



ST CHRISTOPHER AND NEVIS

CHAPTER 21.11

INSURANCE ACT

Revised Edition

showing the law as at 31 December 2010

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03

This edition contains a consolidation of the following laws:

Insurance Act

Act No. 8 of 2009 in force 1st August 2009

Amended by Act 10 of 2009

Act 22 of 2009

Insurance Regulations – Section 19 of Cap. 1.02 – SRO 21 of 1970

Revision Date: 31 Dec 2009

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

1. Short title.
2. Interpretation.
3. Designation by Minister.
4. Application of Act.

PART II – ADMINISTRATION

5. Registrar of Insurance.
6. Assistance to Registrar.
7. Delegation by Registrar.
8. Registers to be maintained.
9. Annual report.

PART III – REGULATION OF INSURANCE COMPANIES

Registration

10. Restriction on carrying on insurance business.
11. Company deemed registered.
12. Contracts with insurance companies not registered.
13. Share capital and deposit requirements.
14. Application for registration.
15. Conditions for registration.
16. Certificate of registration.
17. Obligations of foreign insurance companies.
18. Notification of change in particulars of registration.
19. Application and policy forms.
20. Cancellation of registration.
21. Reasons for refusal to register.
22. Effect of cancellation of registration.

Deposits

23. Amount of deposits.
24. Variation of form of deposits.
25. Release of deposits.
26. Refund of deposits.
27. Deposits to be increased.
28. Lost securities.

Insurance Funds

29. Establishment of insurance funds.
30. Restriction on the use of assets in a fund.

31. Creating a trust.
32. Restrictions on trustee.
33. Maintaining particulars of fund.
34. Investment of insurance fund in assets.
35. Capital adequacy.

Accounting Requirements

36. Insurance company to keep records.
37. Information to ascertain ability to meet obligations.
38. Insurance company to keep separate accounts.
39. Annual accounts.
40. Production of information and documents.
41. Actuarial reports.
42. Group accounts.
43. Appreciation and depreciation of assets.
44. Registrar may request appraisal of property.
45. Audit.
46. Directors to provide information on request of auditors.
47. Registrar may require report from auditors.
48. Auditors to report unsatisfactory transactions.
49. Auditors entitled to receive notice of meeting.
50. Auditors may call meeting.
51. Directors to notify auditors of error.
52. Appointment of auditors.
53. Prohibitions.

Solvency and Intervention

54. Solvency.
55. Power to request information.
56. Entry and search of premises.
57. Power of intervention.
58. Notice of intervention.
59. Registrar may impose requirements.
60. Prudential agreement.

Judicial Management and Winding-Up

61. Guaranteed insurance companies.
62. Application for judicial management.
63. Order for Judicial Management.
64. Report of Judicial Manager.
65. Decision of Court on report of Judicial Manager.
66. Transfer of business to another insurance company.

Revision Date: 31 Dec 2009

67. Cancellation of contracts or agreements.
68. Indemnity for Judicial Manager.
69. Cancellation of order.
70. Court may order winding-up.
71. Procedure on winding-up.
72. Value of liability under policies.
73. Application of certain assets.
74. Reduction of contracts.
75. Liability of directors and officers.
76. Application of deposits.
77. Winding-up part of business.

Voluntary Liquidation

78. Voluntary liquidation.

PART IV – ASSOCIATION OF UNDERWRITERS

79. Registration of association of underwriters.
80. Application for registration of association of underwriters.
81. Conditions for registration.
82. Deposits by association of underwriters.
83. Premiums to be held in trust.
84. Documents to be supplied to Registrar.
85. Registrar may prohibit writing new policies.
86. Cancellation of registration of association.
87. Obligations of association.

PART V – INSURANCE INTERMEDIARIES

88. Requirement for registration.
89. Application for registration.
90. Restrictions on registration.
91. Conditions for registration.
92. Certificate of registration.
93. Certificate of registration to be produced on request.
94. Cancellation of registration.
95. Submission of information.
96. Notice of termination of agency.
97. Registrar may request information.
98. Agent of the insurance company.
99. Liability for unlawful contracts.
100. Misleading advertisements.
101. Restriction on compensation to unregistered persons.
102. Rebating.

103. *Bona fide* salaried employees.
104. Returns to the Registrar.
105. Keeping of records by registered insurance brokers.
106. Procuring premiums by fraudulent means.
107. Failure to pay over money to client or insurance company.

PART VI – LONG-TERM INSURANCE BUSINESS

Actuary

108. Insurance company to appoint actuary.
109. Chief executive officer, chief operations officer shall not be actuary and restriction on chief financial officer.

Issue of Policies

110. Premium rates to be approved by actuary.
111. Notice in respect of long-term policies.
112. Right of cancellation.
113. Notice regarding proof of age.
114. Procedure where proof not accepted.
115. Misstatement of age.
116. Provisions relating to state of health of insured.
117. Minors may effect policies and take assignments.
118. Insurable interest.

Beneficiaries

119. Designation of beneficiaries.
120. Irrevocable designation of beneficiaries.
121. Trusts for beneficiaries.
122. Beneficiary predeceasing policyholder.
123. Simultaneous deaths.
124. Designated beneficiary.
125. Assignment of policy.
126. Enforcement by beneficiary trustee.
127. Entitlement to dividends and bonuses.
128. Effect of assignment of policies on beneficiaries.

Group Life Insurance

129. Policy of group insurance.
130. Power of group life insured to sue insurance company.

Assignment and Mortgages of Policies

131. Assignment of policies.
132. Effect of notice of assignment.
133. Assignment not to extinguish rights.
134. Release of assignments.

Revision Date: 31 Dec 2009

Protection of Policies

- 135. Lost policy.
- 136. Interest of insured protected.
- 137. Effect of capital punishment, suicide on policy.
- 138. Condition reducing the sum insured void.

Paid-up Policies, Surrender Values and Non-forfeiture

- 139. Application to certain types of policies.
- 140. Paid-up policies.
- 141. Surrender of policies.
- 142. Registrar may vary obligation to pay surrender value.
- 143. Dividends.
- 144. Non-forfeiture of ordinary life policies.
- 145. Non-forfeiture of industrial life policies.
- 146. Treatment of debts on issue of paid-up policies.

Payment of Policy Monies

- 147. Payment without probate or administration.
- 148. Death of policyholder not being life insured.
- 149. Insurance company not bound to see to application of monies.
- 150. Insurance company may pay money to Registrar.
- 151. Unclaimed Monies.

Variable Life Policies

- 152. Interpretation for Part VI.
- 153. Policy document.
- 154. Sales illustration.

Industrial Life Insurance Business

- 155. Objection to policies.
- 156. Returning policies, premium receipt books.
- 157. Falsification of entries an offence.
- 158. Policy not void where proposal is filled in by agent.
- 159. Particulars to be set out in policies.
- 160. Issue of premium receipt book.
- 161. Premium receipt book to show date premium paid.

Mutualisation and Demutualisation

- 162. Plan of mutualisation or demutualization.
- 163. Application to establish plan.
- 164. Appointment of independent actuary.
- 165. Approval of application.
- 166. Submission of detailed plan.
- 167. Acceptance by shareholders and policyholders.

168. Recovery of expenses.

Transfer and Amalgamation

169. Application for a scheme of transfer or amalgamation.

170. Submission of details of scheme.

171. Confirmation of a scheme of transfer or amalgamation.

172. Return to be made on confirmation of scheme.

PART VII – GENERAL INSURANCE

173. Application of this Part.

174. Registration of policy.

175. Premium rates to be approved by actuary.

176. Misrepresentation.

177. Reinsurance arrangements.

178. Condition of average.

179. Structured settlements.

180. Reserves for unexpired policies.

181. Reserves for outstanding claims.

182. Methods for calculating reserves.

183. Prohibition on payment of dividends.

184. Deficiency in solvency margin.

185. Appropriation of profits towards surplus.

PART VIII – PENSION FUND PLANS

186. Plans to be registered.

187. Qualifications for registration.

188. Registration of plans.

189. Amendment not valid until registered.

190. Certificate of registration.

191. Cancellation of registration of plan.

192. Fees payable.

193. Additional powers of the Registrar.

194. Penalties for default.

195. Submission of annual accounts.

196. Actuarial investigation.

197. Investment of registered plan in assets.

PART IX – CONFIDENTIALITY

198. Information obtained by Registrar confidential.

199. Disclosure by Registrar.

200. Information to be made available.

PART X – CORPORATE GOVERNANCE

201. High Court may order shareholders meeting.

Revision Date: 31 Dec 2009

- 202. Directors to be fit and proper.
- 203. Ceasing to hold position as director.
- 204. Prudential guidelines.
- 205. Limit on acquisition of shares.
- 206. Registrar to examine.

PART XI – MISCELLANEOUS

- 207. Policy to be issued expeditiously.
- 208. Jurisdiction over local policies.
- 209. Insurance company to maintain register of policies.
- 210. Policy not invalidated by breach of this Act.
- 211. Restriction on use of insurance terms.
- 212. Inspection of documents lodged with Registrar.
- 213. Annual licences.
- 214. Publication of registrations and cancellations.
- 215. Misleading advertisements.
- 216. Approval required for notice offering shares for subscription.
- 217. Publication of authorised and paid-up capital.
- 218. False documents.
- 219. Translation of documents.
- 220. Regulations.
- 221. No Liability.
- 222. Registrar may authorise extension of time.
- 223. Appeals Tribunal and appeals.
- 224. Composition of Tribunal.
- 225. Offences.
- 226. Penalties.
- 227. Married persons.
- 228. Repeal and savings.
- 229. Fees and other changes to Accountant General

FIRST SCHEDULE

SECOND SCHEDULE

THIRD SCHEDULE

FOURTH SCHEDULE

FIFTH SCHEDULE

SIXTH SCHEDULE

SEVENTH SCHEDULE

Revision Date: 31 Dec 2009

CHAPTER 21.11

INSURANCE ACT

AN ACT to make provision for regulating the carrying on of insurance business and regulating the operation of Pension Fund Plans and for related matters

PART I – PRELIMINARY

1. Short title.

This Act may be cited as the Insurance Act.

2. Interpretation.

(1) In this Act unless the context otherwise requires

“actuary” means a person who satisfies the Registrar that he or she

- (a) is a Fellow or an associate of a professional body of actuaries that is internationally recognised; or
- (b) is a person of equivalent status to that of a Fellow or an associate mentioned in paragraph (a);

“admissible assets” means assets that may be prescribed to be admissible assets;

“affiliate” in relation to an insurance company (“F”) means

- (a) a company which is or has at any relevant time been
 - (i) a holding company or subsidiary of F;
 - (ii) a subsidiary of a holding company of F; or
 - (iii) a holding company of a holding company or a subsidiary of a subsidiary of F;
- (b) any company over which F has control;
- (c) any company over which F and any person associated with F has control;
- (d) any company which has common ownership with F; or
- (e) any company which has the same beneficial owner and shares common management and interlinked businesses with F.

“assets” does not include goodwill;

“association of underwriters” means

- (a) the association of underwriters known as Lloyd’s; or
- (b) an association of individual or corporate underwriters in which every underwriting member of a syndicate becomes liable for a separate part of the sum insured by each policy subscribed to

by that syndicate, limited or proportionate to the whole sum so insured;

“Caribbean Community” means the Caribbean Community including the CARICOM Single Market and Economy (CSME) established by the Revised Treaty of Chaguaramas which was signed at Nassau, The Bahamas on 5 July 2001;

“chief executive officer” means a person employed by a local insurance company, who, subject to any directions of the directors of the local insurance company, is responsible for the conduct of the insurance business of the local insurance company;

“chief financial officer” means the corporate officer primarily responsible for managing financial risks, financial planning and record keeping and financial reporting to management;

“child”, in relation to any person, includes

- (a) an adopted child;
- (b) a step-child; and
- (c) any other child living with that person and wholly or mainly maintained by that person;

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

“company” means a local company or a foreign company;

“Commission” means the Financial Services Regulatory Commission established pursuant to the Financial Services Regulatory Commission Act;

“Currency Union” refers collectively to the territories of Anguilla, Antigua and Barbuda, The Commonwealth of Dominica, Grenada, Montserrat, Saint Christopher and Nevis, Saint Lucia and Saint Vincent and the Grenadines which use the Eastern Caribbean currency as their official currency;

[Inserted by Act 22/2009]

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

“entity” means a body corporate and any unincorporated association or organization;

“financial year”, in relation to a registered insurance company, means each period not exceeding twelve months for which the audited financial statements of a registered insurance company is prepared in accordance with this Act;

“foreign company” means a body corporate that is not a local company;

Revision Date: 31 Dec 2009

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

“foreign insurance company” means a foreign company licensed in its jurisdiction of incorporation or registration to carry on insurance activities, and is registered under this Act to carry on an insurance business in Saint Christopher and Nevis on a branch basis;

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

“industrial life policy” means a policy in respect of which the premiums are contracted to be paid at intervals of less than two months and are contracted to be received by means of collectors and includes—

- (a) a policy that has at any time been such a policy; and
- (b) a paid-up policy, not being a policy expressed to be a non-industrial life policy, granted in lieu of an industrial life policy or of a policy referred to in paragraph (a);

“insurance adjuster” means any person who, as an independent insurance professional, for compensation investigates and negotiates settlement of claims under policies solely on behalf of either the registered insurance company or the insured but does not include—

- (a) a salaried employee of a registered insurance company or an insurance agent while acting on behalf of that registered insurance company or insurance agent in the adjustment of losses; or
- (b) an insurance agent who is authorised to settle claims on behalf of a registered insurance company;

“insurance agent” means any firm, partnership or company, registered under the laws of saint Christopher and Nevis, appointed by a registered insurance company or another insurance agent to solicit applications for insurance or negotiate insurance on its behalf and if authorised to do so by the registered insurance company, to effectuate and countersign policies but does not include an individual who is an employee of the registered insurance company;

“insurance broker” means any entity, incorporated under the laws of Saint Christopher and Nevis, which, for compensation as an independent contractor in any manner solicits, negotiates or procures insurance or the renewal or continuance of insurance on behalf of existing or prospective policyholders;

“insurance business” means the assumption of obligations by an insurance company to pay a certain sum on the happening of a particular event and includes

- (a) re-insurance; and
- (b) the receipt of proposals for or the issuing of policies in Saint Christopher and Nevis and the collection or receipt in Saint

Christopher and Nevis of premiums on policies issued in Saint Christopher and Nevis, excluding

- (i) the collection or receipt in Saint Christopher and Nevis of premiums under a policy issued outside of Saint Christopher and Nevis to a person resident outside Saint Christopher and Nevis at the date of issue of the policy and who is temporarily resident in Saint Christopher and Nevis; and
- (ii) the making of payment due under a policy referred to in subparagraph (i);

“insurance company” means a local insurance company, a foreign insurance company or an association of underwriters;

“insurance fund” in relation to a registered insurance company means a fund maintained by a registered insurance company in accordance with section 29;

“insurance intermediary” means an insurance adjuster, insurance agent, an insurance broker or a sales representative;

“insured” means a person covered by a policy and who may or may not be the same person as the policyholder;

“local company” means a body incorporated under the Companies Act, Cap. 21.03, with not less than fifty-one per centum of its paid-up share capital held by citizens of Saint Christopher and Nevis;

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

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

“local insurance company” means

- (a) a local company that has been registered under this Act to carry on an insurance business in Saint Christopher and Nevis or elsewhere; or
- (b) an insurance company designated to be a local insurance company under section 3;

“local policy” means, in relation to

- (a) long-term insurance business, a policy issued or effected by a registered insurance company on the life of a person resident in Saint Christopher and Nevis at the time the policy was issued or effected;

Revision Date: 31 Dec 2009

- (b) property insurance business, a policy issued or effected by a registered insurance company upon property situated in Saint Christopher and Nevis; and
- (c) any other class of insurance business, a policy issued or effected by a registered insurance company where the risks covered by the policy are ordinarily situated in Saint Christopher and Nevis;

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

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

“Member State” means a State or Territory of the Currency Union;

“Minister” means the Minister responsible for Finance;

“mutual company” means a company whose capital is owned by the policyholders of that company;

“officer” includes

- (a) the chief executive officer, manager, secretary, treasurer and actuary of a company or any other person designated as an officer of a company by its articles of incorporation, its by-laws or any rules regulating its operation, or a person acting in a similar capacity with respect to an unincorporated entity; and
- (b) the principal representative of a foreign insurance company;

“ordinary policy” means a policy on which a surrender value has accumulated after premiums have been paid for a period of not less than three years;

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

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

“person” means an individual or an entity;

“policy” means a valid contract of insurance or reinsurance, whatever the form, in which the rights and obligations of the parties to the contract are expressed and includes a sinking fund policy;

“policyholder” 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;

- “premium income” means the gross premiums less refunds collected by a registered insurance company in Saint Christopher and Nevis during a financial year;
- “prescribed assets” means assets specified in the Second Schedule;
- “principal office” means the office notified to the Registrar by a foreign insurance company with respect to its branch in Saint Christopher and Nevis in accordance with section 17;
- “principal representative” means a person appointed by a foreign insurance company with respect to its branch in Saint Christopher and Nevis pursuant to section 17;
- “Regulations” means Regulations made pursuant to section 220;
- “registered insurance company” means an insurance company registered under this Act to carry on insurance business in Saint Christopher and Nevis;
- “Registrar” means the Registrar of Insurance pursuant to section 5;
- “sales representative” means an individual who is contracted by a registered insurance company or an insurance agent to solicit applications for insurance or negotiate insurance on behalf of the registered insurance company or insurance agent but shall not include a bona fide salaried employee of a registered insurance company or insurance agent;
- “significant shareholder” means a person who either alone or with an affiliate, is entitled to exercise or control more than 20 per cent of the voting rights at a general meeting of a registered insurance company;
- “spouse” includes,
- (a) a single woman who has lived together with a single man as his wife for a period of not less than five consecutive years; or
 - (b) a single man who has lived together with a single woman as her husband for a period of not less than five consecutive years;
- “superannuation allowances” includes payment of a lump sum on retirement;
- “surrender value” means, in relation to a policy, the amount, including any amount in respect of bonus additions, that would be paid by a registered insurance company issuing the policy on its surrender;
- “Tribunal” means the Insurance Appeals Tribunal established under section 223(1);
- “underwriter” means an individual or corporate member of an association of underwriters, who is liable for a pre-determined portion of the underwriting liabilities of that association of underwriters;
- “underwriting liabilities”, in relation to a member of an association of underwriters, means the liabilities of the insurance business of the

Revision Date: 31 Dec 2009

member calculated in accordance with formulae fixed by the governing body of the association and approved by the authority in whom is vested the administration of the law relating to associations of underwriters in the country in which the association is constituted.

