
5th Session First Parliament Trinidad and Tobago
15 Elizabeth II



TRINIDAD AND TOBAGO

Act No. 24 of 1966

[L.S.]

AN ACT to provide for the regulation of insurance business and for other purposes related to or connected with insurance business and for the regulation of privately administered pension fund plans.

[Assented to 5th October, 1966]

BE IT ENACTED by the Queen's Most Excellent Majesty, Enactment by and with the advice and consent of the Senate and House of Representatives of Trinidad and Tobago, and by the authority of the same as follows:—

1. (1) This Act may be cited as the Insurance Act, 1966. Short title

Commencement
and application

(2) This Act shall come into force on a day to be appointed by the Governor-General by Proclamation published in the *Gazette*, and the Governor-General may proclaim different dates on which different sections shall come into force.

First Schedule

(3) Subject to subsection (4), this Act applies to—

(a) all companies whether established within or outside Trinidad and Tobago, which carry on within Trinidad and Tobago insurance business of all or any of the classes specified in the First Schedule, and

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

Ch. 31. No. 1
First Schedule

(4) A body corporate incorporated under the Companies Ordinance which carries on insurance business of a class specified in the First Schedule in any part of the world other than Trinidad and Tobago shall for the purposes of this Act be deemed to be a company carrying on such business in Trinidad and Tobago.

(5) For the purposes of this Act the re-insurance of liabilities under insurance policies shall be treated as insurance business of the class and type to which the policies would have belonged if they had been issued by the re-insurer, and all the provisions of this Act shall apply to such re-insurance save that a company or an association of underwriters carrying on such re-insurance shall not be required to make in respect of such re-insurance any deposit as required by section 22 or 157.

(6) This Act does not apply to any organisation which is registered under the enactments relating to friendly societies or to trade unions.

PRELIMINARY

Interpretation

2. (1) In this Act—

(a) "actuary" means a Fellow by examination of the Institute of Actuaries in England or the Faculty of Actuaries in Scotland or 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;

- (b) "adjuster" means any person who, for compensation, fee, commission or salary, investigates and negotiates settlement of claims arising under insurance contracts, solely on behalf of either the insurer or the insured;
- (c) "agent" means any individual, firm or company appointed by an insurer and not being an employee of such insurer, to solicit applications for insurance or negotiate insurance on its behalf, and if authorised to do so by the insurer, to effectuate and countersign insurance contracts;
- (d) "approved securities" means any security approved by the Minister;
- (e) "assets" does not include goodwill;
- (f) "assignment" in relation to a policy, does not include a surrender of the policy to the company liable under the policy;
- (g) "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;
- (h) "broker" means any individual, firm or company who for compensation as an independent contractor, in any manner solicits, negotiates, or procures insurance or the renewal or continuance thereof on behalf of insurers other than himself, and on behalf of a registered insurer or an agent;
- (i) "carrying on insurance business" includes the receipt of proposals for or 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 agent but does not include the collection or receipt in Trinidad and Tobago of renewal premiums under a policy issued outside Trinidad and Tobago to a person

- resident outside Trinidad and Tobago at the date of issue of the policy and who is temporarily resident in Trinidad and Tobago or the making of payments due under any such policy;
- (j) "company" means a body corporate which carries on or proposes to carry on insurance business in Trinidad and Tobago;
- (k) "Court" means the court of competent jurisdiction;
- (l) "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;
- (m) "foreign company" means any company which is incorporated outside Trinidad and Tobago;
- (n) "general insurance business" means insurance business of any class other than long-term insurance business;
- (o) "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 or are usually received by means of collectors, and includes—
- (i) a policy that has at any time been such a policy; and
 - (ii) a paid up policy (not being a policy expressed to be an ordinary policy) granted in lieu of such a policy or of a policy referred to in paragraph (i);
- (p) "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 :—
- (i) business in relation to the benefits provided by a friendly society or trade union for its members or their dependants; or
 - (ii) business in relation to a scheme under which superannuation benefits, pension or payments to employees or their

dependants (and not to any other persons) 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;

- (g) "insurer" means a company registered to carry on insurance business in Trinidad and Tobago and includes an underwriter and an association of underwriters; but shall not include an insurance agent as such nor in the case of a person who is both insurer and insurance agent, have references to business done as insurance agent;
- (r) "long-term insurance business" includes insurance business of all or any of the following classes namely, life insurance business, non-cancellable sickness and accident insurance business, bond investment business, and in relation to any company, insurance business carried on by the company as incidental only to any such class of business;
- (s) "local company" means a company incorporated Ch. 31. No. 1 under the provisions of the Companies Ordinance;
- (t) "Minister" means the Minister to whom responsibility for the subject of finance has been assigned;
- (u) "mutual company" means a company whose capital is owned by the policy holders of that company;
- (v) "officer" includes the manager, secretary, treasurer, actuary or any other person designated as an officer of a company by the articles of association, byelaws or other rules regulating its operation;
- (w) "paid-up-policy" means a policy where no future premiums are required;
- (x) "policy" means any written contract of insurance whether contained in one or more documents;
- (y) "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;

(3) The Minister shall as soon as possible after the receipt, cause a copy of the report of the Supervisor under this section, together with the printed copies or summaries referred to in paragraph (b) of subsection (1), to be laid before Parliament.

Supervisor may act as arbitrator

7. (1) Where, in relation to a policy, any dispute or difference arises between a company and a policy-holder, the Supervisor may act as arbitrator of the dispute or difference.

Ch. 7. No. 1

(2) An arbitration under this section shall be conducted in accordance with the Arbitration Ordinance.

Registers to be maintained by the Supervisor

8. The Supervisor shall maintain separate registers of—

- (a) companies registered to do the various classes of insurance business in Trinidad and Tobago;
- (b) privately administered pension fund plans;
- (c) associations of underwriters, and such other registers as may be required to be maintained under the Act for the regulations.

PART II

REGISTRATION

Companies to which this part does not apply

Companies not to carry on insurance business unless registered

9. This Part shall not relate to privately administered pension fund plans, or to associations of underwriters.

10. (1) Subject to this Act, no person shall carry on insurance business in Trinidad and Tobago unless that person is a company as defined in the Companies Ordinance or is a company incorporated outside Trinidad and Tobago which has an established place of business in Trinidad and Tobago.

(2) A company defined in subsection (1) shall not carry on insurance business of any of the classes listed in the First Schedule as insurer unless it is registered by the Supervisor under this Act in respect of that class of business and has made the deposit required by section 22 in respect of it.

(3) Subsection (2) shall not apply to a company carrying on insurance business in Trinidad and Tobago immediately prior to the commencement of this Act so as to require that company to make a deposit before the end of three months from the commencement of this Act or so as to require registration, subject to section 13, before the end of six months from that commencement.

(4) A company carrying on insurance business in Trinidad and Tobago immediately prior to the commencement of this Act shall not, at any time after the expiration of six months from the commencement of this Act carry on any class of insurance business in Trinidad and Tobago unless it has been registered by the Supervisor to carry on such insurance business.

(5) Any person who contravenes this section is guilty of an offence and is liable on summary conviction to a fine of ten thousand dollars or imprisonment for two years or to both such fine and such imprisonment and in the case of a continuing offence to a further penalty of one thousand dollars for each day on which the offence is continued after conviction thereof.

11. (1) No local company may be registered to carry on long-term insurance business unless it has a minimum paid-up share capital of \$250,000, such capital to be fully paid-up in cash, or if it is a mutual company, it has uncommitted reserves of at least \$250,000. Share capital and deposit necessary for registration

(2) No foreign company may be registered to carry on long-term insurance business unless it has deposited with the Supervisor on behalf of the Minister, the deposits required under section 22.

(3) No company may be registered to carry on any other class of insurance business unless—

(a) it has a minimum paid-up share capital of \$120,000 such capital to be fully paid-up in cash, or if it is a mutual company it has uncommitted reserves of at least \$120,000, and

(b) it has deposited with the Supervisor on behalf of the Minister, the deposits required under section 22.

12. (1) Any company may make application to the Supervisor for registration under this Act. Application for registration

(2) The application shall be in writing, shall be signed by a Director or by the principal representative of the 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 the name and address of the principal representative (if any) of the company;

- (c) the name of the actuary (if any) of the company;
 - (d) the countries (if any) outside Trinidad and Tobago in which the company carries on insurance business;
 - (e) the classes of insurance business undertaken or to be undertaken by the company.
- (3) The application shall be accompanied by—
- (a) a copy of the instruments constituting the company or 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 forms prescribed and a copy of the latest actuarial valuation report upon the financial position of the company;
 - (e) in the case of a company having shareholders, a statement showing the nominal, subscribed and paid up capital of the company and the amount of the capital which has been paid up in cash;
 - (f) in the case of long-term insurance business, a copy of the premium rate book in use, or to be used by the company in Trinidad and Tobago;
 - (g) specimens of the various standard forms of proposals and policies to be issued in Trinidad and Tobago,

certified by a director or the principal representative of the company to be true and correct.

Application for registration by companies carrying on insurance business prior to the commencement of this Act

13. Every company carrying on insurance business in Trinidad and Tobago immediately prior to the commencement of this Act shall, within three months of the commencement of this Act, make application in accordance with section 12 to the Supervisor for registration and, subject to this Act, the Supervisor shall, within three months after the receipt of the application, if satisfied that the application is in accordance with the provisions of this Act, register the company.

14. Subject to sections 16 and 17, a company shall be registered unless the Supervisor after appropriate enquiry is not satisfied on reasonable grounds—^{Refusal of application}

- (a) that the application is in accordance with the provisions of this Act;
- (b) that the company is registrable under section 11;
- (c) that the company is likely to be able to comply with such of the provisions of this Act as would be applicable to it;
- (d) in the case of a company which carries on, or proposes to carry on, some other form of business in addition to insurance business, that the carrying on of that other form of business is not contrary to the public interest.

15. A company shall not be registered in respect of any class of insurance business unless the Supervisor is satisfied that the company has made in respect of that class of business, the deposit required by this Act.^{Company to make deposit before registration}

16. A foreign company shall not be registered unless it has appointed some person resident in Trinidad and Tobago to be its principal representative in Trinidad and Tobago and has informed the Supervisor in writing of the name and address of that person.^{Registration of foreign company}

17. The Supervisor shall furnish to every company registered under this Act a certificate that the company has been so registered, and the certificate shall state the class of insurance for which it is registered and shall be *prima facie* evidence that the company specified in the certificate has been so registered.^{Certificate of registration}

18. If, subsequent to the registration of any company under this Act, any change takes place in the particulars specified in the application of the company for registration or in the particulars of the information or documents required to accompany the application, the company shall within thirty days of such change, notify the Supervisor in writing of the change.^{Notification of change in particulars specified in application}

19. (1) When a company ceases to carry on insurance business of a class in respect of which it is registered under this Act, the company shall immediately notify the Supervisor to this effect in writing, and, subject to subsection^{Cancellation of registration}

(4), the Supervisor shall thereupon cancel the registration of the company.

(2) Where a company has been registered under this Act and the Supervisor has reason to believe that the company has not carried on insurance business within a year of its registration or has not carried on insurance business 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) If a company on which a notice is served under subsection (2) does not, within the time specified in that subsection, satisfy the Supervisor that it is carrying on insurance business in Trinidad and Tobago, the Supervisor may cancel the registration of the company.

(4) So long as a company remains under any liability in respect of Trinidad and Tobago policies belonging to any class of insurance business, the Supervisor shall not cancel the company's registration in respect of that class unless he is satisfied that reasonable provision has been or will be made for that liability and that adequate arrangements will exist for payment in Trinidad and Tobago of premiums and claims on those policies.

(5) When the registration of a company is cancelled, the Supervisor shall—

(a) give notice of the cancellation to the company; and

(b) require the company to deliver to him within twenty-eight days, or such shorter period as he may specify, the certificate of registration furnished to the company under section 17.

(6) If the Supervisor refuses registration either generally or in respect of a particular class of insurance under section 14 or cancels the registration of a company under subsection (3), the Supervisor shall within fourteen days state in writing his reasons therefor.

Appeal

20. (1) Any company aggrieved by the decision of the Supervisor given under section 14 or section 19 may appeal therefrom in the manner prescribed in section 168.

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

DEPOSITS

21. (1) Where, at the commencement of this Act any amount or security is, in pursuance of the Assurance Companies Ordinance, held by the Comptroller of Accounts by way of deposit on account of a company carrying on insurance business, the Comptroller of Accounts shall forthwith pay the amount, or transfer the security, to the Supervisor. Prior deposits
under Ch. 31.
No. 19

(2) Any amount or security on account of a company which is paid or transferred to the Supervisor in compliance with subsection (1) shall, to the extent of the deposit required to be lodged by the company under this Act, be held by the Supervisor as, or as part of the deposit so required.

