company to repay to the Registrar General the whole or any part of the said expenses; and

(b) if an order for the winding up of the company by the Court is made at any time within twelve months from the date on which the report of the inspector is made to the Registrar General, or, if more than one report is so made, from the date when the first report is so made, the said expenses shall be deemed, for the purposes of the Companies Ordinance, to be expenses properly incurred in the winding up and the amount thereof, after deducting any sum repaid to the Registrar General pursuant to a direction given by the Court under the foregoing paragraph, shall be paid out of the assets of the company *pari passu* with the taxed costs of the petition.

(7) All sums received by the Registrar General under this section shall be paid by him to the Accountant General and shall form part of the general revenues of the Colony. All expenses incurred by the Registrar General under this section shall be defrayed out of the public funds of the Colony.

(8) Rules made under section 277 of the Companies Ordinance may regulate the procedure and the practice to be followed in the case of proceedings under this section.

(9) In any proceedings upon a petition to wind up an assurance company presented under this section, evidence that the company was insolvent at the close of the period to which the last deposited accounts and balance sheet of the company relate, or at any date specified in a notice served under subsection (2) of this section, shall be evidence that the company continues to be unable to pay its debts, unless the contrary is proved.

(10) In this section—

“assurance company” means an assurance company which may be wound up by the Court under the provisions of the Companies Ordinance ;

“deposited accounts and balance sheet” means, in relation to any assurance company, the accounts and balance sheet prepared by the Company for the purposes of section 6 and deposited with the Registrar General under section 9 ;

“insolvent” means, in relation to an assurance company at any relevant date, that if proceedings had been taken for the winding up of the company the Court could, in accordance with the provisions of sections 161 and 162 of the Companies Ordinance, hold, or have held, that the company was at that date unable to pay its debts.

Winding up  
of subsidiary  
companies.

19. (1) Where the assurance business or any part of the assurance business of an assurance company has been transferred to another company under an arrangement in pursuance of which the first mentioned company (in this section called the subsidiary company) or the creditors thereof has or have claims against the company to which such transfer was made (in this section called the principal company), then, if the principal company is being wound up by or under the supervision of the Court, the Court shall (subject as hereinafter mentioned) order the subsidiary company to be wound up in conjunction with the principal company, and may by the same or any subsequent order appoint the same person to be liquidator for the two companies, and make provision for such other matters as may seem to the Court necessary, with a view to the companies being wound up as if they were one company.

(2) The commencement of the winding up of the principal company shall, save as otherwise ordered by the Court, be the commencement of the winding up of the subsidiary company.

(3) In adjusting the rights and liabilities of the members of the several companies between themselves, the Court shall have regard to the constitution of the companies, and to the arrangements entered into between the companies, in the same manner as the Court has regard to the rights and liabilities of different classes of contributories in the case of the winding up of a single company, or as near thereto as circumstances admit.

(4) Where any company alleged to be subsidiary is not in process of being wound up at the same time as the principal company to which it is subsidiary, the Court shall not direct the subsidiary company to be wound up unless, after hearing all objections (if any) that may be urged by or on behalf of the company against its being wound up, the Court is of opinion that the company is subsidiary to the principal company, and that the winding up of the company in conjunction with the principal company is just and equitable.

(5) An application may be made in relation to the winding up of any subsidiary company in conjunction with a principal company by any creditor of, or person interested in, the principal or subsidiary company.

(6) Where a company stands in the relation of a principal company to one company, and in the relation of a subsidiary company to some other company, or where there are several companies standing in the relation of subsidiary companies to one principal company, the Court may deal with any number of such companies together or in separate groups, as it thinks expedient, upon the principles laid down in this section.

20. (1) Where an assurance company is being wound up by the Court, or subject to the supervision of the Court, or voluntarily, the value of a policy of any class or of a liability under such a policy requiring to be valued in such winding up shall be estimated in the prescribed manner applicable to policies and liabilities of that class.

Valuation of annuities and policies.