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

3. Designation by Minister.

For the purposes of this Act, the Minister may, by Order published in the Gazette, designate an insurance company as a local insurance company if

- (a) the insurance company is incorporated and registered in a Member State;
- (b) fifty one percent of the insurance company's paid up share capital is held by citizens of a Member State; and
- (c) the insurance company is registered under this Act.

4. Application of Act.

(1) This Act applies to

- (a) all local insurance companies;
- (b) all other insurance companies whether or not incorporated in Saint Christopher and Nevis, which carry on any class of insurance business in Saint Christopher and Nevis;
- (c) all associations of underwriters registered to carry on insurance business in Saint Christopher and Nevis;
- (d) all insurance intermediaries whether or not incorporated in Saint Christopher and Nevis, which carry on insurance intermediary activities in Saint Christopher and Nevis; and
- (e) privately administered pension fund plans whether administered by individual trustees or by trust corporations.

(2) For the purposes of this Act, the re-insurance of liabilities under policies shall be treated as insurance business of the class and type to which the policies would have belonged if they had been issued by the reinsurer, and all the provisions of this Act shall apply to the re-insurance, except that a local insurance company carrying on re-insurance business shall not be required to make in respect of that business any additional deposit as required by section 23.

*PART II – ADMINISTRATION***5. Registrar of Insurance.**

(1) There shall be a Registrar of Insurance who shall be responsible for the general administration of this Act.

(2) The Commission shall have supervisory authority over the Registrar pursuant to the provisions of the Financial Services Regulatory Commission Act, Cap. 21.10.

[Amended by Act 22/2009]

6. Assistance to Registrar.

The Registrar may be assisted by an actuary or any competent person for the purpose of carrying out any survey, investigation, inquiry or function under this Act.

7. Delegation by Registrar.

(1) The Registrar may delegate in writing to any person employed in the Ministry responsible for Finance, all or any of his or her powers or duties under this Act on the terms and conditions he or she deems fit, except the power conferred on the Registrar by this section.

(2) Any delegation under subsection (1) may be revoked in writing at any time by the Registrar and such delegation shall not prevent the exercise of the delegated powers or duties by the Registrar.

8. Registers to be maintained.

(1) The Registrar shall maintain separate registers of the following

- (a) local insurance companies registered to carry on the various classes of insurance business specified in the First Schedule in Saint Christopher and Nevis;
- (b) associations of underwriters registered to carry on the various classes of insurance business specified in the First Schedule in Saint Christopher and Nevis;
- (c) foreign insurance companies registered to carry on, on a branch basis, the various classes of insurance business specified in the First Schedule in Saint Christopher and Nevis; and
- (d) any other registers that may be required to be maintained under this Act or Regulations made under this Act.

(2) The Minister may by Order published in the *Gazette* amend the First Schedule.

9. Annual report.

(1) The Registrar shall, on or before the last day of June in each year or at a later date specified by the Minister, prepare and submit to the Minister a report containing

- (a) statements in respect of the administration of this Act during the previous year; and

Revision Date: 31 Dec 2009

(b) any other documents and information required by the Minister.

(2) The Registrar may include with the report referred to in subsection (1) any printed copies or summaries furnished under this Act to the Registrar, together with a copy of any correspondence relating to the document.

(3) The Minister shall, at the next Sitting of the National Assembly after receipt of the report referred to in subsection (1), cause a copy of the report to be laid before the National Assembly.

PART III – REGULATION OF INSURANCE COMPANIES REGISTRATION

10. Restriction on carrying on insurance business.

(1) Subject to sections 12 and 87, a person shall not carry on insurance business in Saint Christopher and Nevis, unless the person

- (a) is
 - (i) a local company registered under this Act to carry on an insurance business in Saint Christopher and Nevis;
 - (ii) a foreign insurance company registered under this Act to carry on an insurance business in Saint Christopher and Nevis on a branch basis; or
 - (iii) an association of underwriters registered under this Act to carry on an insurance business in Saint Christopher and Nevis;
- (b) has made the deposit required by section 23 or section 82; and
- (c) has filed with the Registrar the names and addresses of one or more individuals resident in Saint Christopher and Nevis and authorised to accept on its behalf service of process in legal proceedings.

(2) A person that contravenes this section commits an offence and is liable, on summary conviction, to a fine not exceeding one hundred thousand dollars or to imprisonment for a term not exceeding three years or both.

11. Company deemed registered.

An insurance company duly registered to carry on insurance business in Saint Christopher and Nevis before the commencement of this Act shall be deemed to be an insurance company registered under this Act.

12. Contracts with insurance companies not registered.

(1) The Registrar may, in special circumstances, grant approval for insurance to be placed with insurance companies that are not registered under this Act where the Registrar is satisfied that it is not possible to obtain similar protection from a registered insurance company.

(2) A person who desires to enter into an insurance contract, except a contract relating to re-insurance, with an insurance company that is not registered under this Act

and in respect of which an approval under subsection (1) is required, shall apply to the Registrar for permission.

13. Share capital and deposit requirements.

(1) A person shall not be registered or continue to be registered under this Act to carry on insurance business unless,

- (a) in the case of a local insurance company it has share capital, fully paid up in cash of not less than two million dollars and has made the deposit required under section 23;
- (b) in the case of a foreign insurance company, it has world-wide share capital fully paid-up in cash of not less than five million dollars and has made the deposit required under section 23;
- (c) in the case of an association of underwriters, it has made the deposit required under section 82; or
- (d) in the case of a mutual company, it has uncommitted reserves of not less than five million dollars and has made the deposit required under section 23.

(2) Notwithstanding subsection (1), the Registrar may, require a person seeking registration under this Act to increase its paid-up share capital, deposit or uncommitted reserves beyond the minimum level stated in subsection (1).

(3) A local company that immediately before the commencement of this Act is registered to carry on any class of insurance business shall within five years of the commencement of this Act, increase its paid-up share capital, deposit or uncommitted reserves to the level required in subsection (1).

- (4) An insurance company registered under this Act to carry
 - (a) long term insurance business; and
 - (b) any other class of insurance business,

shall comply with all the requirements of this Act applicable to long term insurance business and any other class of insurance business for which it is registered, including the capital requirements of subsection (1).

14. Application for registration.

(1) An application for registration under this Part shall be made to the Registrar in the prescribed form and shall be accompanied by evidence of payment of the fee specified in the Third Schedule and by such other documents as may be prescribed or as may be required by this Act.

(2) The Registrar may, upon receipt of an application under this section, request the applicant to furnish any additional information he or she considers to be relevant in relation to the application and the applicant shall comply with the request.

(3) The Minister may, by Order published in the *Gazette*, amend the Third Schedule.

Revision Date: 31 Dec 2009

15. Conditions for registration.

(1) In considering an application for a licence the Registrar shall conduct such investigation as he or she may deem necessary to ascertain whether

- (a) the applicant has complied with the requirements of sections 10, 13 and 14 in so far as they are applicable;
- (b) the applicant is not deemed to be insolvent under the provisions of section 54;
- (c) the applicant is likely to be able to comply with the provisions of this Act applicable to it;
- (d) the applicant has made adequate arrangements for re-insurance of the class or classes of insurance for which the application is made, or that there is no justification for making the arrangements;
- (e) the proposed directors and persons who constitute the management of the applicant, including the principal representative of a foreign insurance company, are fit and proper in accordance with the criteria under section 202;
- (f) the name of the applicant is not identical with or does not so closely resemble the name of an insurance company already registered under this Act as to be likely to deceive;
- (g) the significant shareholders are suitable;
- (h) the ownership structure is sufficiently transparent; and
- (i) in the case of an application by a foreign insurance company to carry on insurance business in Saint Christopher and Nevis on a branch basis, it
 - (i) is lawfully constituted in accordance with the laws of the country in which it is incorporated and has undertaken insurance business in that country for at least three years before the date of the application; and
 - (ii) has appointed a person resident in Saint Christopher and Nevis to be its principal representative in Saint Christopher and Nevis in accordance with section 17 and has informed the Registrar in writing of the name and address of that person.

(2) Within ninety days of the receipt of the application the Registrar shall register the applicant in respect of the class or classes of insurance for which the application is made either unconditionally or subject to any conditions that the Registrar may specify, and shall notify the applicant accordingly.

(3) The Registrar may at any time impose, add to, amend or revoke any conditions referred to in subsection (2).

(4) Where the Registrar is of the opinion that it would not be in the public interest to register the applicant in respect of one or more classes of insurance for which the application is made, the Registrar may refuse to register the applicant for that class or those classes of insurance and shall notify the applicant accordingly, stating in writing the reasons for so refusing and informing the applicant of its right of appeal under section 223.

- (5) Where an applicant is a foreign insurance company that is
- (a) the subsidiary or parent of a foreign insurance company that is registered under this Act to carry on insurance business in Saint Christopher and Nevis on a branch basis;
 - (b) the subsidiary of the parent of a foreign insurance company that is registered under this Act to carry on insurance business in Saint Christopher and Nevis on a branch basis;
 - (c) the result of the merger of two or more companies at least one of which was a foreign insurance company that had undertaken insurance business in its country of incorporation for at least three years before the date of the application; or
 - (d) the transferee of the assets of another foreign insurance company that had undertaken insurance business in its country of incorporation for at least three years before the date of the transfer, and the management, staff and insurance business of the applicant foreign insurance company are substantially the same as the former management, staff and insurance business of that other foreign insurance company,

the Registrar may, provided he is satisfied as to the other conditions set out in subsection (1), register the foreign insurance company to carry on insurance business in Saint Christopher and Nevis on a branch basis.

(6) Notwithstanding that the applicant referred to in subsection (5) has undertaken insurance business in its country of incorporation for less than three years as required by paragraph (c) of subsection (5), the Registrar may register the applicant as a foreign insurance company to carry on insurance business in Saint Christopher and Nevis on a branch basis if the conditions of subsection (1) and the other conditions of subsection (5) are satisfied.

16. Certificate of registration.

(1) The Registrar shall furnish to every insurance company registered under this Act a certificate of registration in the prescribed form containing a statement of the class or classes of insurance business for which the insurance company is registered and the certificate of registration is *prima facie* evidence that the insurance company has been so registered.

(2) An insurance company registered under this Part shall prominently display its certificate of registration at its principal place of business in Saint Christopher and Nevis in a place to which the public has access and a copy of the certificate of registration shall be similarly displayed at each of its branches in Saint Christopher and Nevis.

(3) An insurance company whose registration has been cancelled shall, on notification from the Registrar, forthwith surrender the certificate of registration and every copy of that certificate to the Registrar.

- (4) A person who
- (a) without lawful excuse, fails to comply with subsections (2) and (3);
or

Revision Date: 31 Dec 2009

- (b) displays a certificate of registration or a copy of it that is not currently valid,

commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

17. Obligations of foreign insurance companies.

(1) A foreign insurance company shall maintain a principal office in Saint Christopher and Nevis and shall appoint, by power of attorney, a citizen of Saint Christopher and Nevis as its principal representative in Saint Christopher and Nevis.

(2) The power of attorney referred to in subsection (1) shall be sufficient to satisfy the Registrar that the principal representative is authorised to act on behalf of the foreign insurance company in all matters necessary to secure compliance by it with this Act, and a copy of the power of attorney shall be lodged with the Registrar immediately after the appointment of such principal representative, together with notice of the address of the principal office.

(3) Service of any notice, writ, summons or other document or process on a principal representative shall be deemed to be service on the foreign insurance company concerned.

(4) If a foreign insurance company changes the address of its principal office in Saint Christopher and Nevis or appoints a new principal representative, the foreign insurance company shall give notice in writing of the change or new appointment, to the Registrar within twenty one days of the change or new appointment.

18. Notification of change in particulars of registration.

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

19. Application and policy forms.

(1) The Registrar may prohibit a registered insurance company from issuing any form of policy, endorsement or application for a policy the issue or use of which, in the opinion of the Registrar, is fraudulent, unjust or not in the public interest.

(2) A registered insurance company shall not continue to issue or continue to use a form of policy, a form of endorsement or a form of application for a policy, the issue or use of which is prohibited by the Registrar under subsection (1).

(3) An insurance company that fails to comply with subsection (2) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(4) A registered insurance company carrying on any class of insurance business shall, at least one month prior to the date of the issue of any standard form of policy, or of the use of any standard form of application for a policy, furnish the Registrar with a copy of such form of policy or form of application.

20. Cancellation of registration.

(1) The Registrar may cancel the registration of an insurance company registered under this Act if

- (a) the Registrar is satisfied that the registered insurance company has ceased to carry on insurance business in Saint Christopher and Nevis for more than one year;
- (b) the Registrar is satisfied that the registered insurance company has not commenced business in Saint Christopher and Nevis within two years of registration;
- (c) the cancellation is requested by the registered insurance company or its liquidator or trustee;
- (d) the Registrar is satisfied that the registered insurance company obtained registration as a result of any misleading or false representation or in consequence of any incorrect information;
- (e) the registered insurance company is deemed insolvent within the meaning of section 54;
- (f) the Registrar is satisfied that there is unreasonable delay in the settlement of claims payable under policies issued by it;
- (g) one month has elapsed since the date by which the registered insurance company was required under this Act to furnish information to the Registrar and the registered insurance company has, without reasonable excuse, failed to furnish the information or failed to do so in the manner specified in this Act;
- (h) the registered insurance company fails to comply with section 13(1), (2) or (3) as the case may be;
- (i) the registered insurance company fails to comply with a condition specified under section 15(2) or (3);
- (j) any of the re-insurance arrangements of the registered insurance company are not satisfactory; or
- (k) the registered insurance company is in breach of sections 23 or 29.

(2) The Registrar shall, before exercising the power of cancellation under subsection (1), notify the registered insurance company in writing of the intended cancellation specifying the grounds on which he or she proposes to make the cancellation and shall require the registered insurance company to submit to him or her within a specified period being not less than thirty days, a written statement of objections to the making of the cancellation and thereafter the Registrar shall advise the registered insurance company of his or her decision.

(3) The Registrar shall, when the registration of an insurance company is cancelled,

- (a) give notice in writing of cancellation to the insurance company; and
- (b) require the insurance company to deliver its certificate of registration and every copy of the certificate of registration to the Registrar within

Revision Date: 31 Dec 2009

twenty-eight days of the cancellation or any shorter period that may be specified in the notice.

21. Reasons for refusal to register.

Where the Registrar refuses to register an applicant or cancels the registration of an insurance company, the Registrar shall, within fourteen days after such refusal or cancellation, notify the applicant or insurance company in writing of the reasons for so doing and of the insurance company's right of appeal under section 223.

22. Effect of cancellation of registration.

(1) If the registration of an insurance company is cancelled the insurance company shall not, after the date on which it was notified of the cancellation, enter into any new policy in Saint Christopher and Nevis.

(2) For the purpose of subsection (1), an insurance company shall be treated as having entered into a new policy if a policy entered into prior to the date of the notification under section 23 is renewed or varied after that date.

(3) Nothing in this section shall be construed as relieving an insurance company, whose registration has been cancelled under this Act or any other Act, of the obligation to maintain the deposit required to be made under section 23 and the insurance funds required to be maintained under section 29.

(4) An insurance company that contravenes subsection (1) commits an offence and is liable to a fine not exceeding five thousand dollars.

Deposits

23. Amount of deposits.

(1) A person shall not be registered under this Act to carry on insurance business and shall not carry on any class of insurance business unless the appropriate amount specified in the Sixth Schedule has been deposited with the Registrar or that the interest of the Registrar in respect of any prescribed asset in the Second Schedule, is duly registered with the Eastern Caribbean Central Securities Registry.

(2) The Minister may by Order published in the *Gazette* amend the Sixth Schedule to vary the amount of the deposit.

(3) At the end of each subsequent financial year a registered insurance company that made the deposit required to be made under subsection (1) shall, where necessary, deposit or be refunded an amount equal to the difference between the last preceding deposit and the new amount required to be deposited, subject to the retention of the minimum amount stated in the Sixth Schedule.

(4) A deposit shall be in the form of

- (a) cash; or
- (b) prescribed assets specified in the Second Schedule; or
- (c) a combination of cash and prescribed assets.