22. (1) A company may not be registered under section 11 to carry on, or carry on, any class of insurance business unless it has deposited with the Supervisor on behalf of the Minister the appropriate deposit prescribed in subsection (2). Amount and
form of
deposits

(2) Where—

- (a) a foreign company intends to carry on long-term insurance business, the deposit shall be \$250,000;
- (b) a company intends to carry on motor vehicle insurance business, the deposit shall be either \$250,000, or an amount equivalent to 40 per cent. of the premium income of the company with respect to Trinidad and Tobago motor insurance business during the financial year last preceding the date of deposit, whichever is the greater;
- (c) a company intends to carry on insurance business other than long-term or motor vehicle insurance business, the deposit shall be either \$100,000, or an amount equivalent to 40 per cent. of the premium income of the company with respect to Trinidad and Tobago insurance business other than long-term or motor vehicle insurance business during the financial year last preceding the date of deposit, whichever is the greater and such deposit shall enable the company to be registered under section 11 to carry on, and to carry on, any one or more classes of insurance business.

(3) At the end of each subsequent financial year a company having made a deposit as required by paragraph (b) or (c) of subsection (2) shall, where necessary, deposit or be refunded, as the case may be, an amount equal to the difference between the last preceding deposit and 40 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 less than \$250,000 with respect to motor vehicle insurance business or \$100,000 with respect to insurance business other than long-term or motor vehicle insurance business.

(4) Any deposit made under this section may be either in the form of cash or in the form of approved securities or partly in one and partly in the other.

Interest on
deposits

23. (1) All deposits made by a company in pursuance of this Act shall be deemed to form part of the assets of the company.

(2) All interest and dividends accruing due on any securities deposited in pursuance of this Act shall be paid to the company.

(3) A deposit made under section 22 in respect of any class of insurance business shall be retained by the Supervisor until either 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; and if the company ceases to be registered as aforesaid, the deposit or part of it may be further retained for the purpose of and in accordance with any such provision for liabilities in respect of policies as is required by subsection (4) of section 19.

(4) Upon making application for its deposit the company shall file with the Supervisor a list of all Trinidad and Tobago policy-holders whose risks have not been so provided for or who have not surrendered their policies; and it shall at the same time publish, and continue the publication at least once a week for twelve consecutive weeks, in the *Gazette* and in at least one newspaper published in Trinidad and Tobago, and approved by the Supervisor, a notice that it will apply to the Supervisor for the release of its deposits on a certain day not less than four months after the date of the publication of the first notice and calling upon its policy-holders opposing such release to file their opposition with the Supervisor on or before the day so named.

(5) After the day so named in the said notice, if the Supervisor is satisfied on reasonable grounds that the deposit of the company with him is substantially in excess of the requirements of this Act in respect of the continuing policy-holders, he may, with the concurrence of the Minister, from time to time release to the company such portion of the excess as he deems proper in the circumstances, and shall continue to hold the remainder of the deposit for the protection of the continuing policy-holders as is by this Act provided.

(6) Thereafter from time to time as such policies lapse or proof is adduced that they have been satisfied, further amounts may be released on the authority aforesaid.

(7) Notwithstanding this section, if the company is in liquidation the deposits made by the company may, on the order of any court having jurisdiction under this Act or the Companies Ordinance, be released by the Supervisor to the liquidator. Ch. 31. No. 1

(8) Where the registration of a company that has not commenced to carry on insurance business in Trinidad and Tobago is cancelled in pursuance of section 19, the Supervisor shall refund to the company any moneys, and deliver to the company any securities, deposited by the company in pursuance of section 22.

24. The Supervisor shall, on demand, by a company, furnish to the company a certificate in writing, setting out the nature and extent of any deposit held by the Supervisor under this Act in respect to that company together with the particulars of the securities (if any) forming the whole or part of the deposit. Certificate of deposit

25. (1) If the Supervisor is satisfied that by reason of depreciation in the value of securities or other cause the value of money and approved securities deposited by a company with him 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 deemed by him to be sufficient to bring the amount of the deposit to the value required by this Act. Increase of deposit where securities have depreciated

(2) A notice under this section shall not be issued until the Supervisor has given an opportunity to the company to be heard in connection with the matter.

(3) Any company which fails to deposit with the Supervisor money or approved securities or both as required by him under this section shall be guilty of an offence and the Supervisor may, if he deems it necessary in the interest of the policy-holders, cancel the registration of such company.

Responsibility
for lost
securities

26. If any moneys or securities held by the Supervisor as, or as part of, the deposit required to be made by a company under this Act, are, while so deposited, lost, stolen, destroyed or damaged, the injury occasioned to all persons interested in the moneys or securities shall be made good out of moneys to be appropriated by Parliament for the purpose.

Substitution of
deposits

27. A company may at any time substitute for any security or cash held by the Supervisor as, or as part of, the deposit required to be made by the company under this Act any approved security or cash, but so that the total amount then deposited is not less than the amount required by this Act and any security or cash so substituted shall be subject to the same charge or liability as the security or cash withdrawn.

Statutory Funds

Establishment of
Statutory funds

28. (1) Every company shall establish, as at the date on which it commences to carry on long-term insurance business or motor vehicle insurance business or as at the date of the commencement of its financial year next after the commencement of this Act whichever is the later, and shall maintain, a statutory fund as provided for in subsections (3) and (4) under an appropriate name in respect of each of the above classes of insurance business carried on by the company.

(2) For the purposes of subsection (1) a company carrying on more than one class of long-term insurance business shall be regarded as carrying on only one class of long-term insurance business.

(3) In the case of long-term insurance business, every company 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 revenue account of the company for the last preceding financial year.

(4) In the case of motor insurance business, every company shall place assets in trust in Trinidad and Tobago equal to its liabilities and reserves less the amount deposited on account and such business in pursuance of this Act, with respect to its Trinidad and Tobago policy-holders as established by the revenue account of the company for the last preceding financial year.

(5) A statutory fund of either class—

- (a) 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 insurance business of that class;
- (b) 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 insurance of that class; and
- (c) shall not be applied, directly or indirectly for any purpose other than those of the class of insurance business to which the fund is applicable.

29. (1) A trust mentioned in section 28 shall be created by trust deed the contents and the trustees of which shall be approved by the Supervisor prior to creation. Method of trusteeing

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

(3) For the purposes of this section the Supervisor may 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 such bank shall be deemed to be a trustee.

30. (1) The trustee may not deal with any assets placed in trust with him in pursuance of section 29 except on the instructions of the company so placing those assets or where this Act so requires. Duties of Trustee.

(2) The trustee may not deal with or release any assets held on trust by him in pursuance of section 29 without the prior general or specific approval of the Supervisor.

(3) Every trustee appointed of a trust created in pursuance of section 29 shall in the event of a contravention of the provisions of this section, be under the same liability as if the appropriate policy-holders had been beneficiaries of such trust.

Investment of statutory funds

31. The assets of a statutory fund shall not be invested except as provided by this Act.

Particulars of liabilities and assets with respect to fund

32. A company shall, within thirty days after the date of establishment of any statutory fund and thereafter within six months of the expiration of each financial year furnish to the Supervisor a statement in accordance with the prescribed form showing—

- (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;
- (b) particulars of the assets comprising the fund.

Inaccurate or misleading particulars

33. If it appears to the Supervisor that—

- (a) a statement furnished to him under section 32 is in any respect unsatisfactory, incomplete, inaccurate or misleading or otherwise fails to comply with the requirements of that section; or
- (b) the value of the assets, or of the assets included in a particular class of assets as shown by the statement is insufficient or excessive,

the Supervisor 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,

- (c) for the variation of the statement;
- (d) for an increase or decrease in the value of the assets respectively,

and the company shall within thirty days comply with any directions so given.

Company to furnish Supervisor with information

34. A company shall, if directed by the Supervisor within thirty days furnish him such information as he requires for the purpose of exercising his powers under sections 32 and 33.

Appeal against direction by Supervisor

35. (1) A company aggrieved by any direction of the Supervisor given under section 33 may appeal therefrom in the manner prescribed in section 168.

(2) On such appeal, the Judge in Chambers or the Court of Appeal as the case may be, may confirm, disallow or vary the direction.

36. The assets shown—

(a) by a statement furnished to the Supervisor by a company under section 32; or

(b) where directions are given by the Supervisor, or on appeal, by the Court, for the variation of the statement—by the statement so varied,

as being assets of any statutory fund, shall be deemed to form part of those assets, unless they more properly form part of the assets of some other statutory fund.

Assets in statement deemed to be assets of statutory fund

Investments and Prohibitions

37. (1) The securities in which a company may invest the assets of its statutory funds are set out in the Second Schedule.

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

38. (1) Subject to subsections (2) and (3), every company shall have invested in assets in Trinidad and Tobago an amount equal to at least sixty per cent. of the Trinidad and Tobago dollar liability in each statutory fund.

(2) Within one year of the commencement of this section every company shall have invested in assets in Trinidad and Tobago an amount equal to at least thirty-six per cent. of the Trinidad and Tobago dollar liability in each statutory fund.

(3) The Minister may, after the expiration of the year referred to in subsection (2), by notice published in the *Gazette*, determine the minimum ratio that, after the expiration of one year from the date of publication of the notice the assets in Trinidad and Tobago held by companies in a statutory fund shall bear to the Trinidad and Tobago dollar liability of that fund; but any such minimum ratio shall not exceed forty-two per cent. and any subsequent variation of such ratio shall not exceed six percentage points in any one period of a year reckoned from the date of publication of the notice determining the first minimum ratio.

(4) In the case of long-term insurance statutory funds, for the purpose of determining whether a company is in compliance with this section, policy loans shall be excluded from the assets and deducted from the liabilities of the company.

Investment requirements of statutory funds

Local assets ratio

Prohibitions

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

- (a) acquire or deal in its own shares or lend money or make advances on the security of its own shares;
- (b) lend any of its funds to a director or officer of the company or to the wife or a child of a director or officer except on the security of the company's own policies; nor shall a company lend any of its funds to a company if more than one-half of the shares of the company are owned by a director or officer of the company or the wife or a child of a director or officer, or by any combination of such persons;
- (c) grant unsecured credit facilities to any person, save for temporary cover in the case of general insurance where such cover does not exceed ninety days;
- (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) After the commencement of this Act a foreign company shall not directly or indirectly, grant unsecured credit facilities to any person in Trinidad and Tobago except in the case of general insurance, for temporary cover not exceeding ninety days.

Investments
in corporate
name only

40. (1) All investments and deposits of the funds of a local company shall be made in its corporate name, and no director or other officer thereof, and no member of a committee having any authority in the investment or disposition of its funds shall accept or be the beneficiary of, either directly or indirectly any fee, brokerage, commission, gift or other considerations for or on account of any loan, deposit, purchase, sale, payment or exchange made by or on behalf of the company, or be pecuniarily interested in any such purchase, sale or loan, either as borrower, principal, co-principal, agent or beneficiary, except that if he is a policy-holder he is entitled to all the benefits accruing under the terms of his contract.

(2) Where the laws of any state or country in which any local company transacts, or is about to transact, insurance business, require that the deposits made or to be made by such company in such state or country shall be made in the name of or transferred or assigned to, any person or company other than the company, this section does not prohibit such company from making in the name of, or transferring or assigning to, such other person or company, the investments and deposits necessary to comply with the said laws.

Accounts, Balance-Sheets and Audit

41. (1) A company shall keep separate accounts of its receipts and payments, including sums ascertained by apportionment under sections 42 and 43, in respect of each class of insurance business carried on by it. Separate accounts for each class of insurance business

(2) Notwithstanding subsection (2) of section 28, each class of long-term insurance business shall for the purposes of this section, be regarded as a separate class of insurance business.

42. Where a company carries on insurance business and other business and an amount received or paid by the company is not received or paid wholly in respect of the other business, the company shall, for the purposes of section 41, apportion the amount in an equitable manner between the insurance business and the other business. Apportionment of receipts and payments between insurance business and other business

43. Where a company carries 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 41, apportion the amount in an equitable manner between the several classes of insurance business to which the receipt or payment might be applicable. Apportionment of receipts and payments between various classes of insurance business

44. Where a company treats any asset as having appreciated or depreciated in value, the company shall, for the purposes of sections 41, 42, 43, 45 and 46 regard the amount of the appreciation or depreciation as a receipt or payment as the case may be. Appreciation and depreciation of assets

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

- (a) a revenue account for the year in respect of long-term insurance business carried on by the company;
- (b) a revenue account for the year in respect of any insurance business, other than long-term insurance business, carried on by the company;
- (c) where the company carries on more than one class of insurance business, a profit and loss account for the year; and
- (d) a balance sheet for the year.

(2) Any account or balance sheet prepared under sub-section (1) shall be in accordance with such forms as may be prescribed for the purpose.

Audit

46. The accounts of every company shall be audited annually by its auditors, and every account and balance sheet prepared by the company under this Part shall bear a certificate by the auditor as to whether, in their opinion—

- (a) the accounts and balance sheet are in accordance with the provisions of this Act;
- (b) the profit and loss account, where applicable under paragraph (c) of subsection (1) of section 45 gives a true and fair view of the profit and loss of the company for the period to which it relates;
- (c) the balance sheet gives a true and fair view of the state of affairs of the company as at the end of the period to which it relates; and
- (d) the books of the company have been properly kept and record correctly the affairs and transactions of the company.

Certificate as to apportionment

47. If an apportionment has been made under sections 42 and 43, the certificate of the auditors under section 40, shall state whether they are satisfied that the apportionment has been made in an equitable manner.