Ch. 3. No. 1. (2) The rules in the Schedule hereto shall be of the same force, and may be repealed, altered, or amended, as if they were rules made under and for the purposes of the Judicature Ordinance, and rules may be made under that Ordinance for the purpose of carrying into effect the provisions of this Ordinance with respect to the winding up of assurance companies.

Power to Court to reduce contracts.

21. The Court, in the case of an assurance company which has been proved to be unable to pay its debts, may, if it thinks fit, reduce the amount of the contracts of the company upon such terms and subject to such conditions as the Court thinks just, in place of making a winding up order.

*Amended by Sec. 2 of Ord. 31/44.*

Extension of Part X of Ch. 31. No. 1. to all assurance companies established outside the Colony.

22. Part X of the Companies Ordinance shall apply to every assurance company constituted outside the Colony which carries on assurance business within the Colony whether incorporated or not.

*Further provisions as to accounts and documents.*

Inspection of documents.

23. Documents deposited with the Registrar General, or certified copies thereof in his custody, shall be open to inspection, and copies of such documents may be procured by any person on payment of a fee of twelve cents for every hundred words copied.

Evidence of documents.

24. (1) Every document deposited under this Ordinance with the Registrar General, and certified by or on behalf of the Registrar General to be a document so deposited, shall be deemed to be a document so deposited.

(2) Every document purporting to be certified by or on behalf of the Registrar General to be a copy of a document so deposited shall be deemed to be a copy of that document, and shall be received in evidence as if it were the original document unless some variation between it and the original document is proved.

Alteration of forms.

25. The Registrar General may, on the application or with the consent of an assurance company, alter the prescribed forms, as respects that company, for the purpose of adapting them to the circumstances of that company.

*Provisions as to offences and service of notices.*

26. Any assurance company which makes default in complying with any of the requirements of this Ordinance shall be liable to a fine of four hundred and eighty dollars, or, in the case of a continuing default, to a fine of two hundred and forty-eight dollars for every day during which the default continues, and every director, manager or secretary, or other officer or agent of the company who is knowingly a party to the default shall be liable to like fines; and, if default continues for a period of three months after notice of default by the Registrar General, the default shall be a ground on which the Court may order the winding up of the company, in accordance with the Companies Ordinance. Penalty for non-compliance with Ordinance. Ch. 31. No. 1.

27. If any account, balance sheet, abstract, statement, or other document required by this Ordinance is false in any particular to the knowledge of any person who signs it, that person shall be liable on conviction on indictment to imprisonment for two years, or on summary conviction to a fine of two hundred and forty dollars. Penalty for falsifying statements, &c.

28. All offences under this Ordinance made punishable by fine may be prosecuted, and such fine may be recovered, in the manner provided by the Summary Courts Ordinance Prosecution of offences punishable by fine. Ch. 3. No. 4.

29. Any notice which is by this Ordinance required to be sent to any policy holder may be addressed and sent to the person to whom notices respecting such policy are usually sent, and any notice so addressed and sent shall be deemed and taken to be notice to the holder of such policy: Provided that where any person claiming to be interested in a policy has given to the company notice in writing of his interest, any notice which is by this Ordinance required to be sent to policy holders shall also be sent to such person at the address specified by him in his notice. Service of notices.

*Application to special classes of business.*

30. Where a company carries on life assurance business, this Ordinance shall apply with respect to that business, subject to the following modifications-- Application to life assurance companies.

- (a) "policy on human life" shall mean any instrument by which the payment of money is assured on death (except death by accident only) or

- the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life ;
- (b) where the company grants annuities upon human life, "policy" shall include the instrument evidencing the contract to pay such an annuity, and "policy holder" includes annuitant ;
- (c) where the company intends to amalgamate with or to transfer its life assurance business to another assurance company, the Court shall not sanction the amalgamation or transfer in any case in which it appears to the Court that the life policy holders representing one-tenth or more of the total amount assured in the company dissent from the amalgamation or transfer ;
- (d) nothing in this Ordinance providing that the life assurance fund shall not be liable for any contracts for which it would not have been liable had the business of the company been only that of life assurance shall affect the liability of that fund, in the case of a company established before the commencement of this Ordinance, for contracts entered into by the company before that commencement ;
- (e) in the case of a mutual company whose profits are allocated to members wholly or mainly by annual abatements of premium, the abstract of the report of the actuary on the financial condition of the company, prepared in accordance with section 7, may, notwithstanding anything in section 7, be made and returned at intervals not exceeding five years : Provided that, where such return is not made annually, it shall include particulars as to the rates of abatement of premiums applicable to different classes or series of assurances allowed in each year during the period which has elapsed since the previous return under section 7.