(5) The Minister may by order published in the *Gazette* amend the Second Schedule.

(6) The Registrar shall cause the deposit made by a registered insurance company under this section to be placed in an interest bearing account and it shall form part of the assets of the registered insurance company, and all interest accruing on any assets deposited under this section shall be paid in accordance with section 25, to the registered insurance company.

(7) No person shall garnish the statutory deposits of a registered insurance company.

(8) The Minister may, by order of the court attach the bank deposits of a registered insurance company which has bank deposits and fails to satisfy the statutory deposit requirement.

(9) A registered insurance company that fails to comply with this section commits an offence and is liable on summary conviction to a fine of ten thousand dollars.

24. Variation of form of deposits.

The Registrar may by notice in writing require any registered insurance company to vary the form of its deposit with the Registrar.

25. Release of deposits.

(1) Where the registration of an insurance company has been cancelled, the Registrar shall retain the deposits made by that insurance company under section 23 until all outstanding liabilities of the insurance company have been provided for or have been surrendered to the satisfaction of the Registrar.

(2) A registered insurance company shall when making application for the release of its deposits, file with the Registrar, in respect of all local policies, a list of all policy holders who have not been provided for, or who have not surrendered their policies, and shall publish weekly, for six consecutive weeks in the *Gazette* and in at least one newspaper circulating in Saint Christopher and Nevis a notice

- (a) that it has applied to the Registrar for the release of its deposits on a certain day not less than three months after the date on which the notice is first published in the *Gazette*; and
- (b) requesting any policyholder who opposes the release to file his or her opposition with the Registrar on or before the specified day.

(3) After the day specified in the notice, if the Registrar is satisfied that the deposits of the registered insurance company are substantially in excess of the requirements under this Act governing deposits in respect of continuing policyholders, the Registrar

- (a) may, from time to time, release to the registered insurance company that portion of the excess as he or she thinks proper in the circumstances; and
- (b) shall continue to hold the remainder of the deposits for the protection of any continuing policyholder as is provided by this Act until such time as the policies lapse or proof is adduced to the satisfaction of the

Revision Date: 31 Dec 2009

Registrar that they have been satisfied in which case further amounts may be released by the Registrar.

(4) Notwithstanding this section, if a registered insurance company is

- (a) in liquidation; or
- (b) under judicial management,

a court having jurisdiction under this Act may make an order directing that the deposits or a part of any deposit shall be released by the Registrar to the liquidator or Judicial Manager on condition that the liquidator or Judicial Manager must first satisfy in full the claims of policyholders before making any other payment.

26. Refund of deposits.

Notwithstanding section 25, where the Registrar cancels the registration of an insurance company that has not commenced business in Saint Christopher and Nevis, the Registrar shall refund and deliver to the insurance company any cash or assets deposited by it pursuant to section 23.

27. Deposits to be increased.

(1) If the Registrar is satisfied that the value of cash and prescribed assets deposited by or on behalf of a registered insurance company falls short of the value required by this Act, the Registrar shall, by notice in writing, require the registered insurance company within a period not exceeding three months, to deposit with the Registrar cash or prescribed assets or both to the value deemed by the Registrar to be sufficient to bring the amount of the deposit to the value required.

(2) A notice under subsection (1) shall not be issued until the Registrar has given an opportunity to the registered insurance company to make written representations on the matter.

28. Lost securities.

If any cash or assets paid to the Registrar as a deposit under this Act are lost, stolen, damaged or destroyed while so deposited, all persons interested in such cash or assets shall be reimbursed out of monies appropriated by Parliament for that purpose in accordance with section 26.

29. Establishment of insurance funds.

(1) Notwithstanding section 23, a registered insurance company shall, in respect of each class of insurance business being transacted and in respect of policies issued in Saint Christopher and Nevis, establish an insurance fund consisting of assets equal in value to its liability and contingency reserves as established by its revenue account, less the amounts held on deposit with the Registrar.

(2) The assets of a fund referred to in subsection (1) shall be invested in accordance with section 34.

(3) A registered insurance company who immediately before the date of commencement of this Act was registered to carry on insurance business in Saint

Christopher and Nevis, shall within three months of that date, establish the insurance fund as required by subsection (1).

(4) A registered insurance company that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars.

30. Restriction on the use of assets in a fund.

(1) Within four months of the end of each financial year a local insurance company shall place in trust the assets of

- (a) its long-term insurance fund; and
- (b) its motor vehicle insurance fund.

(2) Within four months of the end of each financial year a foreign insurance company shall place in trust the assets of each fund established pursuant to section 29 (1).

(3) An insurance company shall not apply the assets of an insurance fund, directly or indirectly to any class of insurance business other than that in respect of which the fund was established and is maintained.

(4) Notwithstanding subsection (3), a registered insurance company may exchange at fair market value, assets of an insurance fund for other assets belonging to the registered insurance company.

(5) A trustee, may, with the approval of the Registrar, release to a registered insurance company any assets of its insurance fund, where the value of those assets exceeds the liabilities attributable to the classes of insurance business in respect of which the fund was established and is maintained.

(6) A local insurance company carrying on long-term insurance business or motor vehicle insurance business shall not declare a dividend at any time when the value of the assets of its long-term insurance fund or its motor vehicle insurance fund, is less than the liabilities attributable to that business.

(7) A foreign insurance company shall not repatriate any profits from Saint Christopher and Nevis at any time when the value of the assets of any insurance fund is less than one hundred and ten percent of the liabilities attributable to that business.

31. Creating a trust.

(1) A trust referred to in section 30 (1) and (2) shall be created by trust deed.

(2) An insurance company shall submit the trust deed and the names of the proposed trustees to the Registrar for approval before the trust is created.

(3) The Registrar may, for the purpose of this section allow the assets required to be placed in trust to be held by a trust company in Saint Christopher and Nevis or a licensed financial institution approved by the Registrar to the order of or on behalf of the Registrar and the assets shall be deemed to be placed in trust and the trust company or licensed financial institution shall be deemed to be a trustee.

Revision Date: 31 Dec 2009

32. Restrictions on trustee.

(1) A trustee shall not deal with any assets which it holds in trust, without the prior general or specific approval of the Registrar.

(2) A trustee shall, as and when required by the Registrar, submit a list of the assets held in trust pursuant to section 31.

(3) A trustee who contravenes subsection (1) shall be under the same liability as if the appropriate policyholder had been the beneficiary of the trust, and the Registrar shall have the right to seek remedies in all respects for the breach of trust as if Registrar were a person beneficially interested in the trust.

33. Maintaining particulars of fund.

(1) A registered insurance company that transacts more than one class of insurance business shall maintain records which accurately identify the assets comprising each insurance fund.

(2) A registered insurance company shall, within four months of the end of each financial year, furnish to the Registrar a statement showing particulars of the

- (a) liabilities in respect of each insurance fund; and
- (b) assets comprising each insurance fund.

34. Investment of insurance fund in assets.

(1) An insurance fund shall be invested only in the assets prescribed in the Fourth Schedule.

(2) The Minister may, by Order published in the *Gazette* amend the Fourth Schedule.

35. Capital adequacy.

(1) A registered insurance company shall not at any time have a capital adequacy ratio of less than such percentage, and calculated in such manner, as the Registrar may determine in respect of a registered insurance company or any particular registered insurance company.

(2) Any ratio required under subsection (1) shall be calculated on a consolidated and solo basis for every registered insurance company within a financial group.

(3) Where there is a deficiency in the capital ratio of a registered insurance company, the Registrar shall require the registered insurance company to present a plan that is satisfactory to the Registrar to reconstitute its capital adequacy ratio within thirty days or such longer period as the Registrar may determine.

(4) Where the registered insurance company

- (a) fails to present a satisfactory plan pursuant to subsection (3); or
- (b) fails to implement a plan prescribed pursuant to subsection (3), the Registrar shall take such remedial action as he or she considers necessary in accordance with section 57.

(5) Notwithstanding compliance by a registered insurance company with sections 29(1) and 35(1), the Registrar may in the public interest, direct the registered insurance company to increase the assets in any or all of its insurance funds or increase its capital adequacy ratio.

Accounting Requirements

36. Insurance company to keep records.

(1) A registered insurance company shall keep at its principal office, any books, vouchers, records, receipts and other documents necessary to enable it to prepare for submission to the Registrar a statement of the insurance business carried on by it in Saint Christopher and Nevis.

(2) The Registrar may request in writing that a registered insurance company furnish the statement referred to in subsection (1) in such form as may be required by the Registrar.

37. Information to ascertain ability to meet obligations.

(1) The Registrar may require any registered insurance company or its director, manager, auditor, actuary, secretary or principal representative to furnish him or her, within such time as he or she may specify, with any information necessary to ascertain the ability of the registered insurance company to meet its obligations under policies issued by it.

(2) Without limiting the generality of subsection (1), the information that the Registrar may require from a registered insurance company pursuant to that subsection includes monthly, quarterly and semi-annual financial statements.

(3) A registered insurance company or any director, manager, auditor, actuary, secretary or principal representative of a registered insurance company who without reasonable excuse fails to comply with the requirements of subsections (1) and (2) commits an offence, and shall be liable on summary conviction, in the case of

- (a) a registered insurance company, to a fine not exceeding five thousand dollars; or
- (b) an individual, to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months.

38. Insurance company to keep separate accounts.

(1) A registered insurance company that carries on any business other than insurance business must keep separate accounts in respect of its insurance business.

(2) A registered insurance company that carries on general insurance business in addition to its long-term insurance business must keep separate accounts in respect of its long-term insurance business.

Revision Date: 31 Dec 2009

39. Annual accounts.

(1) Subject to subsection (3), a registered insurance company shall, within four months of the end of each financial year, or within an extended period not exceeding two months as the Registrar may allow, submit to the Registrar three copies of

- (a) a balance sheet showing the financial position of all insurance business of the registered insurance company at the end of that year;
- (b) a profit and loss account in respect of all its insurance business in that year;
- (c) separate income statements for that year in respect of each class of insurance business carried on by it;
- (d) an analysis of long-term insurance policies in force at the end of that year; and
- (e) a certificate of registration signed by its auditors that the registered insurance company is not insolvent within the meaning of subsection 54(1).

(2) A registered insurance company shall prepare the documents required in subsection (1) in the form prescribed.

(3) A registered insurance company shall provide the Registrar with such other documents and information at such times and in such form as he or she may require.

(4) A registered insurance company shall furnish the Registrar, at such time and in such form as he or she may require, with a copy of any report on the affairs of the registered insurance company submitted to

- (a) in the case of a local insurance company, the policyholders or shareholders of the local insurance company in respect of the financial year to which those documents relate; or
- (b) in the case of a foreign insurance company, the policyholders in Saint Christopher and Nevis or the shareholders of the foreign insurance company in respect of the financial year to which those documents relate.

(5) All documents required to be furnished under subsection (1) shall separately provide information on the worldwide business of the registered insurance company as well as the business in Saint Christopher and Nevis.

(6) A foreign insurance company shall submit to the Registrar a copy of a statement of accounts submitted to the regulatory authority in its country of incorporation.

(7) If, in the opinion of the Registrar, a document furnished by a registered insurance company under subsection (1) is incorrect or incomplete or is not prepared in accordance with this Act, the Registrar may, by notice in writing, require the registered insurance company to amend the document or to furnish a correct document.

(8) If a registered insurance company fails to comply with a notice referred to in subsection (7) to the satisfaction of the Registrar, he or she may amend the document, giving the registered insurance company particulars of the amendments, or reject the document.

(9) A document amended by the Registrar or by a registered insurance company under this section shall be treated as having been submitted to the Registrar in its amended form.

(10) If a document has been rejected by the Registrar under subsection (8) the registered insurance company shall be treated as having failed to comply with subsection (1) in relation to that document, unless it has furnished, within the time specified another document in accordance with the directions of the Registrar.

(11) A registered insurance company that fails to submit any document or information required under this section, shall pay to the Registrar on such date as may be fixed by him or her, a fee of two hundred dollars for every day that the document or information remains outstanding.

(12) A registered insurance company that fails to pay the fee referred to in subsection (11) commits an offence and is liable on summary conviction to a fine of forty thousand dollars and to the payment of the fee referred to in subsection (11).

(13) A registered insurance company shall, at the request of a policyholder, make available to that policyholder a copy of the relevant revenue account, profit and loss account and balance sheet prepared by the registered insurance company under subsection (1).

(14) The documents required to be furnished under subsection (1) shall be certified by,

- (a) in the case of a local insurance company, its auditor, secretary or director and its actuary;
- (b) in the case of a foreign insurance company, by its auditor, principal representative and actuary.

40. Production of information and documents.

(1) The Registrar may direct an affiliate of a registered insurance company to provide him or her with such information or documents as he or she may require where he or she believes that the production of such information or documents is necessary for him or her to be satisfied that the provisions of this Act are being complied with and that the registered insurance company is in a sound financial condition.

(2) An affiliate to whom a direction has been issued under subsection (1) shall provide the information or documents within the time specified in the direction.

(3) An affiliate that fails to provide the information or documents referred to in subsection (1) commits an offence and is liable on summary conviction to a fine of four thousand dollars.

41. Actuarial reports.

(1) A registered insurance company shall, every three years or at any shorter intervals of which the registered insurance company may notify the Registrar to be the intervals adopted by it for the purposes of this section

- (a) cause its actuary to make an investigation into its financial condition including a valuation of its liabilities in respect of every class of

Revision Date: 31 Dec 2009

insurance business and to furnish the Registrar with a report of the result of the investigation; and

- (b) cause an abstract of the report of the actuary and a statement of its insurance business to be prepared.

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

(3) The basis of valuation adopted shall place a proper value on the liabilities, having regard to the average rate of interest from investments and to expenses of management, including commissions, and shall ensure that no policy is treated as an asset.

(4) In the circumstances where the Registrar is of the opinion that the report of the actuary referred to in subsection (1) is unsatisfactory, the Registrar may require further information and explanations from the actuary.

(5) If the report of the actuary remains unsatisfactory to the Registrar after he or she receives the further information and explanations referred to in subsection (4), he or she may if necessary appoint an actuary to value the matters referred to in subsection (1).

(6) The registered insurance company shall pay the expenses incurred in carrying out a valuation under subsection (5).

42. Group accounts.

(1) Where two or more local insurance companies are members of a group, then, in addition to the separate accounts required by section 38, the parent company of the group shall submit, at the end of its financial year,

- (a) a consolidated balance-sheet showing at the end of that year the financial position of the parent company and all its subsidiaries as a group;
- (b) a consolidated profit and loss account showing the profit or loss of the parent company and all its subsidiaries as a group in that year; and
- (c) any other documents that may be prescribed;

(2) The balance-sheet and profit and loss account referred to in subsection (1) shall bear a certificate by an auditor approved by the Registrar stating whether in his opinion it gives a true and fair view of the financial position at the end of the year or of the profit and loss during that year, of the parent company and all its subsidiaries as a group.

43. Appreciation and depreciation of assets.

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

44. Registrar may request appraisal of property.

(1) If on perusal of any information furnished to the Registrar under this Act it appears

- (a) that the value placed by a registered insurance company on any real property owned by it in Saint Christopher and Nevis is too great; or
- (b) that the property is not adequate security for any loan secured by mortgage on the property,

the Registrar may request the registered insurance company to have the real property appraised by a valuer approved by him, and failing compliance with that request, the Registrar may cause an appraisal of the real property to be done at the expense of the registered insurance company.

(2) If the appraised value of the real property of a registered insurance company is substantially less than the value disclosed in the information furnished pursuant to section 39(1), the Registrar may, in order to ascertain the ability of the registered insurance company to meet its obligations, substitute the appraised value for the value disclosed.

(3) If the appraised value of the real/immovable property of a registered insurance company is not adequate security for a loan secured by mortgage on the property, the Registrar may direct the registered insurance company to supplement the security to an amount exceeding the amount of the loan secured.

45. Audit.

(1) The accounts of a registered insurance company shall be audited annually by its auditors, and every revenue account and balance sheet required to be prepared by the registered insurance company under section 39(1) shall be accompanied by a report of the auditors addressed to the Registrar stating whether, in the opinion of the auditors,

- (a) the accounts have been prepared in accordance with this Act;
- (b) the revenue account and the profit and loss account present fairly the results of the registered insurance company's operations for the financial period to which they relate;
- (c) the balance sheet presents fairly the state of the registered insurance company's affairs at the end of the financial period to which it relates;
- (d) adequate records of account have been maintained by the registered insurance company and are reasonably up to date;
- (e) the reserves relating to unexpired policies have been calculated in accordance with section 180;
- (f) the provisions regarding the settlement of outstanding claims are adequate, having regard to the latest estimated cost of settlement of such claims; and
- (g) the registered insurance company has implemented suitable measures, procedures and polices to counter money laundering and to combat the financing of terrorism consistent with the applicable laws in Saint Christopher and Nevis.

(2) Paragraphs (e) and (f) of subsection (1) shall apply only to a registered insurance company carrying on general insurance business in Saint Christopher and Nevis.

Revision Date: 31 Dec 2009

(3) If the auditors, for the purpose of exercising the powers conferred on them by subsection (1)

- (a) are unable to obtain all the information they require; or
- (b) are not completely satisfied with the information contained in the accounts on which the auditors are reporting,

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

46. Directors to provide information on request of auditors.

(1) The directors, officers, employees or representatives of a registered insurance company shall, on the request of the auditors of the registered insurance company grant them access to

- (a) such records, assets and security held by the registered insurance company or any entity in which the registered insurance company has a substantial investment; and
- (b) such information and explanations,

as are, in the auditors' opinion, necessary to enable the auditors to perform their duties.