Auditors

48. (1) No person may act as auditor to a company for the purposes of this Act unless he possesses such qualifications as are approved by the Supervisor.

(2) The Supervisor may at any time on reasonable grounds revoke any approval given in respect of any person under this section, and thereupon that person

shall not be capable of performing the functions of an auditor under this Act.

(3) In the event of any approval under this section being revoked in the case of a person who holds appointment as an auditor of a company, the directors of the company may, subject to this section, appoint some other person to perform in respect of the company the functions of an auditor until such time as an auditor is appointed in accordance with the articles of association or other rules of the company.

(4) A person aggrieved—

(a) by the refusal of the Supervisor to approve any person to act as an auditor for the purposes of this Act; or

(b) by the revocation of an approval as an auditor given under this section,

may appeal therefrom in the manner prescribed in section 168.

(5) On such appeal, the Judge in Chambers or the Court of Appeal, as the case may be, may confirm or disallow the refusal or revocation.

Documents to be furnished to the Supervisor

49. A company shall, at the expiration of each financial year, prepare, separately, returns in respect of each class and type of long-term insurance business carried on by the company in accordance with such forms as may be prescribed for the purpose.

Returns of policies

50. (1) Every account, balance sheet, abstract, statement and return which a company is required by sections 45, 49, 147 and 152 to prepare shall be printed and shall be signed by a director and the Secretary.

Accounts, balance sheets, &c., to be signed and deposited

(2) Each account, balance sheet, abstract, statement or return, signed as required by this section, and at least five printed copies of each of these documents, shall be lodged with the Supervisor—

(a) in the case of accounts, balance sheets or returns required to be prepared under sections 45, 49, or 147—within six months after the expiration of the financial year in respect of which they are prepared; and

(b) in the case of the abstract and statement required to be prepared under sections 88 and 148—

within nine months after the date as at which the investigation was made,
or within such extended period, not exceeding three months, as the Supervisor may allow.

(3) If it appears to the Supervisor that any account, balance sheet, abstract, statement or return lodged with him by a company in accordance with the provisions of this section is, in any particular, unsatisfactory, incomplete, incorrect or misleading, or that it does not comply with the requirements of this Act, the Supervisor may, by notice in writing served upon the company, require such explanations as he considers necessary to be made by or on behalf of the company within such time, not less than thirty days, as is specified in the notice, and may, after considering any such explanations or if the explanations required have not been given by the company within the time so specified, reject the account, balance sheet, abstract, statement or return and give such directions as he thinks necessary for the variation of any of them within such time, not less than thirty days, as he specifies, and of any other account, balance sheet, abstract, statement or return affected by the variation, and the company shall comply with any directions so given.

(4) A company aggrieved by any rejection of an account, balance sheet, abstract, statement or return, or by any direction given by the Supervisor, under subsection (3) may appeal therefrom in the manner prescribed in section 168.

(5) On any such appeal the Judge in Chambers or the Court of Appeal as the case may be, may—

- (a) confirm or disallow the rejection or direction; or
- (b) vary the direction.

(6) Every account and balance sheet lodged with the Supervisor by a company in accordance with the requirements of this section and section 49 shall be accompanied by a copy of any report on the business of the company submitted to the shareholders or policy-holders of the company in respect of the financial year to which the account or balance sheet relates.

Copies to be
furnished

51. A printed copy of the latest account or balance sheet, lodged with the Supervisor by a company in accordance with the requirements of sections 49 and 50 shall, on the

application of any shareholder of the company, be forwarded to him by the company.

Investigations by the Supervisor

52. (1) The Supervisor may demand from any local company information relating to any matter in connection with its insurance business. Supervisor
may demand
information

(2) The Supervisor may demand from any foreign company information relating to any matter in connection with the insurance business carried on by it in Trinidad and Tobago.

53. (1) If it appears to the Supervisor that—

- Power to
make
investigations
- (a) a company is, or is likely to become, unable to meet its obligations;
 - (b) a valuation balance sheet annexed to an abstract prepared in pursuance of Part IV shows that the assets in respect of the class of insurance business to which a statutory fund relates, or in respect of a part of that business, is less than the amount of the liabilities of the company in respect of that business or that part of that business, as the case requires;
 - (c) a company has failed to comply with any provisions of this Act;
 - (d) a company has not, within a period of one month as from a date upon which the Supervisor demanded from it in writing any information which the Supervisor was entitled under this Act to demand from it, furnished that information duly and satisfactorily;
 - (e) the rate of expense of procuring, maintaining and administering any class of insurance business of a company in relation to the income derived from premiums is unduly high;
 - (f) the method of apportionment of income or expenditure of a company among any classes of insurance business or between any class of insurance business and any other business is inequitable; or
 - (g) any information in the possession of the Supervisor calls for an investigation into the whole or any part of any class of the insurance business of the company,

the Supervisor may serve on the company a notice in writing calling upon it to show cause, within such period, not less than thirty days from the date of the notice, as is specified in the notice, why he should not, on the grounds so specified investigate the whole or any part of the business of the company or appoint a person (in this Part referred to as "the Inspector") to make such an investigation and report to the Supervisor the results of his investigation.

(2) If the company fails, within the period specified in the notice, to show cause to the satisfaction of the Supervisor, the Supervisor may make the investigation or may cause it to be made by the Inspector.

Power to
obtain
information

54. (1) In making an investigation under this Part the Supervisor or the Inspector—

- (a) may require the company to produce any securities, books, accounts, documents or statistics of the company for his inspection and to allow him to make such extracts from them as he deems fit;
- (b) may examine on oath or affirmation in relation to the company's business, any person who is, or has at any time been, a director, auditor, officer, agent, servant or shareholder of the company or the holder of a policy issued by the company or the personal representative of the holder; and
- (c) for the purpose of paragraph (b) may administer oaths or take affirmations.

(2) A person specified in paragraph (b) of subsection (1) shall produce to the Supervisor or the Inspector at his request any securities, books, accounts, documents or statistics of the company which are available to him and shall give to the Supervisor or the Inspector, at his request, any information in his possession relating to the business of the company.

(3) A person so specified shall not refuse to be sworn or to make an affirmation or to give information on his examination on oath or affirmation, and shall not, in reply to a request made under subsection (2), give any false information.

Divulging of
information

55. (1) A person shall not either directly or indirectly, except in the performance of any duty under this Act,

make a record of, or divulge or communicate to any person, any information acquired by him under this Part.

(2) A person performing any duty under this Part shall take an oath or make a declaration, in the manner and form prescribed, to maintain secrecy in conformity with the provisions of this section.

(3) Any person who contravenes any of the provisions of this section is guilty of an offence and is liable on summary conviction to a fine of one thousand dollars or imprisonment for twelve months or to both such fine and imprisonment.

56. (1) After an investigation under this Part in respect of any company has been completed— Action after completion of investigation

(a) the Supervisor shall transmit to the company a summary of the conclusions arrived at by him as a result of the investigation; and

(b) the Supervisor may, without affecting any powers conferred by this Part issue such directions in writing to the company, as to the conduct of the company's affairs, the disposition or recovery of assets of the company or the taking of any available steps for the recovery by the company of sums appearing to the Supervisor to have been illegally or improperly paid as he considers appropriate having regard to his conclusions from the investigations, and in particular no further policies belonging to the particular class of insurance are to be issued by the company, other than paid-up policies as required by the Act, but in the case of a company incorporated outside Trinidad and Tobago the direction shall not apply to the issue of the policies in the course of its business outside Trinidad and Tobago.

(2) No direction issued to a company under this section shall remain in force for more than twelve months, but nothing in this subsection shall prevent the Supervisor from issuing any further direction to the company.

(3) A company aggrieved by any direction issued under this section may appeal therefrom in the manner prescribed in section 168.

(4) On any such appeal, the Judge in Chambers or the Court of Appeal as the case may be may—

- (a) confirm or disallow the direction; or
- (b) vary the direction.

Judicial Management and Winding-up

Winding-up
Ch. 31. No. 1

57. (1) The Court may order the winding-up, in accordance with the Companies Ordinance, of a company and the provisions of that Ordinance shall apply accordingly, subject to the provisions of this section and sections 58 to 72 and to the modification that the company may be ordered to be wound up 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 on the petition of the Supervisor, but such a petition shall not be presented except by 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.

(2) 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 as he may from time to time require about the affairs of the company.

(3) References in this section to a company shall extend also to a company which has ceased to be registered but remains under any liability in respect of Trinidad and Tobago policies.

Application
for judicial
management

58. (1) If the Supervisor, by reason of the conclusions arrived at by him as a result of an investigation under section 53 in respect of any company is of the opinion that it is necessary or proper so to do, he may apply to the Court for an order that the company or any part of the business of the company be placed under judicial management.

(2) A company may, in respect of itself, after giving the Supervisor one month's notice in writing of its intention so to do, apply to the Court for any order specified in subsection (1).

(3) Both the company and the Supervisor shall be entitled to be heard on any application made to the Court 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 leave of the Court first obtained or unless the Court otherwise directs.

59. (1) A company, being a company which carries on general insurance business, shall be deemed for the purposes of the Companies Ordinance to be unable to pay its debts if the value of its assets does not exceed the amount of its liabilities by whichever is the greater of the following amounts namely—

Margin of solvency for general business

- (a) two hundred and forty thousand dollars; or
- (b) one-tenth of the general premium income of the company in its last preceding financial year;

and the provisions of this Act relating to winding-up shall have effect accordingly.

(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 not liabilities in respect of share capital; and
- (b) the general premium income of a company in any year shall be taken to be the net amount, after deduction of any premiums paid by the company for reinsurance of the premiums received by the company in that year in respect of all insurance business other than long-term insurance business.

60. (1) An order for the judicial management of a company or of part of the business of a company made after the hearing of an application under section 58 shall be subject to the provisions of this section and of sections 61 to 66.

Judicial management.

(2) The Court shall appoint a judicial manager who shall receive such remuneration as the Court directs, and the Court may at any time cancel the appointment and appoint some other person as judicial manager.

(3) The Court may direct how and by whom the remuneration, charges and expenses of the judicial manager shall be borne, and may, if it thinks fit, charge that remuneration and those charges and expenses on the property of the company in such order of priority in relation to any existing charges in that property as it thinks fit.

(4) The management of the company, or of such part of the business of the company as the order of the Court directs shall, as on and after a date specified in the order, vest in the judicial manager appointed by the Court, but, except with the leave of the Court, the judicial manager shall not issue any further policies, other than paid-up policies as required by this Act.

(5) As on and after the date so specified, any person vested with any such management immediately prior to that date shall be divested of that management.

(6) The Court shall issue such directions to the judicial manager as to his powers and duties as it deems desirable in the circumstances of the case.

(7) The judicial manager 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 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 requires from time to time, and shall report to the Supervisor whenever he intends to apply to the Court for instructions and shall, at the same time, furnish to the Supervisor particulars of the application.

(9) The Supervisor shall be entitled to be heard on any such application, and may himself make application to the Court with reference to the conduct of the judicial management.

Cancellation
of judicial
management
order

61. If at any time, on the application of the judicial manager or of any person interested, it appears to the Court that the purpose of the order of the judicial management of the company or of part of the business of the company has been fulfilled, or that for any reason it is

undesirable that the order should remain in force, the Court may cancel the order and thereupon the judicial manager shall be divested of the management which shall again vest in the board of directors or other governing body of the company.

62. (1) The judicial manager shall conduct the management with the greatest economy compatible with efficiency, and shall, as soon as possible, 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 attach 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;
- (d) the dealing with part of the business of the company in one way, and with part of that business in another way; or
- (e) such other course as he deems advisable.

(2) The judicial manager shall forthwith after filing the report furnish a copy of the report to the Supervisor and make an application in writing to the Court for an order to give effect to the course stated in the report.

(3) The report or a copy of the report 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 place as the Supervisor determines.

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

Indemnity

Decision of
Court on report
of judicial
manager

64. (1) The Court shall on the hearing of an application made under subsection (2) of section 62—

(a) after hearing the Supervisor, the judicial manager and any other person who in the opinion of the Court is entitled 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

65. 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

66. The Court may, either of its own motion or on the application of the judicial manager, at any time while an order under section 60 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.

Procedure on
winding-up

67. (1) An order of the Court for the winding-up of a company made after the hearing of an application under section 57 or 58 or made in pursuance of section 64, shall be subject to the provisions of this section and of sections 68 to 71.

(2) The company shall be wound up by the Court which shall appoint a liquidator, who shall receive such remuneration as the Court directs, and the Court may at any time cancel the appointment and appoint some other person as liquidator.

(3) The Court shall give such directions to the liquidator as appear to the Court to be necessary or desirable with respect to the winding-up.

(4) 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 of the winding-up.

(5) The liquidator shall give the Supervisor such information as the Supervisor requires from time to time, and shall report to the Supervisor whenever he intends to apply to the Court for instructions and shall at the same time furnish to the Supervisor particulars of the application.

(6) The Supervisor shall be entitled to be heard on any such application, and may himself make an application to the Court with reference to the conduct of the winding-up.