31. Where a company carries on fire insurance business, this Ordinance shall apply with respect to that business, subject to the following modifications—

Application  
to fire  
insurance  
companies.

- (a) it shall not be necessary for the company to prepare any statement of its fire insurance business in accordance with sections 7 and 8 ;
- (b) such of the provisions of this Ordinance as relate to deposits to be made under this Ordinance shall not apply where the company is an association of owners or occupiers of buildings or other property which satisfies the Registrar-General that it is carrying on, or is about to carry on, business wholly or mainly for the purpose of the mutual insurance of its members against damage by or incidental to fire caused to the houses or other property owned or occupied by them ;
- (c) it shall not be necessary to make a deposit in respect of fire insurance business where the company has made a deposit in respect of any other class of assurance business, and, where a company, having made a deposit in respect of fire insurance business, commences to carry on life assurance business or employers' liability insurance business, the company may transfer the deposit so made to the account of that other business, and after such transfer the deposit shall be treated as if it had been made in respect of such other business ;
- (d) so much of this Ordinance as requires an assurance company transacting other business besides assurance business, or more than one class of assurance business, to keep separate funds into which all receipts in respect of the assurance business or of each class of assurance business are to be paid shall not apply as respects fire insurance business ;
- (e) the provisions of this Ordinance with respect to the amalgamation of companies shall not apply where the only classes of assurance business carried on by both of the companies

are fire insurance business, or fire insurance business and accident insurance business, and the provisions of this Ordinance with respect to the transfer of assurance business from one company to another shall not apply to fire insurance business.

Application  
to accident  
insurance  
companies.

32. Where a company carries on accident insurance business, this Ordinance shall apply with respect to that business, subject to the following modifications:—

(a) in lieu of the provisions of sections 7 and 8, the following provisions shall be substituted—

“The company shall annually prepare a statement of its accident insurance business in the form prescribed for use under section 7 and applicable to accident insurance business, and the statement shall be printed, signed, and deposited at the Registrar-General's office in accordance with section 9.”;

(b) it shall not be necessary to make or keep a deposit in respect of accident insurance business where the company has made a deposit in respect of any other class of assurance business, and, where a company, having made a deposit in respect of accident insurance business, commences to carry on life assurance business or employers' liability insurance business, the company may transfer the deposit so made to the account of that other business, and after such transfer the deposit shall be treated as if it had been made in respect of such other business;

(c) so much of this Ordinance as requires an assurance company transacting other business besides assurance business, or more than one class of assurance business, to keep separate funds into which all receipts in respect of the assurance business or of each class of assurance business are to be paid shall not apply as respects accident insurance business;

Amended by Sec. 2 of  
19/47.

- (d) the provisions of this Ordinance with respect to the amalgamation of companies shall not apply where the only classes of assurance business carried on by both of the companies are accident insurance business, or accident insurance business and fire insurance business, and the provisions of this Ordinance with respect to the transfer of assurance business from one company to another shall not apply to accident insurance business ;
- (e) the expression " policy " includes any policy under which there is for the time being an existing liability already accrued, or under which a liability may accrue ;
- (f) where a sum is due, or a weekly or other periodical payment is payable, under any policy, the expression " policy holder " includes the person to whom the sum is due or the weekly or other periodical payment is payable.

**33.** Where a company carries on employers' liability insurance business, this Ordinance shall apply with respect to that business, subject to the following modifications :—

Application  
to employers'  
liability  
insurance  
companies.