(2) On the request of the registered insurance company's auditors, the directors of the registered insurance company shall, to the extent that they are reasonably able to do so,

- (a) obtain from the present or former directors, officers, employees and representatives of any entity in which the registered insurance company has a substantial investment, the information and explanations that such persons are reasonably able to provide and that are, in the auditors' opinion, necessary to enable the auditors to perform their duties; and
- (b) provide the auditors with the information and explanations so obtained.

47. Registrar may require report from auditors.

(1) The Registrar may, in writing, require that the auditors report to him or her on the extent of the auditors' procedures in the examination of the annual statement and may, in writing, require that the auditors enlarge or extend the scope of that examination or direct that any other particular procedure be performed, and the auditors shall comply with any such requirement of the Registrar and report to the Registrar.

(2) If, in the opinion of the Registrar, it is so required in the public interest, he or she may direct in writing that the auditors make an examination and report to him or her on the adequacy of the procedures adopted by the registered insurance company for the safety of its creditors, shareholders and policyholders.

(3) The Registrar may direct that a special audit of a registered insurance company be made if, in the opinion of the Registrar, it is so required and may appoint for that purpose auditors qualified pursuant to section 52 to be the registered insurance company's auditors.

(4) The registered insurance company shall pay the expenses entailed by any examination or audit referred to in subsections (1), (2) and (3) after they are approved in writing by the Registrar.

48. Auditors to report unsatisfactory transactions.

(1) The auditors shall report in writing to the chief executive officer and chief financial officer of a registered insurance company any transactions or conditions that have come to the auditors' attention affecting the well-being of the registered insurance company that in the auditor's opinion are not satisfactory and require rectification and, without restricting the generality of the foregoing, the auditor shall, as occasion requires, make a report in respect of transactions of the registered insurance company that in the auditors' opinion are not within the powers of the registered insurance company.

(2) Where the auditors of a registered insurance company make a report under subsection (1),

- (a) the auditors shall transmit the report, in writing, to the chief executive officer, chief financial officer and the actuary of the registered insurance company;
- (b) the registered insurance company shall present the report to the first meeting of the directors following its receipt;
- (c) the registered insurance company shall incorporate the report in the minutes of that meeting; and
- (d) the auditors shall, at the time of transmitting the report to the chief executive officer and chief financial officer, provide the Registrar with a copy of the report.

49. Auditors entitled to receive notice of meeting.

(1) The registered insurance company shall notify the auditors of every meeting of the audit committee and, at the expense of the registered insurance company, shall attend and be heard at any such meeting.

(2) The auditors shall on the request of a member of the audit committee, attend every meeting of the audit committee held during that member's term of office.

50. Auditors may call meeting.

(1) The auditors of a registered insurance company may call a meeting of the audit committee.

(2) The chief internal auditor of a registered insurance company or any officer or employee of the registered insurance company acting in a similar capacity shall, at the request of the auditors and on receipt of reasonable notice, meet with the auditors.

51. Directors to notify auditors of error.

(1) A director or an officer of a registered insurance company shall forthwith notify the audit committee and the auditors of the registered insurance company of any error or misstatement in an annual statement or other financial statement on which the auditors or

Revision Date: 31 Dec 2009

former auditors have reported as soon as practicable after the director or officer becomes aware of it.

(2) If the auditors or former auditors of a registered insurance company are notified or become aware of a material error or misstatement in an annual statement or financial statement on which they reported, they shall forthwith inform each director of the registered insurance company.

(3) Where the auditors or former auditors of a registered insurance company inform the directors of an error or misstatement in an annual statement or other financial statement under subsection (2), the directors shall

- (a) prepare and issue a revised annual statement or financial statement; or
- (b) inform the shareholders, the policyholders and the Registrar of the error or misstatement.

52. Appointment of auditors.

A person may not be appointed auditor of a local insurance company unless—

- (a) he or she is a member of the Institute of Chartered Accountants of the Eastern Caribbean or any other professional accounting association that may be prescribed; or
- (b) the local insurance company serves on the Registrar written notice of its intention to make the appointment and the Registrar fails to serve on the local insurance company a written notice of objection to the appointment within one month of the date of service of the notice of the appointment.

53. Prohibitions.

(1) A registered insurance company shall not, after the commencement of this Act, directly or indirectly,

- (a) acquire or deal in its own shares;
- (b) lend money or make advances on the security of its own shares;
- (c) lend any of its funds to any of its directors or officers of, or to the spouse or a child of any of its directors or officers except on the security of its own insurance policies or on some other adequate security;
- (d) lend any of its funds to another registered insurance company where more than one-half of the shares of that other registered insurance company are owned either jointly or severally by any of its directors or officers or by the spouse or a child of any of its directors or officers;
- (e) grant unsecured credit to any person;
- (f) pay any dividend on its shares until all its capitalised expenditure, including preliminary expenses, organisational expenses, share-selling commission and brokerage, not represented by tangible assets, has been completely written off; or

- (g) enter into any guarantee or provide any security in connection with a loan by any person to a person or registered insurance company mentioned in paragraph (c) or (d).

(2) Paragraphs (a) and (f) of subsection (1) shall not apply to a foreign insurance company, and in the case of a foreign insurance company paragraphs (b), (c), (d), (e) and (g) of subsection (1) shall apply only to the business carried on in Saint Christopher and Nevis.

(3) A registered insurance company that contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

Solvency and Intervention

54. Solvency.

(1) A registered insurance company shall be deemed to be insolvent,

- (a) in the case where it is carrying on only long-term insurance business, if the value of its liabilities exceeds its assets;
- (b) in the case where it is carrying on only general insurance business, if the excess of assets over liabilities is less than the greater of the following amounts:
 - (i) five hundred thousand dollars; or
 - (ii) twenty per centum of its premium income in its last preceding financial year; and
- (c) in the case of a registered insurance company carrying on both long-term insurance business and general insurance business, if the excess of its total assets over its total liabilities is less than the amount specified in paragraph (b).

(2) For the purpose of subsection (1),

- (a) in computing the amount of the liabilities of a registered insurance company, except for liabilities in respect of share capital, all of its contingent and prospective liabilities in respect of policies shall be taken into account, including adequate provision for unexpired policies and outstanding claims;
- (b) the premium income of a registered insurance company in any financial year shall be assessed as the net amount, after deduction of any premiums paid for re-insurance in that year in respect of all general insurance business carried on by it; and
- (c) assets shall be valued in accordance with any rules prescribed for the valuation of assets and only admissible assets shall be included in determining the solvency of a registered insurance company.

(3) In the case of a foreign insurance company, subsections (1) and (2) shall apply only to the business carried on in Saint Christopher and Nevis.

Revision Date: 31 Dec 2009

(4) The business in Saint Christopher and Nevis of a foreign insurance company shall be deemed insolvent if the foreign insurance company is declared insolvent in its jurisdiction of incorporation or registration.

55. Power to request information.

- (1) The Registrar may require a registered insurance company, its agent or bailee to
- (a) furnish information in connection with its insurance business as the Registrar may specify, at a time and in a manner determined by him or her;
 - (b) produce the securities, books, accounts papers, documents or statistics appearing to be in connection with its insurance business at a time and place determined by him or her; or
 - (c) produce to any person authorised in writing by the Registrar any books or records as the Registrar may specify.

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

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

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

- (a) to take copies of or extracts from the books, papers or other documents which have been produced;
- (b) to require the registered insurance company or the person in whose possession the books, papers or other documents are, or any other person who is or was a director or auditor of the registered insurance company or who is or was employed by the registered insurance company to explain any of the contents of the books, papers or other documents; and
- (c) where the books, papers or other documents are not produced, to require the registered insurance company or the person who was requested to produce them to give reasons for failing to do so.

56. Entry and search of premises.

(1) If a Magistrate is satisfied on information on oath laid by the Registrar or by any person authorised in that behalf by the Registrar that there are reasonable grounds for suspecting that there are on any premises any assets, books, accounts, documents or statistics of which production has been required by virtue of section 55 and have not been produced in compliance with that requirement, the Magistrate may issue a warrant authorising a police officer, together with any other persons named in the warrant to enter the premises specified in the information, using any force reasonably necessary for the

purpose, and to search the premises and seize and remove the assets, books, accounts, documents or statistics or to take, in relation to the assets, books, accounts, documents or statistics, any other steps that may appear necessary for preserving them and preventing interference with them.

(2) A warrant issued under this section shall continue in force until the expiration of one month after the date on which it is issued.

(3) Any assets, books, accounts, documents or statistics that have been seized under this section may be retained

- (a) for a period of three months;
- (b) until the conclusion of any criminal proceedings brought in respect of the seizure within three months of the seizure; or
- (c) for such extended period as a court of competent jurisdiction may order.

(4) A person who obstructs the exercise of a right of entry or search conferred under this section, commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to a term of imprisonment not exceeding one year.

57. Power of intervention.

(1) Subject to subsection (2) and to section 59, the Registrar may at any time intervene in the affairs of a registered insurance company.

(2) The power of intervention conferred by subsection (1) shall be exercisable where the Registrar is satisfied that

- (a) the exercise of the power is essential in order to
 - (i) protect policyholders or potential policyholders of the registered insurance company against the risk of the registered insurance company's inability to meet its liabilities; or,
 - (ii) ensure that a registered insurance company that is carrying on long-term insurance business, is able to fulfill the reasonable expectations of policyholders or potential policyholders;
- (b) the registered insurance company has failed to submit financial returns within six months of the end of its financial year;
- (c) the registered insurance company has failed to satisfy any obligation imposed on it by this Act;
- (d) the registered insurance company has furnished misleading or inaccurate information to the Registrar under or for the purposes of this Act;
- (e) adequate arrangements have not been or will not be made for the re-insurance of risks against which persons are insured by the insurance company and in respect of which the Registrar considers the arrangements to be necessary;
- (f) an application for registration would be refused if the application were made at the time of the proposed intervention;

Revision Date: 31 Dec 2009

- (g) a registered insurance company is deemed to be insolvent in accordance with section 54;
- (h) the registered insurance company is committing or is about to commit an act, or is pursuing or is about to pursue a course of conduct, that is unsafe or unsound practice in conducting its insurance business; or
- (i) after liability has been established there has been unreasonable delay in the settlement of claims in respect of policies issued by the registered insurance company.

58. Notice of intervention.

(1) The Registrar shall, before exercising the power conferred on him or her by section 57, serve on the registered insurance company a written notice of his or her intention to do so, specifying the grounds on which he or she proposes to intervene and shall require the registered insurance company to submit to him or her

- (a) within a specified period being not less than thirty days; or
- (b) within a period less than thirty days, as specified by the Minister in writing,
 - (i) in circumstances where it is in the public interest, and
 - (ii) the Minister shall state his or her reasons for reducing the period to less than thirty days,

a written statement of objections to the intervention and thereafter, the Registrar shall advise the registered insurance company of his or her decision.

(2) The exercise of the power of intervention by the Registrar shall not be stayed by an appeal to the Tribunal or a court.

(3) Where the decision referred to in subsection (1) is to intervene in the affairs of the registered insurance company, the notice shall include a statement of the reasons for the decision.

(4) Notice under subsection (1) shall be served at the last known address of the registered insurance company and shall be published in the *Gazette* and in any local newspaper.

(5) If any registered insurance company is aggrieved by any decision made under subsection (1), that registered insurance company may appeal to the Tribunal or a court within fourteen days of such decision.

(6) Where the Registrar has intervened under subsection (1) he or she shall, as soon as possible thereafter cause a notice of the intervention to be published in the *Gazette* and a newspaper circulating in Saint Christopher and Nevis and cause such other steps to be taken as he or she deems necessary to inform the public of such intervention.

59. Registrar may impose requirements.

(1) In exercising the power of intervention, the Registrar may issue directives in writing to the registered insurance company to

- (a) refrain from the date specified in the instrument

- (i) from effecting any policy either generally or with respect to a specified class whether or not the effecting of the policy falls within a class of insurance business which the registered insurance company is authorised to carry on; or
- (ii) from varying any existing policies;
- (b) limit to a specified amount the aggregate amount of premiums to be written by the registered insurance company whether the aggregate relates to premiums to be received by the registered insurance company or to the aggregate after deducting any premiums payable by the registered insurance company for reinsuring the liabilities in consideration of which premiums are to be received;
- (c) refrain from making investments of a specified class or description;
- (d) realize, before the expiration of the period specified in the instrument, the whole or a specified portion of investments of a specified class or description held by the registered insurance company;
- (e) prepare and submit at earlier dates and with greater frequency the documents required to be prepared and submitted under section 39;
- (f) have an actuary or any other person appointed by the Registrar investigate the financial position of the registered insurance company in respect of its insurance business or any part of the business and to submit to the Registrar a report of the investigation on or before a specified date;
- (g) take any action that appears to the Registrar to be necessary to
 - (i) protect policyholders or potential policyholders of the registered insurance company against the risk of the registered insurance company's inability to meet its liabilities; or,
 - (ii) ensure that a registered insurance company that is carrying on long-term insurance business, is able to fulfill the reasonable expectations of policyholders or potential policyholders;
- (h) cease or refrain from committing an act or pursuing a course of conduct that is unsafe or unsound practice in conducting the business of the registered insurance company; or
- (i) take any action that appears to the Registrar to be necessary for the proper administration of the Act.

(2) The Registrar may request any registered insurance company within five years of its registration under this Act to comply with any or all of the requirements of subsection (1) whether or not the power to intervene is exercisable under section 57(2).

(3) The Registrar may, where it is considered desirable so to do, revoke or vary any requirement imposed by the Registrar on a registered insurance company pursuant to subsection (1).

(4) The Registrar may publish a notice of the imposition of a requirement or the rescission or variation of a requirement in the Gazette and in a newspaper circulating in Saint Christopher and Nevis.

Revision Date: 31 Dec 2009

(5) A directive issued to a registered insurance company under this section shall not remain in force for more than twelve months, but nothing in this subsection prevents the Registrar from issuing further directives to the registered insurance company.

(6) The cost of any exercise of the power of intervention by the Registrar shall be borne by the insurance company concerned.

60. Prudential agreement.

The Registrar may enter into an agreement with a registered insurance company for the purpose of implementing any measure designed to maintain or improve its safety and soundness.

Judicial Management and Winding-Up

61. Guaranteed insurance companies.

(1) If on the application of a registered insurance company carrying on general insurance business, the Registrar is satisfied that the registered insurance company is guaranteed by another registered insurance company satisfying the requirements of a guarantor set out in subsection (2), he or she may subject to any conditions that he or she specifies, direct in writing that section 54 shall not apply to the first-mentioned registered insurance company.

(2) For the purposes of this section a guarantor must be

- (a) a local insurance company that complies with any of the requirements of section 13 as are applicable to it and the value of whose assets exceeds the value of its liabilities by the amount required by section 54;
- (b) a member of an association of underwriters approved by the Registrar; or
- (c) a registered insurance company which, being itself guaranteed by another registered insurance company, is the subject of a directive under this section,

and, for the purposes of this section, a registered insurance company will be deemed to be guaranteed by another registered insurance company if, all its liabilities to policyholders in respect of insurance business of any class specified in the First Schedule are re-insured with or guaranteed by the other registered insurance company.

(3) A directive made under this section may be revoked by the Registrar if he or she

- (a) ceases to be satisfied of the matters on the basis of which the directive was made; or
- (b) is satisfied that a condition in the directive has not been complied with.

62. Application for judicial management.

(1) The Registrar may apply to the court for an order that a registered insurance company or any part of the business of a registered insurance company be placed under

judicial management where, after exercising the power of intervention under section 57(1), he or she is of the opinion that it is necessary or proper to apply for such an order.

(2) A registered insurance company may after giving the Registrar one month's notice in writing of its intention so to do, apply to the court for an order that it or any part of its business be placed under judicial management.

(3) The registered insurance company and the Registrar are both entitled to be heard on any application made to the court for an order under this section.

(4) Where an application is made under this section for an order in respect of a registered insurance company, all actions and the execution of all writs, summonses and other processes against the registered insurance company shall, by virtue of this section, be stayed and shall not be proceeded with, without the prior leave of the court unless the court directs otherwise.

63. Order for Judicial Management.

(1) An order for the judicial management of a registered insurance company or any part of the business of a registered insurance company shall be subject to this section and sections 64, 65, 66, 67, 68 and 69.

(2) In the case of a foreign insurance company, this section and sections 64, 65, 66, 67, 68 and 69 shall apply only to the business carried on in Saint Christopher and Nevis by the foreign insurance company.

(3) The court shall appoint a Judicial Manager who shall receive such remuneration from the registered insurance company as it directs and it may at any time cancel the appointment and appoint some other person as the Judicial Manager.

(4) The court may, if it thinks fit, charge the remuneration, charges and expenses of the Judicial Manager on the property of the registered insurance company in the order of priority, in relation to any existing charges on that property, as it thinks fit.

(5) Where the court by order directs that a registered insurance company or any part of the business of a registered insurance company be placed under judicial management, the management of the registered insurance company or of that part of its business to which the order relates shall, on and after the date specified in the order, vest exclusively in the Judicial Manager.