68. The liquidator shall ascertain, in such manner and upon such basis as the Court approves, the value of the liability of the company to every person appearing by the books of the company to be entitled to or interested in policies of the business of the company, and shall in such manner as he thinks proper give notice to every such person of the value so ascertained, and every person to whom notice is so given shall be bound by the value so ascertained, 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. Ascertainment of value of liability under policies

69. (1) In the winding-up of a company, the value of the liabilities and the value of the assets of a statutory fund of the company shall 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. Application of certain assets

(2) In the winding-up of a company, if, when the liabilities and assets of any statutory fund of the company have been ascertained, there is found to be a surplus of those assets over those liabilities, there shall be added to the liabilities of that statutory fund an amount equal to that proportion of the surplus so found as is equivalent to the proportion, if any, of the profits in the class or classes 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 and the assets of that statutory fund shall be deemed to exceed the liabilities of that statutory fund only in so far as those assets exceed those liabilities after that addition; but if it appears to the Court that, by reason of special circumstances, it would be inequitable that the amount specified should be added to the liabilities of any statutory fund, the amount to be added shall be such amount as the Court directs.

Liability of
directors and
officers

70. If in the course of the winding-up of a company, the Court is satisfied that the amount of any 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 director, the principal representative or an officer of the company, shall be deemed in respect of the contravention to have been guilty of misfeasance in relation to the company unless he proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the contravention and 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 guilty of the misfeasance to contribute to the statutory fund the whole or any part of that sum by way of compensation.

Application
of deposits

71. Upon the winding-up of a company, all money and securities for the time being held by the Supervisor as a deposit in respect of that company shall be paid to the liquidator and shall be applied by him in accordance with the provisions of this Act in the discharge of the liabilities of the company in respect of policies.

Winding-up
of part of
business of
company

72. (1) If an order of the Court for the winding-up of part of the business of a company is made after the hearing of an application under section 58 or in pursuance of section 64, a scheme for the purpose of that winding-up shall be prepared and submitted for the confirmation of the Court—

- (a) if the order is made after the hearing of an application under section 58—by the person who made the application; or
- (b) if the order is made in pursuance of section 64—by the judicial manager appointed in respect of the company.

(2) Any scheme prepared under this section shall provide for the allocation and distribution of the assets and liabilities of the company between any classes of business affected (including the allocation of any surplus assets which may arise on the proposed winding-up), for any future rights of every class of policy-holders in respect of their policies, and for the manner of winding-up any of the business of the company which is proposed to be wound up, and may contain such provisions as are expedient for giving effect to the scheme.

(3) The provisions of sections 67, 68, 69, 70 and 71 shall apply, with such alterations as are necessary, in a winding-up in accordance with a scheme under this section.

Transfer and Amalgamation

73. (1) (a) No class of insurance business of any company shall either in whole or in part, be transferred to, or be amalgamated with the insurance business of any other company, except in pursuance of a scheme prepared in accordance with this section and with sections 74, 75 and 76 and submitted to and confirmed by the Supervisor under section 75. Transfer or
amalgamation

(b) In the case of foreign companies this section shall apply only to the transfer or amalgamation of insurance business relating to policies in Trinidad and Tobago.

(2) When an application is made to the Supervisor for the confirmation of a scheme the Supervisor shall set a date not less than two months from the date of the application for the hearing of the application.

(3) At the hearing of the application the company shall have a right to appear and be heard through an officer of the company or through a barrister or solicitor.

(4) At the hearing of the application the Supervisor may hear such other evidence as he deems necessary, and any person who in the opinion of the Supervisor is likely to be affected shall be entitled to be heard.

(5) A company aggrieved by the refusal of the Supervisor to confirm any such scheme, may appeal therefrom in the manner prescribed in section 168.

(6) On any such appeal the Judge in Chambers or the Court of Appeal, as the case may be, may—

(a) confirm or disallow the refusal; or

(b) confirm the scheme subject to such directions and conditions as it may impose.

Preparation of
scheme

74. A scheme prepared in accordance with section 73 or with sections 75 and 76 shall set out the terms of the agreement or deed under which it is proposed to effect the transfer or amalgamation and shall contain such further provisions as are necessary for giving effect to the scheme.

Submission,
confirmation
and effect of
schemes

75. (1) Before a scheme for transfer or amalgamation is confirmed by the Supervisor—

- (a) certified copies of the assets and liabilities of the companies concerned in such transfer or amalgamation shall be lodged with the Supervisor;
- (b) a copy of the scheme shall be lodged with the Supervisor together with copies of the actuarial and other reports (if any) upon which the scheme is founded;
- (c) notice of the intention to make the application (containing such particulars as are prescribed) shall, not less than one month after the copy of the scheme has been lodged with the Supervisor, be published in the *Gazette* and in local newspapers approved by the Supervisor, and for a period of fifteen days after the publication of the notice, the scheme shall be open to inspection, at each office of every company concerned, by any policy-holders or shareholders affected by the scheme;
- (d) 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 concerned;
- (e) any directions which are given by the Supervisor, upon application made in that behalf with respect to any proposed scheme as to the publication of advertisements of schemes, the giving of notices to shareholders, or to policy-holders or other creditors of the companies concerned, or as to the holding of meetings of any company affected, shall be complied with by the person to whom the directions are given; and
- (f) copies of the scheme and of every report received by the Supervisor in accordance with the provisions of this subsection or

summaries of the scheme and reports approved by the Supervisor shall, unless the Supervisor otherwise directs, be transmitted by the companies concerned, at least fifteen days before application for confirmation of the scheme is to be heard to every policy-holder of any class affected by the scheme.

(2) An application to the Supervisor for the confirmation of the scheme may be made by or on behalf of any company concerned, and an application to the Supervisor with respect to any matter connected with a scheme or proposed scheme may be made, at any time before confirmation by the Supervisor, by any person who in the opinion of the Supervisor is likely to be affected by the scheme or proposed scheme.

(3) The scheme, when confirmed by the Supervisor 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, and the directors of any company affected by the scheme shall cause a copy of the scheme to be filed with the Registrar of Companies.

(4) All expenses incurred by the Supervisor, in obtaining any actuary's report on the scheme shall be defrayed by the companies concerned, and any sum due in respect of those expenses may be recovered by the Supervisor summarily as a civil debt from the companies jointly.

76. 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, as the case may be, shall, within one month after the transfer or amalgamation, lodge with the Supervisor—

Returns to be made in case of transfers or amalgamations

- (a) a certified copy of the agreement or deed under which the transfer is affected; and
- (b) a statutory declaration, made by the chairman of the board of directors or by the principal officer of the company, fully setting forth every payment made or to be made to any person whatsoever on account of the transfer or amalgamation, and stating that to the best of his belief no other payment beyond

those so set forth 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

LICENSING OF AGENTS, BROKERS, SALESMEN AND ADJUSTERS

Minister to make
regulations for
Licences

77. (1) The Minister may make regulations generally for the licensing of persons to act as agents, brokers, salesmen or adjusters, and without prejudice to the generality of the foregoing, may—

- (a) prescribe the requirements, qualifications and conditions for the granting or renewal of licences;
- (b) provide for the holding of examinations for applicants for licences or renewals of licences;
- (c) classify applicants for licences and restrict or prohibit the licensing of any class of applicants;
- (d) prescribe the grounds upon which a licence may be revoked, suspended or not renewed;
- (e) regulate the method of handling premiums collected and requiring and regulating accounts and records to be maintained by agents;
- (f) require persons licensed to supply information and make returns to the Supervisor;
- (g) require persons licensed to furnish bonds or other security and fix the amount, form, requirements and terms thereof;
- (h) prescribe forms and provide for their use;
- (i) prescribe for any matter necessary to carry out effectively the intent and purpose of this section ;
- (j) prescribe, in respect of any regulation, the right of appeal against a decision, direction, refusal, ruling or order that may be given under that regulation.

(2) Regulations made under this section may provide that any person who contravenes any regulation is liable on summary conviction to a fine of five thousand dollars or imprisonment for six months.

(3) Regulations made under this section shall be subject to affirmative resolution of the Senate and the House of Representatives.

78. An agent, broker or 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. Agents of insurer

79. (1) An agent, broker or salesman who knowingly procures by fraudulent representations, payment or the obligation for payment of any premium on an insurance policy is guilty of an offence. Fraudulent representations

(2) An agent, broker or salesman who causes an insured to discontinue any policy of insurance without being satisfied on reasonable grounds that such discontinuance is to the benefit of the insured, is guilty of an offence.

80. An agent, broker or 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 undertake insurance in Trinidad and Tobago in the same manner as if such agent, broker or salesman were the insurer. Liability for unlawful contracts

81. No agent, salesman or broker shall orally make any 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. Advertisement

82. Where an agent, broker or salesman acts in negotiating, or renewing or continuing a contract of insurance with an insurer, and receives any money or substitute for money as a premium for such a contract from the insured, and fails to pay the premium over to the insurer within fifteen days of the receipt by him of the premium, or such shorter or longer period as may be agreed in advance by the insurer, less his commission and any other deductions to which, by written consent of the insurer, he is entitled, he is guilty of an offence. Paying over of premiums to insurer

83. No insurer, and no officer, employee or agent thereof, and no broker or salesman shall directly or indirectly pay or allow, or agree to pay or allow compensation or anything of value to any person for placing or negotiating insurance Compensation for placing or negotiating insurance

on lives, property or interests in Trinidad and Tobago, or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an insurer or agent, broker or salesman and whoever knowingly contravenes this section is guilty of an offence.

Rebating

84. No insurer, and no officer, employee or agent thereof, and no broker or salesman shall directly or indirectly make or attempt to make an agreement as to the premium to be paid for a policy other than as set forth in the policy, or 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 insured or applying for insurance in respect of life, person or property in Trinidad and Tobago, and an insurer or other person who contravenes this section is guilty of an offence.

Bona fide
salaried
employees

85. Nothing in sections 83 and 84 shall affect any payment by way of dividend, bonus, profit or savings that is provided for by the policy, or be construed so as to prevent an insurer compensating a bona fide salaried employee of its head or branch office or a spouse or child thereof, in respect of insurance issued by the employing insurer upon the life or property of such person or so as to require that such person shall be licensed as an agent under this Part to effect such insurance.

Returns of
insurers

86. Every insurer shall make a return to the Supervisor in such form and at such time as he requires showing all persons, partnerships and companies duly authorised as its agents, brokers or salesmen in Trinidad and Tobago, and of persons partnerships or companies to whom it has, within such period as the form of return requires paid or allowed or agreed to pay or allow, directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Trinidad and Tobago, or negotiating the continuance or renewal thereof, or for attempting to do so.

Authority of
agents

87. (1) No agent shall be an agent for more than one insurer, and no such agent shall act or purport to act on behalf of more than one insurer or represent himself to the public by advertisement or otherwise as the agent of more than one insurer, but where such an agent is unable to negotiate insurance on behalf of an applicant for insurance with the insurer for which he is the authorized agent, such agent may procure such insurance from another

insurer if such other insurer obtains in each case the consent in writing of the insurer for which such agent is the authorised agent, and files a copy of such consent with the Supervisor.

(2) Notwithstanding subsection (1) an agent may with the approval of the Supervisor act on behalf of more than one insurer if—

- (a) he is acting on behalf of each insurer in respect of a different and separate class of insurance business; or
- (b) he is acting on behalf of each insurer in respect of a different and separate type of insurance within any one class of insurance business.

(3) The Supervisor may refuse to grant or may revoke an approval granted under subsection (2) if he is satisfied that the grant or continuance of such approval is not in the public interest.

PART IV

LONG-TERM INSURANCE BUSINESS

Actuarial Investigations

88. (1) Every company shall, as at the date of the expiration of the financial year expiring next after the date of commencement of this Act or as at such later date as the Supervisor approves, and thereafter at intervals of five years, or at such shorter intervals as it notifies the Supervisor to be the intervals adopted by it for the purposes of this section and sections 89, 90, and 91—

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

- (a) cause an 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 it with a report of the results 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.

(2) Where a company causes such an investigation to be made at any time, 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 the company.

(4) The valuation balance sheet annexed to any abstract shall, in accordance with a method approved by the Supervisor, show the net liabilities in respect of policies on registers in Trinidad and Tobago separately from the net liabilities in respect of other policies.

Provisions as to
valuations

89. (1) The provisions of subsections (2), (3) and (4) apply in relation to valuations made, in respect of any company, in pursuance of sections 88, 90 and 91.

(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 upon 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 upon the aggregate liabilities of a statutory fund in respect of policies by the valuation is not less than the value which would have been placed upon those aggregate liabilities if it had been calculated on the Minimum Basis in accordance with such regulations as may be prescribed.

Payment of
dividends and
bonuses for
statutory funds

90. A company shall not pay, apply, allocate or transfer any part of the assets of a statutory fund except with the approval of a supervisor and on the certificate of an actuary.

Distribution
of surplus

91. (1) If, 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 88, or
- (b) a valuation, not being a valuation in pursuance of subsection (1) of section 88, 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 (4) of section 88 and of section 89 have been complied with,

the valuation balance sheet or valuation balance sheets in respect of the class of long-term insurance business to which a statutory fund relates discloses or disclose that the balance of the revenue account or, if 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 an actuary and subject to subsection (2), pay, apply, allocate or transfer the surplus or a part of it in any 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 those policies.