- (a) this Ordinance shall not apply where the company is an association of employers which satisfies the Registrar General that it is carrying on, or is about to carry on, business wholly or mainly for the purpose of the mutual insurance of its members against liability to pay compensation or damages to workmen employed by them, either alone or in conjunction with insurance against any other risk incident to their trade or industry ;
- (b) this Ordinance shall not apply where the company carries on the employers' liability insurance business as incidental only to the business of marine insurance by issuing marine policies; or policies in the form of marine policies, covering liability to pay compensation or damages to workmen as well as losses incident to marine adventure or adventure analogous thereto ;

- (c) in lieu of the provisions of sections 7 and 8 of this Ordinance, the following provisions shall be substituted—

“ The company shall annually prepare a statement of its employers' liability insurance business in the form prescribed for use under section 7 and applicable to employers' liability insurance business, and shall cause an investigation of its estimated liabilities to be made by an actuary so far as may be necessary to enable the provisions of that form to be complied with, and the statement shall be printed, signed, and deposited at the Registrar General's office in accordance with section 9.” ;

- (d) the expression “ policy ” includes any policy under which there is for the time being an existing liability already accrued, or under which any liability may accrue ;
- (e) where any sum is due, or a weekly payment is payable, under any policy, the expression “ policy holder ” includes the person to whom the sum is due or the weekly payment payable ;
- (f) if a company carries on employers' liability insurance business outside the Colony, that business shall not, save as otherwise directed by the Governor in Council, be treated as part of the employers' liability insurance business carried on by the company for the purposes of this Ordinance.

Application  
to bond  
investment  
companies.

34. Where a company carries on bond investment business, this Ordinance shall apply with respect to that business, subject to the following modifications :—

- (a) the expression “ policy ” includes any bond, certificate, receipt, or other instrument evidencing the contract with the company, and the expression “ policy holder ” means the person who for the time being is the legal holder of such instrument ;

Amended by  
Sec 2 of 19/47.

only after the

- (b) the company shall not give the holder of any policy issued after the passing of this Ordinance any advantage dependent on lot or chance, but this provision shall not be construed as in anywise prejudicing any question as to the application to any such transaction, whether in respect of a policy issued before or after the commencement of this Ordinance, of the law relating to lotteries.

**35.** Where a company carries on motor vehicle insurance business, this Ordinance shall apply with respect to that business in the same way as it applies to accident insurance business: Provided that—

Application to motor vehicle insurance companies.

- (a) sections 7 and 8 and paragraphs (a) and (b) of section 32 shall not apply; and
- (b) notwithstanding anything in this Ordinance relieving a company from making a deposit in respect of any class of insurance business where it has made a deposit in respect of any other class of assurance business, the total sum to be deposited under subsection (8) of section 4 shall in no case be less than ninety-six thousand dollars.

**36.** Where a company carries on aircraft insurance business, this Ordinance shall apply with respect to that business in the same way as it applies to motor vehicle insurance business: Provided that if a company carries on both aircraft insurance business and motor vehicle insurance business, subsection (8) of section 4 and paragraph (b) of the proviso to section 35 shall have effect in relation to the company as if its aircraft insurance business was part of its motor vehicle insurance business.

Application to aircraft insurance business.

*Companies carrying on business outside the Colony.*

**37.** (1) Where an assurance company is carrying on any class or classes of assurance business in the Colony at the commencement of this Ordinance, or thereafter seeks to

Companies carrying on business in the United Kingdom.

carry on any class or classes of assurance business in the Colony, and the Governor in Council is satisfied as regards that company—

(a) that the company carries on the same class or classes of assurance business in the United Kingdom, and

9 Edw. 7,  
c. 49.

*Replaced by  
Sec. 3(a) of 19/47.*

(b) that the company has complied in relation thereto with the provisions of the Assurance Companies Act, 1909, or any Act amending or replacing the same with respect to deposits and guarantees by assurance companies,

the Governor in Council may, by order published in the *Royal Gazette*, declare that the provisions of this section shall apply in relation to that company.

(2) An order made under this section shall remain in force so long only as all the circumstances mentioned in paragraphs (a) and (b) of subsection (1) continue to apply to the company.