(6) A person who is appointed Judicial Manager shall not, except with the leave of the court, issue any new policies except paid-up policies.

(7) The court shall, from time to time, issue to the Judicial Manager directions regarding the powers and duties of the Judicial Manager as it considers necessary.

(8) The Judicial Manager shall act under the control of the court and may at any time apply to the court for instructions as to the manner in which he or she shall conduct the judicial management or in relation to any matter arising in the course of the judicial management.

Revision Date: 31 Dec 2009

(9) The Judicial Manager shall

- (a) give the Registrar the information he or she may, from time to time, require; and
- (b) report to the Registrar whenever he or she intends to apply to the court for instruction and at the same time furnish the Registrar with particulars of the application.

(10) The Registrar is entitled to be heard on any application made pursuant to subsection (8) and may make an application to the court to be heard on any matter relating to the conduct of the judicial management.

64. Report of Judicial Manager.

(1) The Judicial Manager shall conduct the management with the greatest economy compatible with efficiency, and must, as soon as possible after his or her appointment, file with the court a report stating which of the following actions is, in the circumstances, in his or her opinion most advantageous to the general interests of the policyholders of the registered insurance company

- (a) the transfer of the business of the registered insurance company to some other registered insurance company in pursuance of a scheme to be prepared in accordance with this Act;
- (b) the carrying on of its business by the registered insurance company;
- (c) the winding-up of the registered insurance company or of any part of the business of the registered insurance company; or
- (d) the dealing with part of the business of the registered insurance company in one manner, and with another part in another manner.

(2) The Judicial Manager shall, as soon as he or she has filed the report, furnish a copy of it to the Registrar and make a written application to the court for an order to give effect to the course of action stated in the report.

(3) The report or a copy of it shall be open for inspection by any person during official hours at the registry of the court in which the report is filed or at any other place the Registrar determines.

65. Decision of Court on report of Judicial Manager.

(1) The court shall, on the hearing of an application made under section 64 (2),

- (a) after hearing the Registrar, the Judicial Manager, and any other person who in the opinion of the court ought properly to be heard; and
- (b) after considering the report of the Judicial Manager;

make an order giving effect to the action which it considers in the circumstances to be most advantageous to the general interest of the policyholders of the registered insurance company.

(2) The order of the court shall be binding on all persons, and have effect notwithstanding anything in the instruments constituting the registered insurance company or in the articles of incorporation or other rules of the registered insurance company.

66. Transfer of business to another insurance company.

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

67. Cancellation of contracts or agreements.

The court may

- (a) either of its own motion; or
- (b) on the application of the Judicial Manager or Registrar,

at any time while an order made under section 63 is in force 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 registered insurance company and any other person, which the court is satisfied is detrimental to the interests of the policyholders.

68. Indemnity for Judicial Manager.

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

69. Cancellation of order.

(1) The Judicial Manager or any interested person may at any time apply to the court for the revocation of an order made by the court under section 63 (1).

(2) If an application is made under subsection (1), the court may revoke the order if it appears to it that

- (a) the purpose of the order has been fulfilled; or
- (b) it is undesirable for the order to remain in force.

(3) Upon the revocation of an order, the Judicial Manager must be divested of the management of the business of the registered insurance company which shall then vest in the board of directors or other governing body of the registered insurance company.

70. Court may order winding-up.

(1) The court may order the winding-up of a registered insurance company in accordance with the Companies Act, Cap. 21.03 and the Companies Ordinance, Cap. 7.06 (N), and that law shall apply accordingly subject to

Revision Date: 31 Dec 2009

- (a) this section;
- (b) sections 71, 72, 73, 74, 75, 76 and 77; and
- (c) any modification of the Companies Act and the Companies Ordinance, that the court may order the winding-up a registered insurance company
 - (i) on the petition of ten or more policyholders owning policies of an aggregate sum assured of not less than ten million dollars; or
 - (ii) on the petition of the Registrar.

(2) In the case of a foreign insurance company, this section shall apply only to the business carried on in Saint Christopher and Nevis by the foreign insurance company.

(3) A petition referred to in subsection (1) shall not be presented except by leave of the court and such leave shall not be granted

- (a) unless a *prima facie* case has been established to the satisfaction of the court; and
- (b) until security for costs for such amount as the court may think reasonable has been given.

(4) The Registrar shall be a party to any proceedings relating to the winding-up of a registered insurance company and the liquidator in a winding-up shall give the Registrar such information about the affairs of the registered insurance company he or she may, from time to time, require.

(5) Reference in this section to a registered insurance company shall include an insurance company that has ceased to be registered under this Act, but remains under any liability in respect of local policies.

71. Procedure on winding-up.

(1) An order of the court for the winding-up of a registered insurance company shall be subject to sections 72, 73, 74, 75, 76 and 77.

(2) On making an order for the winding-up of a registered insurance company, the court shall appoint a liquidator.

(3) Subject to subsections (4) and (6), the liquidator shall act under the control of the court and may apply to the court at any time for instructions as to the manner in which the liquidator shall conduct the winding-up or in relation to any matter arising in the course of the winding-up.

(4) The liquidator may, in the case of a registered insurance company that was carrying on long-term insurance business, continue to carry on the business with a view to its being transferred as a going concern to another registered insurance company, whether in existence or being formed for that purpose.

(5) For the purpose of exercising his or her functions under subsection (4), the liquidator may agree to the variation of any policies in existence at the date of the order but the liquidator shall not effect any new policies.

(6) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the registered insurance company attributable to its long-term insurance business require the appointment of a special manager, he or she may apply to the court for an appointment.

(7) The court may on an application under subsection (6), appoint a special manager to act during that time and with such powers as the court may direct.

(8) The court shall give to the liquidator any directions as may be necessary or desirable for the purpose of the winding-up.

(9) The liquidator shall

- (a) furnish the Registrar with such information as he or she may from time to time require;
- (b) report to the Registrar whenever he or she intends to apply to the court for instructions and shall furnish the particulars of the application simultaneously with such report.

(10) The Registrar is entitled to be heard on an application under subsection (9) and may make an application to the court to be heard on any matter relating to the conduct of the winding-up.

(11) A liquidator or a special manager, or both, shall receive the remuneration the court directs and the court may, at any time, cancel the appointment of a liquidator or a special manager or both and appoint some other person as a liquidator or a special manager.

72. Value of liability under policies.

(1) The liquidator shall

- (a) ascertain, in a manner and on a basis the court may approve, the value of the liability of the registered insurance company to every person who, according to the books of the registered insurance company, is entitled to or is interested in a policy issued by the registered insurance company; and
- (b) in a manner he or she thinks proper give notice of the value so ascertained to every person referred to in paragraph (a).

(2) A person to whom notice is given under subsection (1) shall be bound by the value ascertained by the liquidator unless, within fourteen days of receipt of the notice, the person gives notice that he or she intends to dispute the value.

73. Application of certain assets.

(1) The value of the liabilities and assets of an insurance fund of a registered insurance company shall, on the winding-up of the registered insurance company, be ascertained separately from the value of any other liabilities or from the value of any other assets of the registered insurance company, and the assets of the insurance fund must not be applied to the discharge of any liabilities other than those in respect of which that fund was established, except in so far as those assets exceed the liabilities of that insurance fund.

Revision Date: 31 Dec 2009

(2) If, on the winding-up of a registered insurance company the liabilities and assets of an insurance fund of the registered insurance company have been ascertained and there is a surplus of the assets over the liabilities, there shall be added to the liabilities of that insurance fund an amount equal to the proportion of the surplus equivalent to the proportion of the profits, if any, in the class of insurance business to which the insurance fund relates, which was allocated to shareholders and policyholders during the ten years immediately preceding the commencement of the winding-up.

(3) The assets of an insurance fund referred to in subsection (2) shall be deemed to exceed the liabilities of that fund only to the extent that the assets exceed the liabilities after the addition referred to in that subsection and where it appears to the court that by reason of special circumstances it would be inequitable for the amount specified to be added to the liabilities of the insurance fund, the court shall direct what another amount shall be added.

74. Reduction of contracts.

Where a liquidator ascertains that a registered insurance company is unable to pay its debts, the court may if it thinks fit, on application by the liquidator or the Registrar reduce the amounts due under the contracts of the registered insurance company upon the terms and subject to such conditions the court thinks just.

75. Liability of directors and officers.

(1) If in the course of the winding-up of a registered insurance company, the court is satisfied that the amount of an insurance fund has been diminished by reason of any contravention of this Act, every person who at the time of the contravention was a director, the principal representative or an officer of the registered insurance company, are deemed in respect of the contravention to have committed misfeasance unless he or she proves that the contravention occurred without his knowledge and that he used all due diligence to prevent the occurrence of contraventions of this type.

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

76. Application of deposits.

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

78. Winding-up part of business.

(1) Where the court makes an order for the winding-up of part of the business of a registered insurance company, a scheme for the purpose of the winding-up must be prepared and submitted for the confirmation of the court

- (a) by the person who made the application, where an order is made after the hearing of an application under section 71; or
- (b) by the Judicial Manager appointed in respect of the registered insurance company, where the order is made pursuant to section 65.

(2) A scheme prepared under this section shall provide for

- (a) the allocation and distribution of the assets and liabilities of the registered insurance company between any classes of business affected by the winding-up (including the allocation of any surplus assets which may arise on the proposed winding-up);
- (b) any future rights of every class of policyholder in respect of its policies; and
- (c) the manner in which any part of the business of the registered insurance company may be wound up, and may contain any provision expedient for giving effect to the scheme.

(3) Sections 71, 72, 73, 74, 75 and 76 shall apply with such changes as may be necessary in the circumstances, on a winding-up in accordance with a scheme under this section.

Voluntary Liquidation

78. Voluntary liquidation.

(1) A voluntary liquidation of a registered insurance company shall be subject to authorisation by the Minister upon the recommendation of the Registrar and the Registrar shall recommend a voluntary liquidation when

- (a) the registered insurance company is not deemed to be insolvent under section 54; and
- (b) the liquidation has been properly approved by the shareholders of the registered insurance company.

(2) When it has received the authorisation of the Minister the registered insurance company shall

- (a) immediately cease to carry on business, retaining only the powers necessary to effect an orderly liquidation;
- (b) discharge or provide for the discharge of all its obligations; and
- (c) wind up all operations undertaken prior to the receipt of the authorisation.

(3) Within thirty days from the receipt of the authorisation of the Minister, a notice of voluntary liquidation, setting out such information as the Minister, upon the recommendation of the Registrar, may determine, shall be sent by the registered insurance company to all claimants and other creditors of the registered insurance company.

(4) The registered insurance company shall post the notice conspicuously on the premises of each office and branch of the registered insurance company and shall publish

Revision Date: 31 Dec 2009

the notice in the manner directed by the Minister, upon the recommendation of the Registrar.

(5) The Minister, upon the recommendation of the Registrar, may exempt the mailing of the notice referred to in subsection (3) to specified persons upon a showing of cause therefore by the registered insurance company.

(6) The authorisation to go into voluntary liquidation shall not prejudice the rights of a claimant or other creditor to payment in full of his or her claim nor the right of an owner of funds or other property held by the registered insurance company to its return.

(7) When the Minister, after consultation with the Registrar, is satisfied that the registered insurance company has discharged or provided for the discharge of all of its obligations, it shall be struck from the list of registered insurance companies and the remainder of its assets shall be distributed among its shareholders in proportion to their respective rights, but such distribution shall not be made before

- (a) all obligations have been discharged or provided for or, in the case of a disputed claim, before the registered insurance company has turned over to the Registrar as agent for the Minister, sufficient funds to meet any liability that may be determined by a court of competent jurisdiction;
- (b) any funds payable to a claimant or other creditor who has not claimed them have been turned over to the Registrar as agent for the Minister; and
- (c) any other funds and property held by the registered insurance company that could not be returned to the owners thereof have been transferred to the Registrar as agent for the Minister together with the inventories pertaining thereto.

(8) Upon paying or delivering funds and property under paragraphs (b) and (c) of subsection (7) into the custody of the Registrar, the registered insurance company shall be relieved of all liability to the extent of the value of the funds and property for any claim in respect thereof.

(9) Any person claiming an interest in funds or property paid or delivered under paragraph (b) or (c) of subsection (7) may file a claim thereto with the Registrar and, after an appropriate hearing, the decision of which shall be communicated to the claimant and made a public record, the Registrar may deliver up the property or make the payment.

(10) Any person aggrieved by a decision of the Registrar may commence an action in the High Court to establish his or her claim within thirty days following the decision of the Registrar.

(11) If the assets of a registered insurance company, whose voluntary liquidation has been authorised, will not be sufficient for the full discharge of all its obligations or completion of the liquidation is unduly delayed, the Minister, after consultation with the Registrar, may cause the Registrar to apply, and the Registrar shall apply, for an order placing the registered insurance company under judicial management and the provisions of sections 62 to 69 shall apply to the application and the order with changes as may be necessary in the circumstances.

(12) This section shall apply to the business in Saint Christopher and Nevis carried on by a foreign insurance company with such changes as may be necessary in the circumstances.

PART IV – ASSOCIATION OF UNDERWRITERS

79. Registration of association of underwriters.

(1) An association of underwriters may not carry on insurance business in Saint Christopher and Nevis unless it is registered in accordance with this Part, but an association that was carrying on insurance business in Saint Christopher and Nevis before the commencement of this Act shall be deemed to be so registered.

(2) An association of underwriters may not be registered under this Act unless there are one or more persons resident in Saint Christopher and Nevis who are authorised to accept on behalf of the members of the association service of process in any legal proceedings, being persons nominated for that purpose by the association.

80. Application for registration of association of underwriters.

An application by an association of underwriters for registration shall be made to the Registrar and shall be accompanied by evidence of payment of the prescribed fee and the following documents and information:

- (a) a copy of its statute or deed of association;
- (b) a certificate of registration to the effect that
 - (i) it has been established for at least five years;
 - (ii) the laws of the country in which it is constituted provides for the regulation of an association of underwriters; and
 - (iii) the association is operating in accordance with that law;
- (c) the names of the members of the association of underwriters;
- (d) the name and address of every person who is nominated pursuant to section 79(2);
- (e) the name and address of the insurance brokers through whom insurance may be placed in Saint Christopher and Nevis; and
- (f) any further information the Registrar may require.

81. Conditions for registration.

(1) If the Registrar, after appropriate enquiry or after the production of documentary evidence, or both, is satisfied in respect of the applicant association of underwriters that

- (a) the relevant requirements of this Part have been complied with;
- (b) the association is likely to be able to comply with the provisions of this Act applicable to it;
- (c) it has made or has caused to be made with the Registrar the deposit required by section 82;

Revision Date: 31 Dec 2009

- (d) there are one or more persons resident in Saint Christopher and Nevis who are authorised to accept on behalf of the members of the association service of process in any legal proceedings, being persons authorised for that purpose by the association;
- (e) the persons who manage the association of underwriters are of good character and are otherwise fit and proper persons to manage the association; and
- (f) the staff the applicant employs are, in relation to any class of insurance business in respect of which the application is made, capable of carrying on that business in an efficient manner,

the Registrar shall, either unconditionally or subject to the conditions the Registrar may specify, register the association of underwriters and notify the applicant accordingly or, if the Registrar is of the opinion that it would not be in the public interest to register the association of underwriters, the Registrar may refuse to register the association of underwriters stating in writing the reasons for so refusing, informing the association of the refusal and of its right of appeal under section 223.

(2) The Registrar may at any time make the association of underwriters subject to conditions or add to, amend or revoke any conditions to which he or she has made the association of underwriters subject under subsection (1) or this subsection.

82. Deposits by association of underwriters.

An association of underwriters may not be registered under this Act to carry on, and may not carry on, any class of insurance business unless it has deposited with the Registrar in cash or partly in cash and partly in prescribed securities an amount equal to two hundred thousand dollars.

83. Premiums to be held in trust.

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

84. Documents to be supplied to Registrar.

(1) An association of underwriters registered in accordance with this Part shall within six months of the end of each financial year or within an extended period not exceeding two months as the Registrar may allow furnish to the Registrar a statement of receipt and expenditure in Saint Christopher and Nevis by its members during the preceding year.

(2) The following documents must be submitted:

- (a) a certified copy of the returns relating to the insurance business of its members during the preceding year as are required to be made to the Minister or other public authority in the country in which the association is constituted;
- (b) a certificate of registration signed by the Chairperson or other presiding officer of the association and a certificate of registration by

or on behalf of the public authority in the country in which it is constituted, stating whether the association has complied with the requirements of the law for the regulation of associations of underwriters in that country;

- (c) the latest annual list of members and the names of the members of its committee or other governing body and including any change in the particulars specified in section 80; and
- (d) any other documents and information the Registrar may require.

(3) The documents indicated in subsection (2) shall be submitted to the Registrar within six months after the end of each financial year.

(4) An association which fails to submit the statement required by subsection (1) shall pay a fee of two hundred dollars for every day that the statement remains outstanding after the due date or such extended period as the Registrar may allow.

85. Registrar may prohibit writing new policies.

(1) The Registrar may prohibit a registered association of underwriters from writing new policies in any class of insurance business if he is satisfied that it is in the interest of the policyholders or prospective policyholders to do so.

(2) If the Registrar exercises the power conferred by subsection (1) he or she shall notify the registered association in writing

- (a) stating the reasons for the decision; and
- (b) of its right of appeal under section 223.