(3) Where there were included as a liability of a company in the latest valuation made in respect of the company, being a valuation referred to in paragraph (a) or (b) of subsection (1), bonuses which were attached to policies at the date of the commencement of this Act or became 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 contained 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 a statutory fund which relates to the business in which those policies are included.

Issue of Policies

Rates of
premium

92. (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 an actuary as suitable for the class of policy to which that policy belongs.

(2) The Supervisor may at any time, require the company to obtain, and to furnish him with a report by an actuary as to the suitability of the rate of premium chargeable under any class of policy issued by the company and, if 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 any requirement is made under subsection (2) in respect of the rate of premium chargeable under any class of policy, the company shall not issue any policy of that class until the company has, in accordance with the requirement, obtained the approval of the actuary to the rate of premium.

(4) An actuary in approving a rate of premium in respect of any class of policy under this section shall have regard to—

- (a) the maximum rate of commission proposed to be paid to any person in respect of that class of policy; and
- (b) the maximum rate of reduction of premium to be allowed to any person in respect of that class of policy.

Commissions
and
reductions
of premium.

93. Where a rate of premium is approved by an actuary in respect of any class of policy the company shall not, except with the approval of an actuary pay or allow in respect of any policy of that class a commission or reduction of premium at a rate greater than—

- (a) the maximum rate of commission or reduction of premium to which the first-mentioned 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 the greater.

94. (1) A company shall not issue or accept any form of proposal or policy unless the standard form has been approved by the Supervisor, and the Supervisor shall not approve any such form if it is not in compliance with this Act or if it is likely to mislead a proponent or policyholder. Form of proposal

(2) 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 it shall be the duty of the person making the proposal to supply those particulars to the best of his knowledge and belief.

95. Where a company issues a life policy which provides that proof of age of the life insured is a condition precedent to the payment of the sum, 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. Notice regarding proof of age

96. (1) If 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 may apply to a Judge in Chambers, by summons, for an order directing the company to accept the proof tendered. Procedure where company declines to accept proof

(2) On any such application, the Judge in Chambers may make such order in relation to the application as he thinks just.

(3) Every order under this section shall be binding on the company and shall be complied with on its part.

97. (1) (a) A policy is not avoided by reason only of a mis-statement of the age of the life insured. Mis-statement of age, and non-avoidance of policy

(b) Where the true age as shown by the proof is greater than that 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 that have become payable under the policy as issued bears to the amount of the premiums that would have become payable if the policy had been based on the true age.

(c) Where the true age as shown by the proofs is less than that on which the policy was based, the company shall either—

- (i) 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 that have become payable under the policy as issued bears to the amount of the premiums that would have become payable if the policy had been based on the true age; or
- (ii) reduce, as from the date of issue of the policy, the premium payable to the amount that 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 that has been paid as the cash value of bonuses in excess of the cash value that would have been paid if the policy had been based on the true age.

(2) A policy issued after the commencement of this Act 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) being a statement material in relation to the risk of the company under the policy, 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

98. (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 may—

(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;

and, 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 be if he were 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.

99. (1) An insurable interest shall be deemed to be had ^{Insurable interest} by—

- (a) a parent of a child under twenty-one years of age, or a person in *loco parentis* of 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 dependant for support or education;
- (e) a company or other person,—in the life of an officer or employee thereof; and
- (f) a person who has a pecuniary interest in the duration of the life of another person,—in the life of that person.

(2) This section shall apply to policies whether effected before or after the commencement of this Act.

(3) This section shall not be construed to limit or restrict in any way the meaning of insurable interest as understood at the commencement of this Act.

Assignments and Mortgages of Policies

100. (1) The Minister may make regulations relating ^{Regulations for assignments of policies} to the assignments of policies generally, or by way of mortgage or upon trust.

(2) Regulations made under this section shall be subject to affirmative resolution of the Senate and the House of Representatives.

Protection of Policies

101. (1) The property and interest of any person in a ^{Interest of insured protected in certain cases} policy effected (whether before or after the commence-

ment 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) In the event of a person who has effected a policy on his own life dying after the commencement of this Act, the moneys payable upon his death under or in respect of such policy shall not be liable to 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 whatsoever, except by virtue of a contract or 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 such an express direction.

(4) Nothing in this section shall affect the provisions of the Bankruptcy Ordinance or the Married Women's Property Ordinance.

Ch. 6. No. 6
Ch. 27. No. 13

Paid-up Policies, Surrender Values and Non-Forfeiture

Application to
class of policy

102. (1) Sections 103 to 108 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 sections 103 to 108 shall apply in respect of any policy or class of policies with such modifications as may be prescribed by such regulations and the provisions of this section and sections 103 to 108 shall apply in respect of that policy or class of policies accordingly.

Paid-up
policies

103. (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, if the policy has a cash surrender value, on application to the company be entitled to receive, in lieu of that policy, a paid-up policy.

(2) The paid-up policy shall be payable upon the happening of the contingency upon the happening of which the amount insured under the original policy would have been payable.

104. 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

105. The Supervisor may, on application by a company, if, in his opinion, the payment in cash of surrender values as required by section 104 would be prejudicial to the financial stability of the company or to the interests of the policy-holders of that company, suspend or vary, for such period and subject to such conditions as the Supervisor thinks fit, the obligation of the company to pay those surrender values. Relaxation of obligations as to surrender values

106. (1) An ordinary policy shall not be forfeited by reason only of the non-payment of any premium (in this section referred to as "the overdue premium") if— 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 prescribed.

(3) The overdue premium and any interest charged on it under this section and unpaid shall for the purposes of this Act be deemed to be a debt owing to the company under the policy.

(4) Without affecting the generality of the foregoing provisions of this section, 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 in respect of the policy;

(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 in the meantime; 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 notice on the policy-holder.

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

107. (1) An industrial policy on which not less than one year's premiums have been paid shall not be forfeited by reason only of the non-payment of any premium, unless the premium has remained unpaid for not less than 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) In the event of an industrial policy on which not less than three years' premiums have been paid being forfeited by reason of the non-payment of any premium, the company shall, without requiring any application from the policy-holder, grant a paid-up policy for an amount

not less than that specified in the table included in the policy.

(5) The paid-up policy shall be payable upon the happening of the contingency upon the happening of which the amount insured under the original policy would have been payable.

(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 such non-payment is due to non-collection by the company.

108. Where in pursuance of any provision of this Part a policy-holder is entitled to receive, or a company is required to grant, 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 grant of paid-up policies

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

Payment of Policy Moneys

109. (1) Where there are one or more policies under which moneys are payable by a particular company to the personal representative of a deceased person the company may, without requiring the production of any probate or letters of administration, pay the moneys, together with the bonuses (if any) which have been added to the policy or policies, to a person or persons who satisfies the company that he is entitled to the property of the deceased person or that he is entitled 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 or persons more than five thousand dollars

Probate or administration within certain cases

and shall retain an amount equal to ten per cent. of the total moneys due under the policy or policies and shall pay that amount to the Commissioner of Inland Revenue as instalment on the Estate and Succession Duties due on the deceased's estate.

(2) The company making any such payment shall be thereby discharged from all further liability in respect of the moneys so paid.

(3) All persons to whom any such moneys are paid shall apply those moneys in due course of administration and, if the company thinks fit, it may require those persons to give sufficient security by bond or otherwise that the moneys so paid will be so applied.

(4) Nothing in this section shall affect the provisions of the Married Women's Property Ordinance.

Ch. 27. No. 13

Death of holder
of policy not
being life insured

110. (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 that issued the policy—

- (a) that he is entitled under the Will or on the intestacy of the deceased holder, to the benefit of the policy; or
- (b) that he is entitled 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 probate or letters of administration, endorse on the policy a declaration that the person has so satisfied the company and 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 in relation to a policy referred to in subsection (1) whether the deceased holder dies before or after the commencement of this section.

(4) This section does not apply in relation to—

- (a) a policy the surrender value of which, at the date of the death of the deceased holder, exceeds or exceeded two thousand dollars; or

(b) a policy which is one of two or more policies held by the deceased holder and issued by the same company if the aggregate of the surrender values of those policies at the date of death of the deceased holder, exceeds or exceeded 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) that would be paid by the company issuing the policy upon its surrender.

(6) Nothing in this section shall affect the provisions of the Married Women's Property Ordinance.

Ch. 27. No. 13

111. A company shall not in any circumstances be bound or concerned to see to the application of any moneys paid in pursuance of section 109 by the company in respect of any policy. Company not bound to see to application of moneys paid by it

112. (1) A company may pay to the Supervisor any moneys payable by the company in respect of a policy for which, in the opinion of the company, no sufficient discharge can otherwise be obtained. Power to pay money to Supervisor

(2) The receipt of the Supervisor for the moneys shall be a good and valid discharge to the company for the moneys so paid in, and the moneys shall be dealt with according to any order of the Court.

113. (1) A company shall, within sixty days of its financial year, deliver to the Comptroller of Accounts a statement of all unclaimed moneys as at that date. Unclaimed moneys

(2) The statement shall set forth, in respect of each policy to which it refers, the name of the person whose life is insured, the name of the policy owner, (if known), their last known addresses, the amount due, and the date on which it became due.

(3) The company shall pay to the Comptroller of Accounts, at the time of the delivery of the statement, the total amount of unclaimed moneys shown in the statement, less such amounts, if any, of these moneys as the company has paid, between the financial year and the date on which the statement is delivered, to the persons to whom those amounts were due, and the company shall

furnish particulars of the amounts in writing with the statement.

(4) Where unclaimed moneys have been paid to the Comptroller of Accounts under this section and the Comptroller of Accounts is satisfied that, but for this section, a person would be paid those unclaimed moneys by the company by which they were paid to the Comptroller of Accounts, or, if that company is no longer carrying on that class of insurance business, by a company to which that class of insurance business of the first mentioned company has been sold or disposed of, the Comptroller of Accounts shall pay those unclaimed moneys to that company and specify the person to whom the company is to pay those moneys and the company shall thereupon pay those moneys to that person.

(5) If a company, after paying to the Comptroller of Accounts an amount in respect of a policy in pursuance of this section, satisfies the Comptroller of Accounts that the amount so paid exceeds the amount that would have been payable under the policy to the policy owner, the Comptroller of Accounts shall refund to the company the amount of the excess.

(6) Subject to subsection (4), the company is, upon payment to the Comptroller of Accounts of an amount as required by this section, discharged from further liability in respect of that amount.

(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 that applies to it is guilty of an offence.

(9) In this section "unclaimed moneys" means all sums of money which, after the commencement of this Act became or becomes 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 endowment insurance policy which are not claimed within seven years after the maturity date of the policy.

*Provisions relating to Industrial Life Insurance
Business*

114. (1) If, within twenty-eight days after the delivery of an industrial policy by a company to the policy-holder, or at the place of abode of the policy-holder, to some other person who is an inmate of that place 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 which has been paid in respect of the policy which shall thereupon be cancelled. Objection to policies

(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 writing specifying the objection are posted for transmission to the company by registered letter.

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

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

116. If any person wilfully makes, or orders or allows to be made, any entry or erasure in, or omits any entry, Falsification

or orders or allows any entry to be omitted from, a collecting book or premium-receipt book, with intent to falsify the book, or to evade any of the provisions of this Act, he shall be guilty of an offence.

Avoidance of policy by reason of particulars in proposal filled in by agent or servant of company

117. (1) Where an agent or servant of a company writes or fills in or has before the commencement of this Act written or filled in any particulars in a proposal for an industrial policy with the company, then, notwithstanding any agreement to the contrary between the proponent and the company, any policy issued in pursuance of the proposal shall not be avoided by reason only of any incorrect or untrue statement contained in any such particulars so written or filled in unless the incorrect or untrue statement was in fact made by the proponent to the agent or servant for the purposes of the proposal.

(2) The burden of proving that any such statement was so made shall lie upon the company.

(3) Nothing in this section shall be deemed to allow of 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.

Particulars to be set forth in policies

118. (1) Every industrial policy issued by a company after the commencement of this section shall contain an endorsement in distinctive type setting forth—

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

(2) This section shall come into operation on a day (not less than six months nor more than twelve months after the commencement of this Act) to be appointed by Proclamation of the Governor-General.

Issue of premium receipt books

119. (1) A company shall, in respect of each industrial policy issued by the company, issue to the policy-holder

a premium-receipt book in conformity with the provisions of this section—

- (a) where the policy was issued before or is issued within the period of twelve months next after the commencement of this Act—before the expiration of that period of twelve months; or
- (b) where the policy is issued after the expiration of that period of twelve months—at the time of the issue of the policy.

(2) Notwithstanding subsection (1), if the policy-holders concerned do not object, the company may—

- (i) issue one premium-receipt book in respect of two or more policies if held by the same policy-holder or by two or more policy-holders who are members of the same household; or
- (ii) add the endorsements and entries required by this section in respect of any policy to the premium-receipt book issued in respect of any earlier policy held by the same policy-holder or by a member of the same household.

(3) After the expiration of the period of twelve months next after the commencement of this Act 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 not members of the same household.