*See Sec. 3 of 10/44.  
(which is repealed by  
Sec. 3 of Order 31/44)*

2. A. . . . .

(3) So long as an order under this section is in force in respect of any company—

*Repealed & replaced  
by Sec. 4 of Order  
31/44.*

(a) nothing in sections 4, 5, 6, 7, 8, 9, 11, 15 and 16 shall apply to the company;

(b) the company shall deposit with the Registrar General, in the manner prescribed in section 9, copies of every account, balance sheet, abstract, statement or other document which the company is required by the Assurance Companies Act, 1909, or any Act amending or replacing the same, to deposit at the Board of Trade.

*... laws of the United Kingdom for time  
to time in force, ...  
Amended by Sec 3(b) of 19/47.*

*See Sec. 5 of Order 31/44 (4)*

Companies  
carrying on  
business  
elsewhere in  
the dominions.

38. (1) Where an assurance company is carrying on any class or classes of assurance business in the Colony at the commencement of this Ordinance, or thereafter seeks to carry on any class or classes of assurance business in the Colony, and the Governor in Council is satisfied as regards that company—

(a) that the company does not carry on assurance business of that class or classes in the United Kingdom but carries on assurance business in a

British Dominion, or in British India, or in any other territory in His Majesty's dominions outside the United Kingdom and the Colony, and

- (b) that law of the territory in which the company carries on assurance business controls such business,

the Governor in Council may, by order published in the *Royal Gazette*, declare that the provisions of this Ordinance shall apply to that company with such modifications, and subject to such exemptions, as may be specified in the order.

(2) An order under this section may be cancelled or varied by a subsequent order, which shall be published in the *Royal Gazette*.

39. A company applying for an order under sections 37 or 38 shall furnish at the time of its application, or within such further period as the Governor in Council may prescribe, such evidence as the Governor in Council may require of the facts alleged in the application or of any other facts which the Governor in Council may consider to be relevant to the application.

Provisions as to applications under sections 37 or 38.

Amended  
by Sec. 4 of  
Order 10/44.

40. This Ordinance shall not apply to any assurance company to which sections 37 or 38 refer until the expiration of one month from the commencement of this Ordinance, or, if application has meanwhile been made under sections 37 or 38, until the determination of such application.

Application of this Ordinance to assurance companies referred to in ss. 37 or 38.

#### Rules.

41. (1) The Governor in Council may make rules to carry this Ordinance into effect and, in particular and without prejudice to the generality of this power, rules under this section may be made—

Rules.

- (a) to prescribe all such things as are authorised to be prescribed by this Ordinance; and

- (b) to prescribe the circumstances in which deposits made under section 4 may be transferred or withdrawn and to regulate the making and management of deposits under that section; and
- (c) subject to this Ordinance, to prescribe fees to be taken for things done under this Ordinance.

Ch. 28, No. 1

(2) This section shall not operate to prevent the taking of any fees provided for by the Registrar General Ordinance: Provided that rules made under this section and expressly providing for any fees to be taken shall prevail over the provisions of the Registrar General Ordinance.

(3) For the avoidance of doubt it is hereby declared that rules under this section may, as regards any matter in respect of which such rules may be made, provide for the application in this Colony, with or without modification and otherwise *mutatis mutandis*, of any law from time to time in force in the United Kingdom relating to that matter.

See Sec. 6 of  
Order 31/44.

(4)

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 THE SCHEDULE.
 

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(Section 20).

Where an assurance company is being wound up by the court or subject to the supervision of the court, the liquidator, in the case of all persons appearing by the books of the company to be entitled to or interested in policies granted by such company, is to ascertain the value of the liability of the company to each such person, and give notice of such value to such persons in such manner as the court may direct, and any person to whom notice is so given shall be bound by the value so ascertained unless he gives notice of his intention to dispute such value in manner and within a time to be prescribed by a rule or order of the court.

Passed in Council this nineteenth day of March, in the year of Our Lord one thousand nine hundred and forty-three.

W. J. BOOS,

Clerk of the Council.

1943

TRINIDAD AND TOBAGO.  
PRINTED AND PUBLISHED BY A. L. RHODES, M.B.E.,  
GOVERNMENT PRINTER.

[Price 24c.]