86. Cancellation of registration of association.

(1) The Registrar may cancel the registration of an association of underwriters

- (a) if he or she is not satisfied that the insurance business of its members is being conducted in accordance with sound insurance principles;
- (b) if he or she is satisfied that the association obtained registration as a result of misleading or false representation or in consequence of any incorrect information;
- (c) if the association has failed to comply with any requirement imposed upon it in accordance with this Part;
- (d) if he or she is satisfied that the members of the association have not commenced business within one year of registration or have ceased to carry on business within Saint Christopher and Nevis; or
- (e) at the request of the association.

(2) If the Registrar cancels the registration of an association, he or she shall state in writing his reasons for so doing, and notify the association of its right of appeal under section 223.

Revision Date: 31 Dec 2009

87. Obligations of association.

An association of underwriters whose registration has been cancelled in accordance with this Part shall not continue to carry on business relating to policies issued by it before the date on which it was notified of the cancellation, unless the Registrar is satisfied that it has made suitable arrangements for its obligations under those policies to be met.

PART V – INSURANCE INTERMEDIARIES

88. Requirement for registration.

(1) After nine months from the commencement of this Act, a person shall not, in respect of any class of insurance business, carry on or purport to carry on business as or act as an insurance adjuster, insurance agent, insurance broker or sales representative unless that person is registered under this Part.

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

89. Application for registration.

(1) An application for registration shall be made to the Registrar in the prescribed form and shall be accompanied by evidence of payment of the registration fee specified in the Third Schedule and by any other documents prescribed or required by the Registrar.

(2) On receipt of an application the Registrar may request the applicant to furnish any additional information the Registrar may consider relevant in relation to the application, and the applicant shall comply with that request.

(3) Where an applicant wishes to be registered as an insurance agent or a sales representative, the application shall be endorsed by the registered insurance company or the insurance agent (in this Part referred to as “the principal”) with whom that applicant is contracted.

(4) This section shall apply mutatis mutandis to an application for reinstatement of registration.

90. Restrictions on registration.

(1) An individual shall not be registered under this Part to carry on business as an insurance intermediary if that person is

- (a) under the age of eighteen years;
- (b) an undischarged bankrupt, unless that individual has been granted leave to carry on such business by the court by which he or she was adjudged bankrupt; or
- (c) a person who has been found by a court to be of unsound mind or is so certified under the law relating to mental health.

(2) A director or officer of a company carrying on business as an insurance broker shall not be registered as a sales representative or as an insurance agent, or be a director of

a registered insurance company or of a company carrying on business as an insurance agent or insurance adjuster.

(3) A director, officer or employee of a registered insurance company shall not be registered as an insurance broker, or be a director of a company carrying on the business of an insurance broker.

(4) A person registered to carry on business as a sales representative or an insurance agent shall not be registered to carry on business as an insurance broker or as an insurance adjuster.

(5) A person registered to carry on business as an insurance broker shall not be registered to carry on business as a sales representative or an insurance agent.

(6) A director of a company carrying on business as an insurance adjuster shall not be registered as a sales representative, an insurance agent or an insurance broker.

(7) A person shall not be registered as an insurance broker if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurance company.

(8) A person shall not be registered as an insurance agent if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurance company or an insurance broker.

91. Conditions for registration.

(1) Subject to this Part, the Registrar may either

- (a) unconditionally; or
- (b) subject to any conditions he or she considers necessary,

register an applicant as a sales representative or an insurance agent of the registered insurance company or insurance agent by which the applicant is employed or contracted or as an insurance adjuster or insurance broker in respect of the class of insurance business specified.

(2) The Registrar may subject to sections 89 and 90 register an applicant as an insurance intermediary if the Registrar is satisfied that the applicant

- (a) is a person of good character and a fit and proper person;
- (b) is competent to carry on business as an insurance intermediary in the particular class of insurance business in which the applicant applied to be registered;
- (c) in the case of an applicant applying to carry on business as an insurance broker or insurance adjuster, has the professional indemnity insurance cover prescribed that is in force for the period of the certificate of registration issued under subsection 92(1);
- (d) in the case of an applicant who, before the commencement of this Part, was carrying on business in the Caribbean Community as an insurance intermediary for a period of not less than three years, carried on the business in an efficient manner;

Revision Date: 31 Dec 2009

- (e) has complied with any requirement relating to the passing of any applicable examination; and
- (f) where the application is for registration to carry on business as an insurance broker or an insurance agent and the applicant is an entity, is, having regard to the competence of the person or persons managing it and the staff it will employ, in the capacity for which it seeks registration, capable of carrying on efficiently the business for which the application is made.

(3) The Registrar shall, if he or she refuses an application for registration under this Part, notify the applicant

- (a) in writing of the refusal either generally or in respect of a particular class of insurance business and give reasons for the refusal; and
- (b) of the applicant's right of appeal under section 223.

92. Certificate of registration.

(1) The Registrar shall issue a certificate of registration to every person registered under this Part as an insurance intermediary.

(2) A certificate of registration issued under subsection (1) shall be

- (a) valid for a period not exceeding one year unless cancelled pursuant to section 94;
- (b) state the effective and expiry dates, the category and each class of insurance business in respect of which the person is registered; and
- (c) specify the principal in respect of which the person is so registered, if the person is registered as an insurance agent or as a sales representative; and
- (d) be *prima facie* evidence that the person named in that certificate is registered in the capacity stated in the certificate.

(3) An insurance intermediary shall prominently display its certificate of registration at its principal place of business in Saint Christopher and Nevis in a place to which the public has access and a copy of that certificate shall be similarly displayed at each of its branches in Saint Christopher and Nevis.

(4) A person shall not

- (a) operate as an insurance intermediary without a valid certificate of registration or a certificate of registration; or
- (b) display a certificate of registration that is not valid.

(5) A person who contravenes subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

93. Certificate of registration to be produced on request.

(1) A person registered under this Part shall produce his or her certificate of registration when requested so to do

- (a) by the Registrar or any other person authorised by him or her;
- (b) in the case of an insurance agent or a sales representative, by the principal in respect of which he or she is registered to carry on business;
- (c) in the case of an insurance broker or an insurance adjuster, by the registered insurance company with which the person proposes to transact business; and
- (d) by an actual or a prospective client.

(2) A person who fails to comply with subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

94. Cancellation of registration.

(1) The Registrar may cancel the registration of an insurance intermediary registered under this Part if

- (a) he or she is satisfied that the person obtained registration as a result of any misleading or false representation or in consequence of any incorrect information;
- (b) the person has become an undischarged bankrupt;
- (c) he or she is satisfied that the person is not carrying on the business in accordance with sound insurance principles and practice;
- (d) he or she is satisfied that
 - (i) the person has demonstrated that he or she cannot carry on efficiently the business of acting as an intermediary for the class of insurance business for which he or she is registered; or
 - (ii) in the case of an entity, the persons managing the entity have demonstrated that they cannot carry on efficiently the business of acting as an intermediary for the class of insurance business for which the entity is registered;
- (e) the person has repeatedly and unreasonably delayed transmitting monies received for the account of an insurance company or a client to the person entitled to the money;
- (f) one month has elapsed since the date by which the person was required under this Act to furnish financial statements or other information to the Registrar and the person has, without reasonable excuse, failed to furnish the information or failed to do so in the manner specified in this Act;
- (g) he or she is satisfied that the person has pursued a fraudulent or dishonest practice or any other practice that is generally regarded in the insurance business as being undesirable;
- (h) he or she is satisfied that the person has not commenced business in Saint Christopher and Nevis within one year of his being registered to carry on such business or has not carried on the business in Saint Christopher and Nevis for a period of more than one year;

Revision Date: 31 Dec 2009

- (i) in the case of a person registered as an insurance agent or a sales representative, the Registrar is satisfied that the registration of the registered insurance company in respect of which the person is registered to carry on business as an insurance agent or sales representative has been cancelled or that the contract of the insurance agent or of the sales representative has been terminated; or
- (j) the person requests that his or her registration be cancelled.

(2) The Registrar shall, before exercising the power of cancellation under subsection (1), notify the insurance intermediary in writing of the intended cancellation specifying the grounds on which he or she proposes to make the cancellation and shall require the insurance intermediary to submit to him or her within a specified period being not less than thirty days, a written statement of objections to the making of the cancellation and thereafter the Registrar shall advise the registered insurance company of his or her decision.

(3) The Registrar shall, when the registration of an insurance intermediary is cancelled under this Part

- (a) give notice in writing of the cancellation to the insurance intermediary and of his or her right of appeal under section 223; and
- (b) require the insurance intermediary to deliver his or her certificate of registration and every copy of the certificate of registration to the Registrar within twenty-eight days of the cancellation or any shorter period that may be specified in the notice.

(4) A person who has had his or her registration cancelled under subsection (1) (f) may apply to the Registrar for reinstatement of his or her registration in accordance with section 89 and the Registrar may reinstate his or her registration if he or she is satisfied that the person has complied with the requirements of the Act.

(5) A person who fails to comply with sub-paragraph (b) of subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

95. Submission of information.

(1) A registered insurance broker shall, in the prescribed form and within four months of the end of its financial year or an extended period not exceeding six months as the Registrar may allow, submit to the Registrar any information regarding the business placed with insurance companies.

(2) A registered insurance agent or registered insurance broker shall, in the prescribed form and within four months of the end of its financial year or an extended period not exceeding six months as the Registrar may allow, submit to the Registrar an analysis of premiums due but not paid to its principal or to each insurance company, as the case may be, listing the aging of the sums outstanding.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

96. Notice of termination of agency.

(1) If the contract of a registered insurance agent, or a registered sales representative is terminated or amended, the insurance agent or the sales representative and his or her principal shall forthwith give notice in writing of such termination or amendment to the Registrar.

(2) A person who fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding one thousand dollars.

97. Registrar may request information.

(1) The Registrar may require in writing from any person registered under this Part or from his or her employer or principal

- (a) any information relating to the person's business as an insurance intermediary; and
- (b) the production of the books, records or other documents in connection with the person's business as an insurance intermediary that the Registrar may specify, at a time and place which the Registrar may determine.

(2) A person who fails to comply with a request or a requirement under this section commits an offence, and is liable on summary conviction to a fine not exceeding one thousand dollars.

98. Agent of the insurance company.

A registered insurance agent or registered sales representative shall, for the purpose of receiving any premium for a policy on behalf of a registered insurance company, be deemed to be the agent of the registered insurance company notwithstanding any conditions or stipulations to the contrary.

99. Liability for unlawful contracts.

A registered insurance agent, registered insurance broker or registered sales representative is personally liable to the insured on all policies unlawfully made by or through him or her directly or indirectly with any insurance company not registered to carry on insurance business in Saint Christopher and Nevis in the same manner as if the registered insurance agent, registered insurance broker or registered sales representative had been the insurance company.

100. Misleading advertisements.

(1) A registered insurance company, a registered insurance agent, registered insurance broker, or registered sales representative shall not make any oral statement or issue or permit to be issued any advertisement, statement, circular, descriptive booklet or other document, or make or permit to be made any statement, by means of any broadcasting or other medium, which misleads or tends to mislead the public.

(2) A registered insurance company, registered insurance agent, registered insurance broker, or registered sales representative who contravenes subsection (1)

Revision Date: 31 Dec 2009

commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

101. Restriction on compensation to unregistered persons.

(1) If, at the date of placing or negotiating insurance, a person is not registered pursuant to this Part, a registered insurance broker, registered insurance agent, or registered insurance company and an officer, employee or agent of a registered insurance company shall not pay, agree to pay or allow to be paid to that person compensation or anything of value for placing, negotiating or attempting to place or negotiate insurance or for negotiating the continuance or renewal of insurance, other than re-insurance, on lives, property or interests in Saint Christopher and Nevis.

(2) A registered insurance broker, registered insurance agent, or registered insurance company and an officer, employee or agent of a registered insurance company that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for as term not exceeding one year or to both.

102. Rebating.

(1) A registered insurance company, an officer, employee or agent of a registered insurance company, a registered insurance broker or registered sales representative shall not directly or indirectly

- (a) make or attempt to make an agreement as to the premium to be paid for a policy other than as specified in the policy; or
- (b) pay, allow, give, 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 intended to be in the nature of a rebate of premium, to any person who is insured or is applying for insurance in respect of life, property or interest in Saint Christopher and Nevis.

(2) A registered insurance company, an officer, employee or agent of a registered insurance company, a registered insurance broker or registered sales representative who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

103. Bona fide salaried employees.

Nothing in section 101 and 102 shall affect any payment by way of dividend, bonus, profit or savings that is provided for by a policy, or shall be construed so as to prevent an insurance company compensating a bona fide salaried employee or a spouse or child of that employee, in respect of insurance issued by the employing insurance company upon the life or property of that person or so as to require that the person be licensed as an insurance intermediary under this Part to effect the insurance.

104. Returns to the Registrar.

A registered insurance company or registered insurance agent that has appointed insurance agents or sales representatives, shall make a return to the Registrar in the form and at the time required by him or her showing all persons

- (a) registered as its insurance agents or sales representatives in Saint Christopher and Nevis; and
- (b) to whom it has, within a period specified in the form, paid or agreed to be paid or allowed to be paid directly or indirectly, compensation for placing or negotiating insurance on lives, property or interests in Saint Christopher and Nevis or negotiating or attempting to negotiate the continuance or renewal of such insurance.

105. Keeping of records by registered insurance brokers.

(1) A registered insurance broker shall keep within Saint Christopher and Nevis and submit to the Registrar within four months of the end of a calendar year

- (a) a record of all local policies issued by the registered insurance broker on behalf of members of a registered association of underwriters;
- (b) a record of the aggregate amount of the premiums received on the policies; and
- (c) an analysis of premiums payable to insurance companies by the number of days outstanding.

(2) The Registrar may extend the period of four months referred to in subsection (1) by not more than six months, upon application in writing by the registered insurance broker.

(3) A person who fails to submit the information referred to in subsection (1)

- (a) to the Registrar;
- (b) within the four months provided, or any extension provided by subsection (2);

commits an offence, and is liable on summary conviction to a fine not exceeding one thousand dollars.

106. Procuring premiums by fraudulent means.

A registered insurance agent or a registered sales representative commits an offence if the registered insurance agent or the registered sales representative

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

Revision Date: 31 Dec 2009

107. Failure to pay over money to client or insurance company.

(1) A registered insurance agent, a registered insurance broker or a registered sales representative commits an offence if he or she receives money

- (a) from a registered insurance company for the account of an insured and fails to pay over the same within fourteen days; or
- (b) from a client for the account a registered insurance company and fails to pay over the same within thirty days after demand for payment made in writing, less any commission and other deduction that the registered insurance agent, registered insurance broker or registered sales representative may be entitled to by agreement.

(2) If an insurance company at the request of an insurance broker provides cover to an insured, the insurance broker is liable to the insurance company for the premium due in respect of the cover and the premium may be sued for and recovered from the insurance broker as a civil debt.

PART VI – LONG-TERM INSURANCE BUSINESS ACTUARY

108. Insurance company to appoint actuary.

(1) A registered insurance company carrying on long-term insurance business in Saint Christopher and Nevis shall appoint an actuary, as a member of its staff or as a consulting actuary, and notify the Registrar in writing within fourteen days of making the appointment.

(2) The registered insurance company may terminate the appointment of an actuary.

(3) The registered insurance company shall, within three months of the termination of the appointment or resignation of an actuary, appoint another actuary.

(4) If the appointment of an actuary is terminated or if the actuary resigns, the registered insurance company shall notify the Registrar in writing

- (a) of the termination or resignation forthwith after the termination of the appointment or resignation; and
- (b) within fourteen days, of the appointment of another actuary.

(5) A person shall not carry out the functions of an actuary unless the Registrar is satisfied that the person possesses the necessary qualifications to carry out these functions.

(6) An actuary who resigns or whose appointment is terminated shall submit to the directors of the registered insurance company and the Registrar a written statement of the circumstances and reasons why the actuary resigned or why, in the actuary's opinion, the appointment was terminated.

109. Chief executive officer, chief operations officer shall not be actuary and restriction on chief financial officer.

(1) The chief executive officer or chief operating officer of a registered insurance company or a person performing like functions shall not be appointed as, or hold the position of, actuary unless

- (a) authorised in writing by the Registrar; and
- (b) the audit committee of the registered insurance company has provided the Registrar with a written statement indicating that it is satisfied that the duties of both positions in the registered insurance company will be adequately performed and that the actuarial duties will be performed in an independent manner.

(2) The Registrar may attach conditions to an authorization under subsection (1) including a condition limiting the time during which the person may hold the position of actuary of the registered insurance company.

Issue of Policies

110. Premium rates to be approved by actuary.

(1) A registered insurance company carrying on long-term insurance business in Saint Christopher and Nevis shall not issue a policy or other insurance product unless the terms and conditions of the policy or insurance product have been registered by the Registrar.

(2) A policy or other insurance product referred to in subsection (1) shall not be registered by the Registrar if the Registrar is not satisfied that the risk management system of the insurance company is adequate to manage the risks inherent in the policy or other insurance product.

(3) Without limiting the generality of subsection (2), the Registrar may, at any time, require a registered insurance company to obtain and to furnish him or her with a report by an actuary as to the suitability of the rate of premium chargeable under any policy or type of policy issued by it and, if the actuary considers that the rate is not suitable, a report as to the rate of premium that the actuary approves as suitable in respect of such policy or type of policy.