(4) Any premium-receipt book issued to a policy-holder by a company, whether before or after the commencement of this Act, shall, if it conforms to the provisions of this section or if it is amended to conform with those provisions and returned to the policy-holder within the period of twelve months next after the commencement of this Act, be deemed to be a premium-receipt book issued in accordance with the provisions of this section.

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

- (a) an endorsement in distinctive type of the particulars referred to in paragraphs (a) and (b) of subsection (1) of section 118;

- (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 prior to payment of the sum insured.

Premium receipt book to show date to which premiums paid, &c.

120. (1) Every payment in respect of premiums under an industrial policy made to an agent or servant of the company shall be recorded by the agent or servant in the premium-receipt book so as clearly to indicate the date to which premiums have been paid in respect of the policy or policies to which the premium-receipt book relates, and the record shall—

- (a) if it is the first entry on a page of the premium-receipt book—be signed by the agent or servant with his usual signature; and
- (b) if 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 whom the payment is made to state the policy or policies in respect of which no payment or an insufficient payment is made, and the agent or servant shall clearly record in the premium-receipt book the fact stated, and unless, before any further premiums are paid, the amount of the deficiency is paid, the company shall cause a separate premium-receipt book in conformity with the provisions of section 119 to be issued in respect of any policy in relation to which the deficiency exists and shall cause the particulars and entry in the first mentioned premium-receipt book relating to any such policy to be cancelled.

121. Any provision in any 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 to be liable to refund commissions on lapsed policies

122. (1) Any provision in any agreement made after the commencement of this Act whereby the production in any legal proceedings of a certificate signed by an officer or servant of the 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

(2) Any such provision in any agreement made before the commencement of this Act shall be read and construed so as to make the certificate to which the provision relates *prima facie* evidence only of the indebtedness or the amount of the indebtedness to which it refers.

Mutualisation

123. (1) Notwithstanding anything in its memorandum or other instruments of incorporation or in its articles or other rules, or in this Act, a company incorporated in Trinidad and Tobago that has a share capital and that is registered under this Act to transact long-term insurance business, whether alone or in combination with any other class of insurance business, may, with the permission of the Supervisor, establish and implement a plan for the conversion of the company into a mutual company by the purchase of shares of the company or the conversion of the shares into debentures in accordance with such regulations as may be prescribed. Conversion into mutual companies

(2) Regulations made under this section shall be subject to affirmative resolution of the Senate and the House of Representatives.

Miscellaneous

124. (1) A company shall in accordance with section 125 keep a register of policies at its principal office in Trinidad and Tobago. Registers to be kept

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

(3) Notice in writing of the situation of the registry and of the name of the representative in charge of the registry shall be lodged with the Supervisor.

(4) Whenever any change takes place in the situation of the registry or in the identity of the representative in charge of the registry, notice in writing of the change shall be lodged with the Supervisor.

Registration
of policies

125. (1) Every policy in Trinidad and Tobago existing at the commencement of this Act shall as at that commencement be registered by the company in the register kept at the registry in Trinidad and Tobago.

(2) 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 kept at the registry in Trinidad and Tobago.

(3) Unless otherwise agreed by the company and the policy-holder, all moneys payable in respect of a policy shall be payable at the registry at which it is for the time being registered.

(4) Any policy may, at the request in writing of the policy-holder and with the consent of the company, be transferred from a register outside Trinidad and Tobago to a register in Trinidad and Tobago, or from a register in Trinidad and Tobago to a register outside Trinidad and Tobago.

(5) All expenses incurred in connection with any transfer of a policy in pursuance of either subsection (3) or subsection (4) shall be borne by the policy-holder.

Lost policy

126. (1) Where—

(a) the holder of a policy; or

(b) a person claiming the benefit of the provisions of section 109 or section 110 in respect of a policy, claims 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, upon application by the holder or that person

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 unless the company is satisfied that the provisions of section 109 or 110 should be applied in favour of the applicant in relation to the policy.

(3) A special policy shall—

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

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

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

(6) The fact of the issue of a special policy and the reason for its issue shall be recorded by the company in the appropriate register of policies.

(7) A special policy is valid and available for all purposes for which the original policy in substitution for which it has been issued would have been valid and available and, after the issue of the special policy, the original policy in substitution for which it has been issued is void.

(8) If the company fails to issue a special policy within six months after receipt of an application in writing from the policy-holder, the Court may, upon application by summons, and upon such evidence as to the loss or

destruction of the original policy as the Court deems sufficient, order the company, upon such terms and within such time as the Court thinks fit, to issue a special policy.

(9) If the holder of a special policy or a person claiming the benefit of the provisions of section 109 or 110 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
suicide or
capital punishment
on policy

127. A policy shall not be avoided merely on the ground that the person whose life is insured died by his own hand or act, sane or insane, or suffered capital punishment, if, upon the true construction of the policy, the company thereby agreed to pay the sum insured in the events that have happened.

Condition as
to war risk
void

128. Any term or condition of a policy issued after the commencement of this Act 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.

Offences by
company not
to invalidate
policies

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

PART V

GENERAL INSURANCE

Conditions

Application of
this Part

130. This section and sections 131 to 134 apply to all companies registered under this Act to transact insurance business in respect of any class of such business other than long-term insurance business.

Computation
of reserves
liability

131. Every company shall, in respect of its outstanding unexpired policies, include in the liabilities in its annual statement deposited with the Supervisor reserves not less

than eighty per cent. of the unearned premiums computed *pro rata* per mensem as at the date of the statement.

132. No dividend shall be paid by any local company while its assets are less than the amount required for solvency by section 59 nor shall any dividend be paid that would reduce its assets below the said amount or impair its capital. Dividend not to impair capital

133. Where it appears to the Supervisor that the assets of any company falls below the requirements for solvency of section 59 and after a reasonable time has been given to the company to be heard by them, the Supervisor, shall— Contravention

- (a) forthwith withdraw the company's certificate of registration; or
- (b) upon such terms and conditions as the Supervisor deems proper, limit a time within which the company shall make good the deficiency (the company's certificate of registration being continued in the mean time) and upon the company's failure to make good such deficiency within the time so limited, its certificate of registration shall be withdrawn,

but if the company's assets are less than the total liabilities including the unearned premiums calculated as provided in section 131, or if the company has violated the requirements of section 132 its certificate of registration shall be withdrawn.

134. (1) In this section the word "surplus" means the excess of assets over the paid-up capital of the company and all the liabilities of the company, including the liability in respect of outstanding unmatured policies required to be included in the annual statement in accordance with section 131. Appropriation of profits towards surplus

(2) Until the surplus of a local company equates or exceeds the liability of the company in respect of outstanding unmatured policies required to be included in the annual statement in accordance with section 131 the company shall at the end of each year appropriate toward surplus at least twenty-five per cent of the profits of the company for the year last past.

Motor Vehicle Insurance

135. (1) In addition to the reserves required by section 131 every company doing motor vehicle insurance Additional reserves

business shall provide reserves for meeting outstanding claims arising from accidents which have occurred.

(2) Every company shall furnish to the Supervisor details of the methods used in calculating such reserves.

(3) The Supervisor may disallow any method used for the calculation of such reserves if he is satisfied that such a method does not result in the provision of adequate reserves.

Cover Notes
Ch. 16. No. 4

136. Subsection (5) of section 4 of the Motor Vehicles Insurance (Third Party Risks) Ordinance, is hereby amended by deleting the words "and includes a single covering note issued for a period not exceeding ninety days in respect of any vehicle" and inserting therefor the words "and includes a single covering note issued for a period not exceeding thirty days in respect of any vehicle".

Notice of
expiration, &c.,
of cover notes
and policies

137. A motor vehicle insurance company shall notify the Licensing Authority of any cover note or policy issued by the company which has expired or is cancelled or ceases to be effective within thirty days of such expiration, cancellation or ceasing to be effective.

Issue of
policies

138. A motor vehicle insurance company shall issue a certificate of insurance as required by the Motor Vehicles Insurance (Third Party Risks) Ordinance on or before the expiration of the cover note or where no cover note has been issued within seven days of receipt of the first premium or part premium paid on behalf of the policy in respect of which that certificate is so required.

Notice of
total loss

139. Whenever a motor vehicle insurance company has accepted a vehicle involved in an accident as a total loss or agreed to pay the insured for loss of the vehicle the company shall within seven days of such acceptance or agreement notify the Licensing Authority accordingly, giving full details of the damage to the vehicle.

Amendment to
Ch. 16. No. 4

140. The Motor Vehicles Insurance (Third Party Risks) Ordinance is amended—

(a) in section 4 thereof by substituting—

(i) the figures \$50,000 for the figures \$4,800 occurring in paragraph (v);

- (ii) the figures \$500,000 for the figures \$48,000 occurring in paragraph (vi)
- (b) in subsection (2) of section 8 by inserting immediately after the word "given" in the third line the words "or such other period as the Court may in its absolute discretion, think equitable."

PART VI

PENSION FUND PLANS

141. After three months from the commencement of ^{Limitation} this Act no person may establish or operate a pension fund plan (hereinafter referred to as a "plan") in Trinidad and Tobago unless such plan has been registered under this Part.

142. Subject to the provisions of this Part, any plan ^{Qualifications for registration of funds} whereby a fund is established under trusts subject to the laws of Trinidad and Tobago, in connection with an undertaking or combination of undertakings carried on wholly or partly in Trinidad and Tobago, being a fund of which the main purpose is either—

- (a) the provision of superannuation allowances on retirement to persons employed in the undertaking or combination of undertakings in connection with which the fund is established; or
- (b) the provision of pensions during widowhood to the widows of persons who are or have been so employed and of periodical allowances to or in respect of children of such persons; or
- (c) the assurance of capital sums on the death of persons who have been so employed,

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 Third Schedule.

Third Schedule

143. (1) Application for the registration under this Part ^{Registration} of any plan may be made in writing addressed to the Supervisor, signed by the trustees of the plan, and every such application shall specify the address at which communications concerning the plan will be received (hereinafter referred to as "the address of the plan") and shall be accompanied by two copies of the rules of the plan and a list of the names and addresses of the trustees.

(2) Upon application being made in accordance with the provisions of this Part for the registration of any plan, the Supervisor shall if he is satisfied that the plan is qualified for registration, register the plan and the rules thereof, and shall enter in the register the address of the plan and the names and addresses of the trustees.

(3) In the event of any amendment of the rules of a plan registered under this Part (hereinafter referred to as a "registered plan") or of any change in the address of such a plan or in the names or addresses of the trustees thereof, the trustees shall, within twenty-one days after the making of the amendment or change, apply for the registration of the amendment or for the correction of the register in respect of the change, as the case may be, by sending an application in writing addressed to the Supervisor signed by one of the trustees and accompanied in the case of an amendment by two copies thereof signed by one of the trustees, and in the case of any such change as aforesaid, by the necessary particulars for the correction of the register.

(4) No amendment in the rules of a registered plan shall be valid until it has been registered, but, upon application for the registration of any such amendment being made as aforesaid, the Supervisor shall register the amendment if he is satisfied that the rules as thereby amended would not have disqualified the plan for registration under this Part.

(5) Upon the registration under this Part of any plan or of an amendment of the rules of any registered plan, the Supervisor shall issue a certificate of registration, and any document purporting to be a certificate issued under this subsection and 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.

(6) The registration of a registered plan shall not be cancelled unless and until the plan has been wound up, but within fourteen days after the completion of the winding-up of any such plan the trustees shall send notice thereof in writing to the Supervisor and upon receiving notice that any registered plan has been wound up, the Supervisor shall, if he is satisfied that the plan has been

wound up and the assets of the plan applied in accordance with the provisions of the rules of the plan, cancel the registration of the plan.

(7) Such fees shall be payable in respect of the registration of plans, amendments of rules and changes of name or address, and in respect of the issue of certificates under this Part as may be prescribed.

144. (1) If upon an application for the registration under this Part of any plan whereof the rules were made before the commencement of this Act, the Supervisor is satisfied that the rules of the plan contain provisions which were inserted 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 making the application, amend the rules by deleting those provisions therefrom and may, upon the like request, make any further amendments that are, in his opinion, proper in consequence of this deletion.

Power on registration of funds to delete provisions for avoiding the rule against perpetuities

(2) Where the rules of any plan are amended by the Supervisor under this section, the rules shall, when registered, have effect subject to the amendments so made.

145. (1) The Supervisor may require any person being a trustee, or officer of any plan for the registration of which under this Part application has been made, 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.

Supplementary provisions as to powers of Supervisor

(2) In the event of any breach of trust being committed by the trustees of a registered plan by reason of their making any unauthorised investment or by reason of their committing a breach of any rule of the plan being a rule required by this Part as a qualification for registration of the plan thereunder, the Supervisor shall have the like remedies in all respects for the breach of trust as if he were a person beneficially interested in the plan.

146. (1) If, in respect of any registered plan, default is made in complying with any of the requirements of this Part, relating to accounts and reports, in making application in accordance with the requirements of this Act for the registration of any amendment of the rules or for correction of the register in respect of any change in the

Penalties for default

address of the plan or in the names and addresses of the trustees, or in sending to the Supervisor notice of the winding-up of the plan, every trustee and the secretary of the plan shall be guilty of an offence.

(2) It shall be a good defence to any proceedings against any person in respect of an offence under subsection (1) to prove that the default occurred without his consent or connivance and was not facilitated by any neglect on his part.

(3) If any person 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, he shall be guilty of an offence.

(4) Any person guilty of an offence under this Part shall be liable on summary conviction to a fine of five thousand dollars and in the case of an offence consisting of a continuing default, to a fine not exceeding five hundred dollars for every week in which the default has been continued.

Annual accounts
and balance
sheet to be
submitted

147. (1) The trustees of each registered plan shall 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 audited by an auditor approved by the Supervisor.

Third Schedule

(2) Such balance sheet and statement of accounts shall be prepared in accordance with Forms A and B respectively of Part II of the Third Schedule.

Actuarial
investigation

148. (1) The Supervisor may cause the trustees of each registered plan to appoint an actuary to make investigation into the financial condition of the plan and to report on his findings whenever the Supervisor considers it necessary so to do.

(2) A copy of such report in accordance with Part III of the Third Schedule and signed by the actuary shall be furnished to the Supervisor.

(3) In the case of plans insured with an insurer subsections (1) and (2) shall not apply, but the trustees shall obtain a certificate from the insurer certifying that

the plan has been valued by an actuary, and such certificate together with tables prescribed in Part III of the Third Schedule shall be deposited by the trustees with the Supervisor.

149. (1) The trustees of a registered plan may invest the assets of the plan only in such securities as a company may by section 37 invest the assets of its statutory funds.

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

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

PART VII

ASSOCIATIONS OF UNDERWRITERS

151. (1) No association of underwriters may carry on insurance business in Trinidad and Tobago except it is registered in accordance with this section and except in accordance with the provisions of this Part.

(2) A member of an association of underwriters may carry on insurance business other than long-term insurance business, in Trinidad and Tobago after the date to be declared by Proclamation of the Governor-General provided that the association has been registered in accordance with subsection (3).

(3) The Supervisor may register as an insurer an association of underwriters, provided the provisions of this Part are complied with.

(4) An application for registration submitted by an association of underwriters shall be accompanied by the following documents—

- (a) a copy of its statute or deed of association;
- (b) in the case of an association constituted outside Trinidad and Tobago a certificate stating that it has been established for at least 5 years, that the legislation of the country in which it is constituted provides for the regulation of an association of underwriters and that it is operating in accordance with that legislation; and

- (c) a list of the names and addresses of persons appointed as its agents or brokers in Trinidad and Tobago;

and by such further information as the Supervisor may require.

Documents and information relating to insurance business to be furnished to the Supervisor

152. An association of underwriters registered in accordance with the provisions of this Part (in this Part referred to as a "registered association") shall within six months of the end of each financial year furnish to the Supervisor:

- (i) In the case of an association constituted outside Trinidad and Tobago—
- (a) a certified copy of such returns relating to the insurance business of the members during the preceding year as are required to be made to the responsible Minister or other public authority in the country in which the association is constituted;
- (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 legislation for the regulation of associations of underwriters in the country in which it is constituted;
- (c) the latest annual list of members and the names of 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.
- (ii) In the case of an association constituted in Trinidad and Tobago such documents and information as the Supervisor may require.

Cancellation of registration

153. (1) The Supervisor may cancel the registration of an association of underwriters—

- (a) if he is not satisfied that the insurance business of its members is being conducted in accordance with sound insurance principles; or
- (b) if the association has failed to comply with any requirements imposed upon it in accordance with this Part; or

(c) if 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 within Trinidad and Tobago; or

(d) at the request of the association.

(2) If the Supervisor cancels the registration under this section, he shall state, in writing his reasons for so doing.

(3) An association aggrieved by the decision of the Supervisor may appeal therefrom in the manner prescribed in section 168.

(4) On any such appeal the Judge in Chambers or the Court of Appeal, as the case may be, may confirm or disallow the decision.

154. (1) The Supervisor shall notify the applicant for registration as an insurer in writing whether he proposes to register the applicant or to reject the application. Notification of Supervisor's decision on application

(2) If the Supervisor proposes to reject the application, he shall state his reasons for doing so.

(3) An association aggrieved by the decision of the Supervisor may appeal therefrom in the manner prescribed in section 168.

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

(2) The Supervisor shall notify the registered association in writing of a decision taken under the terms of subsection (1) and shall state the reasons for his decision.

(3) A registered association aggrieved by the decision of the Supervisor may appeal therefrom in the manner prescribed in section 168.

156. An association whose application for registration has been rejected or whose registration has been cancelled in accordance with the provisions of this Part shall continue to carry on business relating to policies issued by it prior to the date on which it was notified of such rejection or Policies issued before rejection of application or cancellation of registration

cancellation unless the Supervisor is satisfied that it has made suitable arrangements for its obligations under these policies to be met.

Deposit by
association of
underwriters

157. (1) An association of underwriters may not be registered under section 151 to carry on, or carry on, any class of insurance business unless it has deposited with the Supervisor on behalf of the Minister an amount equal to \$350,000 or to 40 per cent. of the premium income of its members whichever is the greater, with respect to Trinidad and Tobago insurance business during the financial year last preceding the date of deposit.

(2) At the end of each financial year an association of underwriters having made a deposit as required by subsection (1) shall, where necessary, deposit or be refunded, as the case may be, an amount equal to the difference between the last preceding deposit and 40 per cent. of the relevant premium income during such financial year, provided that at no time shall an association of underwriters have as deposit with the Supervisor less than \$350,000.

(3) Such deposits may be either in the form of cash or in the form of approved securities or partly in one and partly in the other.

(4) Sections 23, 24, 25, 26 and 27 shall apply to a deposit made in pursuance of this section except that for the word "company" shall be substituted the words "association of underwriters".

PART VIII

MISCELLANEOUS

Jurisdiction
of local
courts

158. (1) Where any policy is issued after the commencement of this Act and in respect of which the premiums are payable or paid in Trinidad and Tobago such premiums shall be payable or paid, as the case may be, and any sums payable or paid upon the maturity of such policy shall be payable or paid, as the case may be, in Trinidad and Tobago currency.

(2) Every policy issued in Trinidad and Tobago or to a person resident in Trinidad and Tobago through a person or office in Trinidad and Tobago shall be governed

by the laws of Trinidad and Tobago and shall be subject to the jurisdiction of the Courts of Trinidad and Tobago, notwithstanding any agreement to the contrary.

159. (1) A person shall not publish in respect of any 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. ^{Issue of capital by companies}

(2) A person acting as 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 any such prospectus, notice, circular, advertisement or other invitation.

160. (1) Notwithstanding anything contained in the instruments constituting, or in the articles of association or other rules of, any company not having shareholders, the company shall, within one year after it is registered 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 as 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 so enrolled;
- (c) the voting by post in any such election or on any such question by every member so enrolled; and
- (d) the making of inspections 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;

and all regular votes of members given in pursuance of

any such arrangements shall be valid and effectual for all purposes.

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

(3) This section does not apply to a company which is incorporated outside Trinidad and Tobago.

Inspection of documents

161. Any person may, upon payment of such fee as is prescribed, inspect at an office of the Supervisor any document furnished to the Supervisor under section 50 and make a copy of, or extract from, the document.

Documents to be received in evidence

162. Every document purporting to be certified by the Supervisor to be a document lodged with him under the provisions of this Act, and every document purporting to be similarly certified to be a copy of such a document, shall be deemed to be such a document or copy, as the case may be, 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 subscribed and paid-up capital

163. Where any notice, advertisement or other official publication of a 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.

Power to collect statistics

164. (1) The Supervisor shall collect at such times as are prescribed such statistics in relation to insurance business as are prescribed.

(2) For the purpose of enabling the Supervisor to collect statistics under this section every company shall furnish to the Supervisor in accordance with the prescribed form and at such times as are prescribed such particulars as are specified in that form.

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

165. (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) in the case of a notice 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) in the case of a notice 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 officer of the company or by sending it by registered post addressed to him at his address last known to the Supervisor;

and, if it is so sent by post, 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.

(2) In this section, "company" includes a body corporate which has ceased to carry on insurance business in Trinidad and Tobago.

166. Any document required by or under this Act to be signed by a director or the principal officer of a company may be signed by any other officer of the company if that officer is thereto authorised by the board of directors and the board of directors has notified the Supervisor in writing of the authorisation.

167. Where a document is, by this Act, required to be printed, the Supervisor may, in his discretion, permit it to be typewritten or lithographed or to be reproduced by mechanical means approved by the Supervisor.

168. (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, under this Act or the regulations.

(2) Notwithstanding that an appeal lies under this Act or under the regulations from any direction, decision, ruling or order of the Supervisor, such direction, decision, ruling or order shall be binding upon that person unless that person within fifteen days of the receipt of the notification of the direction, decision, ruling or order serves on the Supervisor notice of his intention to appeal

therefrom setting forth the grounds of appeal and within fifteen days thereafter files his appeal with the Registrar of the Supreme Court and with due diligence prosecutes the same in which case action on such direction, decision, ruling or order shall be suspended until the Judge in Chambers has determined the matter.

(3) On any such appeal, the person as appellant, and the Supervisor as respondent, may appear personally or be represented by some other person or by counsel or solicitor.

(4) An appeal shall lie to the Court of Appeal from any determination by a Judge in Chambers and the determination of the Court of Appeal shall be final.

(5) In this section "Judge" means a judge of the High Court.

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

Offences

169. (1) Any company or person who contravenes or fails to comply with—

(a) any provision of this Act;

(b) any provision of any order or regulation made under this Act; or

(c) any direction or requirement given or made by the Supervisor or a person appointed under section 53 of this Act,

shall be guilty of an offence, unless he can prove that he did not knowingly commit such contravention or omission and, in the case of a default in complying with any such provision, direction or requirement, the offence shall be deemed to be continued so long as the default continues.

(2) Where an offence against this Act is committed by a company and the offence is proved to have been committed with the consent or connivance of, or to have been facilitated by any neglect on the part of, any director, principal officer, or other officer or an actuary or auditor of the company, he as well as the company, shall be deemed to be guilty of the offence.

(3) If any document required by or under this Act to be signed by any person is false in any particular

to the knowledge of any such person who signs it, that person shall be guilty of an offence.

(4) Notwithstanding any limitation on the time for the taking of proceedings which is contained in any Act, summary proceedings for offences against this Act may be commenced at any time within one year from the date on which there comes to the knowledge of the Supervisor evidence, sufficient in his opinion to justify a prosecution for the offence.

(5) No such proceedings shall be commenced after the expiration of three years from the commission of the offence.

(6) For the purposes of this section, a certificate purporting to be signed by the Supervisor as to the date on which that evidence came to his knowledge shall, in any such summary proceedings, be evidence of that date.

(7) Any proceedings against a company for an offence against this Act shall be without prejudice to any proceedings for the judicial management, or the winding-up, of the company or of any part of the business of the company which may be taken in respect of the matter constituting the offence.

170. All offences against this Act for which no other Penalties penalty is prescribed shall be punishable, in the case of a company, by a fine of one thousand dollars and in the case of an individual by a fine of five hundred dollars or imprisonment for a period of six months.

171. (1) The Minister may make regulations prescribing Regulations all matters which by this Act are required or permitted to be prescribed, or which are necessary or convenient to be prescribed, for giving effect to this Act and in particular—

(a) for the repeal or alteration of, or addition to, First Schedule any form in or any provision of any of the Second Schedule Schedules; and Third Schedule

(b) for prescribing penalties not exceeding two hundred and fifty dollars for any breach or contravention of the Regulations.

(2) Regulations made under this section may provide—

(a) for authorising the Supervisor where he is satisfied, that the purpose of those forms

would be substantially fulfilled, to approve in relation to any company, the use of any prescribed forms with such modifications as he thinks fit;

- (b) for exempting from the provisions of this Act any class or type of insurance where the Minister deems such exemption necessary or proper having due regard to the class or type of insurance and to the provisions of this Act.

Repeal and
Savings
Ch. 31. No. 19

172. (1) The Assurance Companies Ordinance is hereby repealed.

Ch. 31. No. 19

(2) In the case of a company carrying on assurance business at the commencement of this Act, sections 6, 7, 8, 9, 27, 30, 31, 32, 33, 34, 35 and 36 of the Assurance Companies Ordinance shall continue to apply as if this Act had not been passed in relation to accounts, balance sheets, abstracts and statements for any period, or relating to any date before the first financial year under this Act.

(3) Notwithstanding subsection (1), the right of any person under section 10 of that Ordinance to any document deposited under that Ordinance shall cease on the accounts for the first financial year being lodged with the Supervisor under this Act.

(4) The repeal by this Act of the Assurance Companies Ordinance shall not affect the operation of sections 17, 18, 19, 20, 30, 31, 32, 33, 34, 35 and 36 of that Ordinance in relation to the winding up of a company carrying on insurance business before the commencement of this Act, which having made a deposit under that Ordinance, is not registered under this Act, including a winding-up commenced before the commencement of this Act.

(5) So long as under this section any other provision of the Assurance Companies Ordinance is continued in force for any purpose, section 41 of that Ordinance (which relates to rules) shall continue to have effect in connection with that provision.