(4) When preparing a report referred to in subsection (3) in respect of a rate of premium under a policy or type of policy, the actuary shall have regard to

- (a) the maximum rate of commission proposed to be paid to any person; and
- (b) the maximum rate of reduction of premium to be allowed to any person,

in respect of that policy or type of policy.

(5) Where the report referred to in subsection (3) states that the rate of premium on a policy or type of policy is not suitable, the registered insurance company shall not pay or allow in respect of that policy or any policy of that type a commission or a reduction of premium at a rate greater than the maximum rate of commission or reduction of premium that the report finds suitable for that policy or type of policy.

111. Notice in respect of long-term policies.

(1) Subject to section 112(3) a registered insurance company shall not enter into a policy of long-term insurance unless it, not later than seven days after receipt of an

Revision Date: 31 Dec 2009

application for a policy, serves on the applicant a notice containing the information specified in subsection (2).

(2) The notice referred to in subsection (1) shall

- (a) specify the nature and type of the policy; and
- (b) have annexed to it a form of notice of withdrawal for use by the applicant.

(3) An insurance company who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

112. Right of cancellation.

(1) A person who has applied for a policy of insurance with a registered insurance company may serve notice of withdrawal of that application on the registered insurance company

- (a) not later than the tenth day after he or she receives a notice referred to in section 111; or
- (b) not later than ten days after he or she first became aware that the application had been received by the registered insurance company, whichever is the later.

(2) A notice of withdrawal need not be in the form attached to the notice served under subsection 111(1) and is sufficient if it indicates a desire to withdraw from the contract.

(3) An applicant who withdraws his or her application as a result of the service of a notice, is entitled to recover from the registered insurance company any monies paid by way of premium or otherwise, to the registered insurance company, or its servant or agent, as a debt in civil proceedings.

113. Notice regarding proof of age.

If a registered insurance company issues a life policy that provides that proof of age of the person whose life is insured is a condition precedent to the payment of the sum insured, the registered insurance company must, unless the age of the person whose life is insured has already been admitted by it, issue on or with the policy a printed notice stating that proof of age of the person whose life is insured shall be required before the payment of the sum insured.

114. Procedure where proof not accepted.

(1) If a registered insurance 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 policyholder may apply to a Judge in chambers for an order directing the registered insurance company to accept the proof tendered.

(2) The Judge in chambers may on an application made to him or her under subsection (1), make such order in relation to the application as the Judge thinks just.

115. Misstatement of age.

(1) A policy is not void by reason only of a misstatement of the age of the life insured.

(2) If there is proof of the true age of the life insured and the age is greater than the age on which the policy is based, the registered insurance company may vary the sum insured by and any bonuses, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and any bonuses 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.

(3) If there is proof of the true age of the life insured and the age is less than the age on which the policy is based, the registered insurance company shall either

- (a) vary the sum insured by, and any bonuses, allotted to the policy so that, as varied, they bear the same proportion to the sum insured by, and any bonuses 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
- (b) reduce, as from the date of issue of the policy,
 - (i) the premium payable to the amount that would have been payable if the policy had been based on the true age; and,
 - (ii) repay the policyholder the amount of over payments of premium less any amount paid as the cash value of bonuses in excess of the cash value that would have become payable if the policy had been based on the true age.

(4) A policy shall not be void by reason only of any incorrect statement, made in any proposal or other document on the faith of which the policy was issued or reinstated by the registered insurance company unless the statement

- (a) was fraudulently untrue; or
- (b) is material in relation to the risk of the registered insurance company under the policy and was made within the period of three years immediately preceding the date
 - (i) on which the policy is sought to be voided; or
 - (ii) of the death of the life insured, whichever is the earlier.

116. Provisions relating to state of health of insured.

Nothing in any term or condition of a life policy, issued after the commencement of this Act, shall operate to exempt a registered insurance company from liability under the policy or to reduce the liability of the registered insurance company under the policy on the ground of any matter relating to the health of the life insured, other than the ground that the proposer, when making the proposal or subsequently and before the making of the contract

Revision Date: 31 Dec 2009

- (a) made an untrue statement of his or her knowledge and belief as regards the matter; or
- (b) failed to disclose to the registered insurance company something known or believed by him or her as regards that matter.

117. Minors may effect policies and take assignments.

(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 or her parent or of a person standing *in loco parentis* to the minor

- (a) effect a policy upon his or her own life or upon another life in which he or she has an insurable interest; or
- (b) take an assignment of a policy.

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

- (a) may effect a policy upon his or her own life or upon another life in which he or she has an insurable interest; or
- (b) may take an assignment of a policy; and
- (c) subject to subsection (3), is competent in all respects to have and exercise the powers and privileges of a policyholder of full age in relation to a policy of which he or she is the holder.

(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 or her parent or of a person standing *in loco parentis* to the minor.

(4) This section does not

- (a) impose on a minor any liability to which, but for this section, he or she would not be subject;
- (b) confer on a minor any power or capacity that, but for this section, the minor would not have;
- (c) validate a receipt, a discharge or a surrender of, or security over a policy given by a minor, if, but for this section, that receipt, discharge, surrender or security would not be valid; or
- (d) validate any assignment of a policy that, but for this section, would not be valid.

118. Insurable interest.

Without limiting or restricting the meaning of the expression “insurable interest”, an insurable interest shall be deemed to be held by

- (a) a person in his or her own life;
- (b) a parent of a child who is under eighteen years of age, or a person *in loco parentis* to that child, in the life of the child;
- (c) a husband, in the life of his wife;
- (d) a wife, in the life of her husband;

- (e) any person, in the life of another person upon whom he or she is wholly or partly dependent for support or education;
- (f) a company or other entity in the life of an officer or employee of the company or other entity; and
- (g) any person who has a pecuniary interest in the duration of the life of another person, in the life of that person.

Beneficiaries

119. Designation of beneficiaries.

(1) A policyholder may by declaration in writing filed with the registered insurance company at the time the policy is taken out or at any time subsequently designate his or her personal representative or a named person to be the beneficiary under his or her policy and may alter or revoke the designation by declaration in writing.

(2) A designation in favour of “heirs”, “next of kin”, “estate”, “succession” or similar designation shall be deemed to be a designation of the personal representative of the policyholder.

120. Irrevocable designation of beneficiaries.

(1) The provisions of this section apply only in respect of policies taken out after the commencement of this Act.

(2) Subject to subsections (4), (5) and (6) a policyholder may, by declaration in writing filed with the registered insurance company at the time the policy is taken out, or at any time subsequently, designate irrevocably a named person to be beneficiary under the policy and, in that case

- (a) the policyholder, subject to section 136, may not during the life time of a named beneficiary, alter or revoke the designation without the consent of the beneficiary; and
- (b) the monies payable under the policy are not subject to the control of the policyholder or his or her creditors and do not form part of his or her estate.

(3) Notwithstanding paragraph (a) of subsection (2), consent of the beneficiary is not required where the beneficiary under a policy is a former spouse and the marriage ended in divorce or the common law union has come to an end, as the case may be.

(4) If the policyholder purports to designate a beneficiary irrevocably in a declaration that has not been filed with the registered insurance company as required by subsection (2), or in a will, the designation shall not be regarded as irrevocable.

(5) An irrevocable designation may only be made by a policyholder in favour of a spouse or a child, including a child born out of wedlock.

(6) A designation by a policyholder shall not be regarded as irrevocable unless the words creating the irrevocable designation are clear and unequivocal and are prominently displayed on the proposal form and signed by the policyholder, and there is sufficient evidence that it was explained to the policyholder that the designation was irrevocable.

Revision Date: 31 Dec 2009

121. Trusts for beneficiaries.

(1) A policyholder may, in writing, appoint by contract or by declaration a trustee for a beneficiary under the policy and may alter or revoke the appointment by declaration in writing.

(2) The contract or declaration referred to in subsection (1) must be filed with the registered insurance company.

(3) A payment by a registered insurance company to a trustee for a named beneficiary discharges the registered insurance company from payments to the beneficiary to the extent of the payment.

122. Beneficiary predeceasing policyholder.

(1) If by a contract or by a declaration filed with a registered insurance company, a person has been named as beneficiary under a policy and the person so named as beneficiary under a policy pre-deceases the policyholder and no provision is made in the contract or declaration for the disposition of monies payable under the policy in the event of the beneficiary pre-deceasing the policyholder then, without limiting or affecting the application of section 121, the monies payable under the policy must vest in the following persons in the following order

- (a) in the surviving beneficiary, if any;
- (b) in the surviving beneficiaries in equal shares, if there is more than one surviving beneficiary; or
- (c) in the policyholder or his or her personal representatives, if there are no surviving beneficiaries.

(2) If two or more beneficiaries are designated otherwise than alternatively, and no provision is made as to the quantum of their respective shares of the monies payable under the policy, then, they are entitled to the monies in equal shares.

123. Simultaneous deaths.

Unless a declaration otherwise provides, if the policyholder or the life insured, if different from the policyholder, and a beneficiary die in circumstances that render uncertain the order of the deaths, in the absence of proof to the contrary, it shall be presumed that the beneficiary pre-deceased the policyholder or the life insured.

124. Designated beneficiary.

(1) If a beneficiary other than a personal representative has been designated by a policyholder, the money payable under the policy does not form part of the estate of the policyholder or insured and is not subject to claims of his or her creditors

(2) While a designation in favour of a spouse or child of a policyholder or any of them is in effect, the rights and interests of the policyholder in the insurance money and in the policy are exempt from execution or seizure.

125. Assignment of policy.

(1) If a beneficiary is not designated irrevocably, the policyholder may assign, exercise rights under or in respect of, surrender or otherwise deal with the policy as provided in the policy or in this Part or as may be agreed upon with the registered insurance company.

(2) If a beneficiary is designated irrevocably, the policyholder may not assign the policy, use the policy as a security, surrender it or otherwise deal with it without the consent in writing of the designated beneficiary.

126. Enforcement by beneficiary trustee.

A beneficiary may, for his or her own benefit or for the benefit of a trustee appointed pursuant to section 121, in accordance with the terms of the contract or declaration, enforce payment of monies payable under a policy even though there is no privity of contract, but the insurance company may invoke against the beneficiary or trustee any defence available against the policyholder or his or her personal representative.

127. Entitlement to dividends and bonuses.

(1) Notwithstanding the designation of a beneficiary irrevocably, the policyholder is entitled, while living, to the dividends or bonuses declared on a policy, unless the policy otherwise provides.

(2) Unless the policyholder otherwise directs, the registered insurance company may apply the dividends or bonuses declared on a policy for the purpose of keeping the policy in force.

128. Effect of assignment of policies on beneficiaries.

(1) An assignee of a policy who gives notice in writing of the assignment to the insurance company has priority of interest as against

- (a) any assignee other than one who gave notice earlier in like manner; and
- (b) a beneficiary other than one designated irrevocably as provided in section 120 prior to the time the assignee gave notice to the insurance company of the assignment in the manner prescribed in this subsection.

(2) If a policy is assigned as security, the rights of a beneficiary under the policy are affected only to the extent necessary to give effect to the rights and interests of the assignee.

(3) If a policy is assigned absolutely, the assignee has all the rights and interests given to the policyholder by the policy and by this Part and shall be deemed to be the policyholder.

(4) A provision in a policy to the effect that the rights or interests of the policyholder, or, in the case of group insurance, the group life insured are not assignable is valid.

Revision Date: 31 Dec 2009

Group Life Insurance

129. Policy of group insurance.

If a policy is entered into for the provision of group insurance, the registered insurance company shall

- (a) set out in the policy the following particulars:
 - (i) the name of the policyholder;
 - (ii) the method of determining the persons whose lives are insured;
 - (iii) the beneficiaries under the policy;
 - (iv) the amount, or the method of determining the amount, of the insurance money payable, and the conditions under which it becomes payable;
 - (v) the period of grace, if any, within which the premium may be paid; and
 - (vi) whether the policy provides for participation in the distribution of surplus or profits that may be declared by the insurance company; and
- (b) issue to the policyholder and to each group life insured, a certificate of registration or other document, in which the following particulars are set out:
 - (i) the name of the insurance company and the identification number or other means of identifying the policy;
 - (ii) the amount or the method of determining the amount, of insurance on the group life insured and on any other person whose life is insured under the policy; and
 - (iii) the circumstances in which the insurance terminates and the rights, upon the termination, of the group life insured or of any other person whose life is insured under the policy.

130. Power of group life insured to sue insurance company.

A person insured under a group life insurance policy may, in his or her own name, enforce a right given to him or her under the policy, subject to any defence available to the registered insurance company under the policy.

Assignment and Mortgages of Policies

131. Assignment of policies.

(1) After the coming into force of this Act every assignment of a policy must be by deed or other instrument in writing.

(2) An assignment is not binding on the registered insurance company liable under the policy until written notice of the date and purport of the assignment is received by it at its head or principal office in Saint Christopher and Nevis.

(3) A registered insurance company shall in the register of policies, required by section 209 to be maintained, enter the date and purport of every assignment that it receives notice of and the date that the notice is received.

(4) Upon the presentation of a memorandum of discharge of an assignment, the registered insurance company must enter the discharge in the register.

132. Effect of notice of assignment.

(1) Notwithstanding section 131, a registered insurance company shall not be entitled to any protection under that section or to rely upon that section where it –

- (a) has not acted in good faith; or
- (b) has received express notice in writing of any trust, right, equity or interest of any person.

(2) If a registered insurance company receives express notice in writing of any trust, right, equity or interest of any person, it may, if it thinks fit, pay to the Registrar any money payable under the policy, and the receipt of the Registrar for the money shall be a valid discharge to the registered insurance company for the money so paid.

(3) Money paid to the Registrar pursuant to subsection (2), shall be paid by the Registrar to the person or persons the court so orders.

133. Assignment not to extinguish rights.

(1) The rights and liabilities arising under a policy shall not be deemed, either at law or in equity, to be merged or extinguished by reason only of an assignment of the policy, whether at law or in equity, to the registered insurance company that issued the policy.

(2) Notwithstanding anything to the contrary in section 131 or 132, but subject to subsection (3), no assignment of an industrial life policy shall be valid without the consent of the registered insurance company liable under the policy.

(3) If the registered insurance company refuses its consent to the assignment of an industrial life policy, the policyholder may appeal to

- (a) the Registrar;
- (b) the Appeals Tribunal in the manner specified in section 223, if he or she is aggrieved by the decision of the Registrar.

134. Release of assignments.

Upon payment or discharge of any money or other obligation secured by an assignment of a policy, the assignee shall

- (a) give to the assignor a memorandum of discharge indicating that the assignment is relinquished and the debt or other obligation discharged; and
- (b) if the assignment was by deed, execute a deed of release in favour of the assignor.

Revision Date: 31 Dec 2009

Protection of Policies

135. Lost policy.

(1) If a policyholder or a person claiming the benefit of section 147 or 148 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 registered insurance company liable under the original policy may, subject to this section upon

- (a) application by the policyholder or the person claiming the benefit of section 148 or 149; and
- (b) any evidence as to the loss or destruction of the original policy as the registered insurance company deems sufficient,

issue to the applicant a special policy in substitution for the original policy.

(2) If an application under subsection (1) is made by a person claiming the benefit of section 147 or 148, the registered insurance company shall not issue a special policy unless the registered insurance company is satisfied that section 147 or 148 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 registered insurance company; and
- (c) state the reason for the issue of the special policy.

(4) Before issuing a special policy, the registered insurance 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 do so in the *Gazette* and in a newspaper circulating in Saint Christopher and Nevis.

(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 the application.

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

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

(8) If the registered insurance company fails to issue a special policy within six months after receipt of an application in writing from the applicant, the court may, upon application by summons, and upon any evidence as to the loss or destruction of the original policy as the court deems sufficient, order the registered insurance company, upon the terms and within the time the court thinks fit, to issue a special policy.

(9) If the holder of a special policy claims that the special policy is lost or has been destroyed, this section shall apply as if the special policy were an original policy issued by the registered insurance company.

136. Interest of insured protected.

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

(2) If a person who has effected a policy on his own life dies after the commencement of this Act, the monies payable upon his or her death under or in respect of that policy and forming part of his estate shall not be applied or made available in payment of his or her 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 life insured, or by virtue of an express direction contained in his will or other testamentary instrument executed by him or her that the monies arising from the policy shall be so applied.

(3) A direction to pay debts, or a charge of debts upon the whole or any part of the testator's estate, or a trust for the payment of debts, shall not be deemed to be an express direction for the purposes of subsection (2).

137. Effect of capital punishment, suicide on policy.

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

138. Condition reducing the sum insured void.

A term or condition of a policy that 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, shall not have any force or effect unless the policyholder agreed in writing to the insertion in the policy of that term or condition.

Paid-up Policies, Surrender Values and Non-Forfeiture**139. Application to certain types of policies.**

Sections 140, 141, 142, 143, 144, 145 and 146 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 that provides insurance against contingencies none of which may happen, not being a policy that provides for the payment of a sum of money if the life insured by the policy survives a specified period.

140. Paid-up policies.

(1) A policyholder who desires to discontinue further premium payments on a policy on which at least three years' premiums have been paid shall, if the policy has a

Revision Date: 31 Dec 2009

cash surrender value, be entitled on application to the registered insurance company to receive instead of that policy, a paid-up policy.