[SECTION 10(2)]

FIRST SCHEDULE

CLASSES OF INSURANCE BUSINESS

1. (i) (a) Ordinary Life Insurance Business and General Annuity Life Insurance Business.

(b) Industrial Life Insurance Business.

(ii) In this paragraph and where the context so requires—

(a) "Life Insurance Business" means insurance of human lives and insurance appertaining thereto or connected therewith and includes the granting of annuities, endowment benefits and benefits in the event of death or dismemberment by accident or accidental means and the granting of benefits in the event of total and permanent disability, provided that such insurance against disability caused by accident or sickness is included as an additional benefit in a life policy and that the additional benefit does not exceed the following:—

(i) the waiver of premiums falling due during the continuance of such disability; or

(ii) a disability benefit payable for a period or periods not exceeding one hundred weeks at a weekly rate not exceeding one-half of one per cent. of the sum assured on the date of the occurrence of such disability payable in the event of death; or

(iii) a lump sum disability benefit in respect of total and permanent disability not exceeding the sum assured;

and provided also that insurance against accidental death, accidental dismemberment or accidental loss of sight in one or both eyes included as an additional benefit in life policy does not exceed twice the sum assured in the event of accidental death or the sum assured in the event of accidental dismemberment or accidental loss of sight; and provided also that it shall not include cancellable group life insurance business.

(b) "Ordinary Life Insurance Business" means insurance business whereby an insurer assumes in return for the payment of a sum or sums of money a contingent obligation dependent on human life but does not include industrial life insurance, personal accident, sinking fund, or cancellable group life insurance.

- (c) "General Annuity Business" 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 provided such scheme, fund or annuity has been approved under the Income Tax Ordinance.
- (d) "Industrial Life Insurance Business" means the business of effecting 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.
- (iii) "Approved Annuity Business" includes any annuity business undertaken for the purpose of establishing and conducting a deferred annuity or approved fund or scheme under section 16 and an approved deferred annuity plan under sections 16A to 16E of the Income Tax Ordinance.

2. *Bond Investment Business* means the business of issuing bonds or endowment certificates by which the company, in return for subscriptions payable at periodic intervals of less than six months, contracts to pay the bond holder a sum at some future date, not being life assurance business but includes sinking fund and capital redemption insurance business.

3. *Non-cancellable Sickness and Accident Insurance Business* means 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 and where the policy could only be cancelled at the option of the insured.

4. *Employers' Liability Insurance Business* means the issue of or the undertaking of liability under policies insuring employers against liability to pay compensation or damages to workmen in their employment but does not include any business carried on as incidental only to marine, aviation and transit insurance business.

5. *Motor Vehicles Insurance Business* means 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.

6. *Property Insurance Business* means the business of effecting contracts of insurance against loss of or damage to real or personal property of every kind and interest therein, from any or all hazard or cause and against loss consequential upon such loss or damage, but does

not include risks the insurance of which is Motor Vehicles Insurance Business or Marine, Aviation and Transit Insurance Business.

7. *Cancellable Group Life Insurance Business* means the business of insuring the lives of a group of persons where it is written on a yearly renewable term basis and where the contract can be terminated by either the insured or the insurer at any policy anniversary.

8. *All other forms of Insurance*—this group includes all other classes of insurance not specified in this Schedule, but does not include Marine, Aviation and Transit Insurance business.

SECOND SCHEDULE

[Section 37]

ASSETS IN WHICH THE STATUTORY FUNDS MAY BE INVESTED

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

- (a) the bonds, debentures, stocks, or other evidences of indebtedness of or guaranteed by the Government of—
 - (i) any Commonwealth country or dependency or the Republic of Ireland, or
 - (ii) the United States of America or a state thereof, or
 - (iii) any country approved by the Minister in which the company carries on insurance business, and
 - (iv) the country in which the head office of the company is situated or a province or state thereof;
- (b) the bonds or debentures of a corporation that are secured by the assignment to a trust corporation in Trinidad and Tobago or the country in which the head office of the company is situated or a province or state thereof of an annual payment that the Government of Trinidad and Tobago or of the country in which the head office of the company is situated or a province or state thereof has agreed to make, where such annual payment is sufficient to meet the interest falling due on the bonds or debentures outstanding and the principal amount of the bonds or debentures maturing for payment in the year in which the annual payment is made;
- (c) the bonds or debentures issued by a charitable, educational or philanthropic corporation where annual subsidies, sufficient to meet the interest as it falls due on the bonds or debentures and to meet the principal amount of the bonds or debentures on maturity, are, by virtue of a general or private Act of Trinidad and Tobago or the country in which the head office of the company is situated or a province or state thereof payable by or under the authority of such country, state or province to a trust corporation as trustee for the holders of the bonds or debentures;
- (d) the bonds, debentures or other evidences of indebtedness of a corporation incorporated in Trinidad and Tobago or the country in which the head office of the company is situated or a province or state thereof that are fully secured by statutory charge upon real estate or upon the plant or equipment of the corporation used in the transaction of its business, if interest in full has been paid regularly for a period of at least ten years immediately preceding the vesting thereof in trust upon the securities of that class of the corporation then outstanding;
- (e) the bonds, debentures or other evidences of indebtedness issued by an authority or other body without share capital established and empowered pursuant to a statute of Trinidad

and Tobago or the country in which the head office of the company is situated or a province or state thereof 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 that may be used only in carrying out the objects of the authority or other body and are sufficient to meet its operating, maintenance and debt service charges;

(f) the bonds, debentures and other securities of or guaranteed by the International Bank for Reconstruction and Development established by the Agreement for an International Bank for Reconstruction and Development;

(g) the bonds, debentures or other evidences of indebtedness—

(i) of a corporation incorporated in any country listed in (a) above that has paid—

(A) a dividend in each of the five years immediately preceding the vesting thereof in trust at least equal to the specified annual rate upon all of its preferred shares; or

(B) a dividend in each year of a period of five years ended less than one year before the date of vesting thereof in trust upon its common shares of at least four per cent. of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid; or

(ii) of or guaranteed by a corporation incorporated in any country listed in (a) above where the earnings of the corporation in a period of five years ended less than one year before the date of the vesting thereof in trust have been equal in sum total to at least ten times and in each of any four of the five years have been equal to at least one and one-half times the annual interest requirements at the date of vesting in trust on all indebtedness of or guaranteed by it other than indebtedness classified as a current liability in the balance sheet of the corporation; and if the corporation owns directly or indirectly more than fifty per cent. of the common shares of another corporation, the earnings of the corporation during the said period of five years may be consolidated with due allowance for minority interests, if any, and in that event the interest requirements of the corporation shall be consolidated and such consolidated earnings and consolidated interest requirements shall be taken as the earnings and interest requirements of the corporation; and for the purpose of this subparagraph earnings shall mean earnings available to meet interest charges on indebtedness other than indebtedness classified as a current liability;

- (h) guaranteed investment certificates issued by a trust company incorporated in any country listed in (a) above that, at the date of vesting thereof in trust, complied with the requirements described in subparagraph (i) of paragraph (g) in respect of the payment of dividends;
 - (i) the preferred shares of a corporation in any country listed in (a) above that has paid—
 - (A) a dividend in each of the five years immediately preceding the date of vesting of such preferred shares in trust at least equal to the specified annual rate upon all of its preferred shares; or
 - (B) a dividend in each year of a period of five years ended less than one year before the date of the said vesting upon its common shares of at least four per cent. of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid;
 - (j) the fully paid common shares of a company incorporated in any country listed in (a) above that during a period of five years that ended less than one year before the date of purchase of the common shares has either—
 - (A) paid a dividend in each such year upon its common shares; or
 - (B) had earnings in each such year available for the payment of a dividend upon its common shares, of at least four per cent. of the average value at which the shares were carried in the capital stock account of the corporation during the year in which the dividend was paid or in which the corporation had earnings available for the payment of dividends, as the case may be, but
 - (C) a company shall not purchase more than thirty per cent. of the common shares of any corporation; and
 - (D) a company shall not purchase its own shares and a company registered to transact the business of life insurance shall not, in respect of its life insurance business, purchase the shares of a company transacting the business of life insurance.
2. Mortgages and other titles for repayment of loans secured by:—
- (a) any of the bonds, debentures or other evidences of indebtedness, shares or other securities which the company may invest in under paragraph 1 of this Schedule, but the amount at which the mortgage or other title so secured shall not exceed the amount at which the bonds, debentures, or other evidences of indebtedness, shares or other securities might be invested in under paragraph 1 of this Schedule;
 - (b) real estate or leaseholds for a term of years or other estate or interest in real estate in Trinidad and Tobago or the country in which the head office of the company is situated, 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 three-quarters of the

value of the real estate or interest therein, subject to the exception that a company that has real estate invested in its funds, may upon sale thereof, invest a mortgage or other title accepted as part payment and secured thereon for more than three-quarters of the sale price of the real estate;

- (c) real estate or leaseholds in Trinidad and Tobago or in the country in which the head office of the company is situated or in a province or state thereof, notwithstanding that the loan exceeds the amount that 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 or of the country in which the head office of the company is situated or of a province or state thereof;
- (d) 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 that 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 for the production of income in Trinidad and Tobago or in the country in which the head office is situated, either alone or jointly with any other company transacting the business of insurance in Trinidad and Tobago or in the country in which the head office of the company is situated or with any loan company or trust company incorporated in Trinidad and Tobago or in the country in which the head office of the company is situated if—

- (i) a lease of the real estate or leasehold is made to, or guaranteed by the Government of Trinidad and Tobago or in the country in which the head office of the company is situated or an agency of any such government or a municipality in Trinidad and Tobago or in the country in which the head office of the company is situated or any agency thereof;
- (ii) 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,

but a parcel of real estate or a leasehold may not be included in the assets if the total investment by the company therein exceeds two per cent. of the accepted value of the total assets in Trinidad and Tobago or in the country in which the head office of the company is situated.

(b) Real estate or leaseholds for the production of income in Trinidad and Tobago or in the country in which the head office of the company is situated, either alone or jointly with any other company transacting the business of insurance in Trinidad and Tobago

or in the country in which the head office of the company is situated or with any loan company or trust company incorporated in Trinidad and Tobago or in the country in which the head office of the company is situated, if the real estate or leasehold has produced in each of the three years immediately preceding the date of investing thereof net revenue in an amount that, 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 that remained at the date of investment but not exceeding forty years from that date; but a parcel of real estate or a leasehold may not be included in the assets if the total investment by the company therein exceeds two per cent. of the accepted value of the total assets in Trinidad and Tobago or in the country in which the head office of the company is situated.

(c) Real estate in Trinidad and Tobago or in the country in which the head office of the company is situated 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 foreclosure of a mortgage on real estate where the mortgage is an investment under this Act.

4. Cash balances in Trinidad and Tobago or in the country in which the head office of the company is situated, funds in the hands of the trustee or in a trust account maintained by the trustee in a chartered bank in Trinidad and Tobago or in the country in which the head office of the company is situated.

5. The total accepted value of the assets of any company invested in common shares shall not at any time exceed twenty-five per cent. of the accepted value of the total assets in Trinidad and Tobago of the company.

6. The total accepted value of the real estate or leaseholds for the production of income invested under this Schedule, shall not at any time exceed ten per cent. of the accepted value of the total assets in Trinidad and Tobago of the company.

7. A company shall not vest in trust bonds, debentures or other evidences of indebtedness on which payment of principal or interest is in default.

THIRD SCHEDULE

[SECTIONS 142, 147]

PART I

REQUIREMENTS AS TO RULES OF REGISTERED PENSION FUND PLANS

The rules of a plan qualified for registration under this Act shall make provision for the following matters, that is to say:

1. The whole of the objects for which the plan is established;
2. The appointment and removal of trustees;
3. The vesting in the trustees of all property belonging to the plan;
4. 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; so, however, that the rules of a plan may provide for the deposit of such moneys with a bank;
5. 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;
 6. The contributions payable to the fund, and the rates of benefits payable thereout or the method of calculating the benefits so payable;
 7. The conditions on which the persons may become and may cease to be respectively, contributors to and entitled to benefits from, the fund;
 8. 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;
 9. The protection of the vested rights of contributors to the plan;
 10. The method by which the rules may be amended;
 11. The preparation of all statements of accounts, balance sheets and reports required by this Act to be prepared;
 12. The supply on demand to every person having any rights in the plan, being a person who is or has been employed in the undertakings 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.

PART II—FORMS

FORM A

REVENUE ACCOUNT FOR TO
FOR PENSION FUND PLAN

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

* 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

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FOR

PENSION FUND PLAN

Liabilities	\$	Assets	\$
Amount of fund as at ...		Mortgages ...	
		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

2. The second part of the report shall contain the following information, namely:—

- (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 rate of interest realised by the assets of the fund whether invested or uninvested during each year in the intervaluation period;
- (d) the rate of interest assumed in the calculations for the 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 5th day of August, 1966.

J. E. CARTER
Acting Clerk, House of Representatives

Passed in the Senate this 26th day of July, 1966.

A. A. DARLINGTON
Acting Clerk of the Senate