(2) If a paid-up policy is issued pursuant to subsection (1) and the contingency occurs that would have rendered the registered insurance company liable under the original policy, the registered insurance company shall then be liable under the paid-up policy, limited to its paid-up value.

141. Surrender of policies.

Notwithstanding the terms of a particular policy, the owner of a policy that has been in force for at least three years, shall, on application to the registered insurance company, be entitled to surrender the policy and to receive not less than the cash surrender value of the policy less any tax payable and the amount of any debt owing to the registered insurance company under, or secured by, the policy.

142. Registrar may vary obligation to pay surrender value.

The Registrar may on an application by a registered insurance company, suspend or vary for a period and subject to any value conditions the Registrar thinks fit the obligation of the registered insurance company to pay surrender values pursuant to section 141 if, in the Registrar's opinion, the payment of cash of those surrender values would be prejudicial to the financial stability of the registered insurance

143. Dividends.

A registered insurance company shall on the issue of each policy, give a written disclosure to each policyholder of the basis on which he or she is entitled to a dividend, bonus or other means of distribution of profit.

144. Non-forfeiture of ordinary life policies.

(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

- (a) the policy contains provisions enabling the exercise of certain options in lieu of the forfeiture of the policy; and
- (b) the surrender value of the policy calculated as at the day immediately preceding that on which the overdue premium falls due, exceeds the sum of the amount of the debts owing to the registered insurance company under, or secured by, the policy and the amount of the overdue premium.

(2) The registered insurance company may until payment of the overdue premium, charge interest on it, on terms not less favourable to the policyholder than the terms, if any, as may be prescribed.

(3) The overdue premium and any interest charged on it under this section that remains unpaid shall for the purposes of this Act be deemed to be a debt owing to the registered insurance 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 shall not be forfeited by reason only of the non-payment of a premium unless, on or after the day that the premium fell due

- (a) the registered insurance company liable under the policy serves a notice on the policyholder stating
 - (i) the amount due or payable to it at the date of the notice;
 - (ii) that the policy will be forfeited at the expiration of twenty-eight days after the date of the notice if a sufficient sum is not paid to it within that period; and
- (b) a period of at least thirty days has elapsed after the service of the notice.

(5) For the purposes of subsection (4) a notice posted to the last known address of the policyholder shall be deemed to be a notice on the policyholder.

145. Non-forfeiture of industrial life policies.

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

(2) An industrial life 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 life policy on which at least 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 at least twelve weeks after it became due.

(4) If an industrial life policy on which at least three years' premiums have been paid has been forfeited by reason of the non-payment of any premium, the registered insurance company shall, without requiring any application from the policyholder, issue a paid-up policy for an amount not less than that specified in the table included in the policy.

(5) If a registered insurance company issues a paid-up policy pursuant to subsection (4) and the contingency occurs that would have rendered it liable under the original policy it shall then be liable under the paid-up policy limited to its paid-up value.

(6) The registered insurance company shall notify the policyholder 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 life policy shall not be forfeited by reason only of the non-payment of any premium if the non-payment is as a result of non-collection by the registered insurance company.

Revision Date: 31 Dec 2009

146. Treatment of debts on issue of paid-up policies.

If pursuant to any provision of this Part a policyholder is entitled to receive, or a registered insurance company is required to issue, a paid-up policy and there is any debt owing to the registered insurance company under or secured by the policy, the registered insurance company may elect

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

Payment of Policy Monies

147. Payment without probate or administration.

(1) If under one or more policies monies are payable by a registered insurance company to the personal representative of a deceased person, the registered insurance company may without requiring the production of probate or letters of administration pay, out of the monies, an amount not exceeding five thousand dollars including any bonuses added to the policy or policies to any person who satisfies the insurance company that he or she is entitled to

- (a) receive the property of the deceased person;
- (b) obtain probate of the will of the deceased person; or
- (c) take out letters of administration of the estate of the deceased person.

(2) An insurance company who makes a payment pursuant to subsection (1) shall be discharged from all further liability in respect of the monies so paid.

(3) All persons to whom monies are paid under subsection (1) shall apply those monies in the course of administration of the estate of the deceased person and, if the insurance company thinks fit, it may require those persons to give sufficient security by bond or otherwise that the monies so paid will be so applied.

148. Death of policyholder not being life insured.

(1) Subject to this section, where a policyholder, not being the life insured, pre-deceases the life insured, and a person satisfies the registered insurance company that issued the policy

- (a) that he or she is entitled under the will or on the intestacy of the deceased policyholder, to the benefit of the policy; or
- (b) that he or she is entitled to obtain probate of the will, or to take out letters of administration of the estate of the deceased policyholder,

the registered insurance 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 it and that the person is the policyholder, and that person then becomes, subject to subsection (2), the policyholder.

(2) Subsection (1) does not confer on a person declared to be the policyholder any beneficial interest in the policy that he would not otherwise have had save for this section.

(3) This section applies in relation to a policy referred to in subsection (1) whether the deceased policyholder 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 exceeds two thousand dollars at the date of the death of the deceased holder; or
- (b) a policy which is one of two or more policies held by the deceased policyholder and issued by the same registered insurance company if the aggregate of the surrender values of those policies exceeds two thousand dollars at the date of death of the deceased holder.

149. Insurance company not bound to see to application of monies.

Nothing contained in this Part shall be construed as requiring a registered insurance company to be responsible for ensuring the application of any monies paid by it in respect of any policy under section 147 or 148.

150. Insurance company may pay money to Registrar.

(1) A registered insurance company may pay to the Registrar any money payable by it in respect of a policy for which, in its opinion, no sufficient discharge can otherwise be obtained.

(2) The receipt of the Registrar for any money paid under subsection (1) shall be a good and valid discharge to the registered insurance company for the money so paid, and the money shall be dealt with according to an order made by the court.

151. Unclaimed monies.

(1) In this section,

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

(2) A registered insurance company shall, within sixty days after the end of its financial year, deliver to the Registrar a statement of all unclaimed monies as at that date which shall specify, in respect of each policy to which it refers,

- (a) the name and last known address of the life insured;
- (b) the name of the policyholder, if known, and his or her last known address; and
- (c) the amount due and the date that it became due; and

Revision Date: 31 Dec 2009

(d) written particulars of any amounts paid under subsection (3).

(3) A registered insurance company shall pay to the Registrar at the time of the delivery of the statement, the total amount of unclaimed monies shown in the statement, less any amount paid by it, between its financial year and the date that the copy of the statement is delivered, to the person to whom the amount was due, and it shall furnish, with the copy of the statement, particulars in writing of the amounts paid.

(4) If unclaimed money is paid to the Registrar under this section and he or she is satisfied that, but for this section, a person would have been paid the unclaimed money –

- (a) by the registered insurance company that made the payment; or
- (b) if that registered insurance company is no longer carrying on that class of insurance business, by the registered insurance company to which it sold or disposed of the business,

the Registrar shall arrange payment of the unclaimed money to that registered insurance company and specify the person to whom it is to pay the money, and it shall then pay the money to the person specified.

(5) If in pursuance of this section a registered insurance company has paid to the Registrar an amount in respect of a policy and it satisfies the Registrar that the amount paid exceeds the amount that would have been payable under the policy to the policyholder, the Registrar shall arrange for payment of a refund to it in the amount of the excess.

(6) On payment to the Registrar of unclaimed money in accordance with this section, a registered insurance company is, subject to subsection (4), discharged from further liability in respect to the amount paid.

(7) There shall be paid from the Consolidated Fund the sums necessary to give effect to this section.

(8) A registered insurance company that fails to comply with this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

Variable Life Products

152. Interpretation for Part VI.

In this Part,

“variable product” means a variable life insurance policy, a variable annuity contract, or an universal life insurance policy;

“universal life insurance policy” means a policy where the mortality, investment income and administrative charges are expressed separately in the policy;

“variable annuity contract” means an annuity where the contributions, after the deduction of administrative charges, are deposited in an investment fund and the benefits payable depend on the performance of that fund;

“variable life insurance policy” means a policy where a fixed portion of the premium is placed in an investment fund and the benefits payable under the policy is dependent on the performance of that fund.

153. Policy document.

The policy document of a variable product shall contain any specifications that may be prescribed.

154. Sales illustration.

(1) An insurance agent, insurance broker or sales representative shall use a pre-printed sales illustration approved by the insurance company when making a presentation for the sale of a variable product to a prospective client.

(2) A sales illustration shall contain any particulars that may be prescribed.

(3) An insurance agent, insurance broker or sales representative shall not –

- (a) make a presentation for a variable product without using an approved sales illustration; or
- (b) use a sales illustration that has not been approved by the insurance company.

(4) An insurance agent, insurance broker or sales representative who contravenes subsection (3) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

Industrial Life Insurance Business**155. Objection to policies.**

(1) A registered insurance company shall deliver an industrial life policy

- (a) to the policyholder;
- (b) at the residence of the policyholder to such other person who resides there and appears to be not less than sixteen years of age and by whom any premium in respect of the policy is paid on behalf of the policyholder; or
- (c) by mail.

(2) If, within twenty-eight days after a registered insurance company delivers an industrial life policy in accordance with sub-section (1), the policyholder returns the policy to the registered insurance company with an objection in writing to any term or condition of the policy, the registered insurance company shall immediately refund any premium that has been paid in respect of the policy and the policy shall be cancelled.

(3) If an industrial life policy is sent by post by a registered insurance 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 that it would have reached him in the ordinary course of post.

Revision Date: 31 Dec 2009

(4) For the purpose of this section, a policy shall be deemed to have been returned to a registered insurance company with an objection if the policy and the writing specifying the objection are posted for transmission to the registered insurance company by registered letter.

156. Returning policies, premium receipt books.

If a registered insurance company that carries on industrial life insurance business, or its servant or agent takes possession at any time of an industrial life policy or premium-receipt book or other document issued in connection with the policy, the registered insurance company, its servant or agent shall issue a receipt for the policy, book or document 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

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

157. Falsification of entries an offence.

(1) A person shall not wilfully

- (a) make, order or allow to be made, an entry or erasure in, or
- (b) omit an entry, or order or allow an 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.

(2) A person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

158. Policy not void where proposal is filled in by agent.

(1) Where any agent or servant of a registered insurance 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 life policy with the registered insurance company, then, notwithstanding any agreement to the contrary between the proponent and the registered insurance company, any policy issued in pursuance of the proposal shall not be void by reason only of any incorrect or untrue statement contained in the 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 a statement was so made shall lie upon the registered insurance company.

(3) Nothing in this section shall be deemed to allow a policy to be voided for any reason or in any circumstances for or in which the policy could not have been voided apart from this section.

159. Particulars to be set out in policies.

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

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

160. Issue of premium receipt book.

(1) A registered insurance company shall, in respect of each industrial life policy issued by it, issue to the policyholder a premium-receipt book

- (a) if the policy was issued before the commencement of this Act or within the period of twelve months immediately following the commencement of this Act, before the end of that period of twelve months; or
- (b) if the policy is issued after the end of that period of twelve months, at the time of the issue of the policy.

(2) Notwithstanding subsection (1), if the policyholders concerned do not object, the registered insurance company may

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

(3) After the end of the period of twelve months immediately following the commencement of this Act, a registered insurance company shall not issue or permit to be used one premium-receipt book in respect of two or more policies held by different policyholders not being members of the same household.

(4) A premium-receipt book issued to a policyholder by a registered insurance company, before or after the commencement of this Act, shall be deemed to be a premium-receipt book issued in accordance with this section, if it complies with this section or if it is amended to comply with this section and returned to the policyholder within the period of twelve months immediately following the commencement of this Act.

Revision Date: 31 Dec 2009

(5) A premium-receipt book issued by a registered insurance 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 section 159;
- (b) an entry made by the registered insurance company of the following matters:
 - (i) the surname and initials of the policyholder and, where the policy is issued in respect of the life of a person other than the policyholder, the surname and initials of that person; and
 - (ii) the amount of the weekly or other periodic premium; and
- (c) a notice stating that proof of age may be required before payment of the sum insured.

161. Premium receipt book to show date premium paid.

(1) A payment in respect of premiums under an industrial life policy made to an agent or servant of the registered insurance company shall be recorded by the agent or servant in the premium-receipt book so as to clearly indicate the date that premiums have been paid in respect of the industrial life policy or policies to which the premium-receipt book relates, and the record shall, if it is

- (a) the first entry on a page of the premium-receipt book, be signed by the agent or servant with his or her usual signature; and
- (b) not the first entry, be signed by the agent or servant with his usual signature or be initialled by him or her.

(2) If a premium-receipt book relates to more than one policy and any payment for premiums on the industrial life policies is made that is less than the aggregate of the weekly or other periodic premiums in respect of all those industrial life policies, the person making the payment shall be required by the agent or servant of the registered insurance company to whom the payment is made to state the industrial life policies in respect of which no payment or an insufficient payment is made, and the agent or servant shall clearly record in the premium-receipt book the fact stated.

(3) Unless the amount of the deficiency is paid before any further premiums are paid, the registered insurance company shall cause a separate premium-receipt book in compliance with section 160 to be issued in respect of any industrial life policy in relation to which the deficiency exists and shall cause the particulars and entry in the original premium-receipt book relating to the industrial life policy to be cancelled.

Mutualisation and Demutualisation

162. Plan of mutualisation or demutualization.

(1) Notwithstanding anything in its articles of incorporation or other instrument of incorporation or in its by laws or other rules, or in this Act, a company or a mutual company may, with the approval of the Registrar, establish and implement a plan in accordance with this Part and any rules that may be prescribed by the Minister.

(2) In this section and in sections 163, 164, 165, 166, 167 and 168,

“company” means a local insurance company that has 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;

“plan” means

- (a) a plan of mutualisation for the conversion of a company into a mutual company through the purchase by the company of its own shares and the conversion of the shares into debentures; or
- (b) a plan of demutualization for the conversion of a mutual company into a company through the issue and distribution of its shares to its policyholders.

163. Application to establish plan.

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

164. Appointment of independent actuary.

(1) When the Registrar receives an application made in accordance with section 163, the Registrar shall appoint an independent actuary to investigate the financial position of the company or mutual company.

(2) The actuary appointed under subsection (1), shall on completion of his or her investigation, furnish the Registrar with a report on his or her findings.

(3) In addition to the findings of the actuary, the report shall state,

- (a) in the case of a company intending to mutualise,
 - (i) the price that should be offered for the shares of the company;
 - (ii) the terms and conditions of the debentures that should be offered in exchange for the shares; or
- (b) in the case of a mutual company intending to demutualise, the number and value of the shares that should be issued to policyholders.

(4) An applicant shall include in the report to the Registrar any other information that the Registrar may require.

165. Approval of application.

If, after considering the report of the actuary appointed under section 164, the Registrar is satisfied with respect to

- (a) the quality and amount of the assets of the company or mutual company;
- (b) the surplus of the assets of the company or mutual company relative to its liabilities;

Revision Date: 31 Dec 2009

- (c) the nature of the business carried on by the company or mutual company;
- (d) in the case of a company, whether the paid-up capital of the company has ceased to be an important factor in safeguarding the interests of the policyholders; and
- (e) any other considerations that he or she may consider relevant,

he or she may approve the application made under section 163.

166. Submission of detailed plan.

When an application made under section 163 is approved by the Registrar, the board of directors of the company or mutual company shall prepare and submit to the Registrar a detailed plan that must include

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

167. Acceptance by shareholders and policyholders.

(1) When a plan is approved by the Registrar,

- (a) in the case of a plan of mutualisation,
 - (i) the plan shall be laid before the shareholders of the company in the form of a special resolution at a special general meeting of the company duly called for considering the resolution, and there shall be recorded in the minutes of the meeting the number of votes cast in favour of and against confirmation of the resolution; and
 - (ii) the board of directors shall send by post to each policyholder of the company at his or her last known address
 - (aa) a ballot paper; and
 - (bb) a circular approved by the Registrar, inviting the policy holders to vote by post on the resolution referred to in paragraph (a) within the time specified in the circular;
- (b) in the case of a plan of demutualization, the board of directors shall send by post to each policyholder of the mutual company at his or her last known address
 - (i) a ballot paper; and

- (ii) a circular approved by the Registrar, inviting the policyholders to vote by post on the plan of demutualization within the time specified in the circular.

(2) In the case of a plan of mutualisation, the resolution shall only be effective if it is approved by at least two thirds of the votes cast by the shareholders at the special general meeting and by at least fifty per centum of the votes cast by the policyholders in accordance with the circular referred to in subsection (1)(a)(ii)(B), and if the resolution is effective the shareholders shall sell their shares to the company at a price approved by the Registrar.

(3) In the case of a plan of demutualization, the vote of the policyholders shall only be effective if the plan is approved by at least fifty per centum of the votes cast by the policyholders in accordance with the circular referred to in subsection (1)(b)(ii), and if the vote is effective, the mutual company shall issue shares to the policyholder in the number and at the value approved by the Registrar.

168. Recovery of expenses.

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

Transfer and Amalgamation

169. Application for a scheme of transfer or amalgamation.

- (1) Except in pursuance of a scheme
 - (a) prepared in accordance with this section and with sections 170, 171 and 172; and
 - (b) confirmed by the Registrar,

a registered insurance company shall not transfer its insurance business either in whole or in part and a local insurance company shall not amalgamate with another local insurance company.

(2) A transfer referred to in subsection (1) shall not be carried out unless the other party to the transfer is also a registered insurance company, and an amalgamation referred to in subsection (1) shall not be carried out unless it is with one or more other local insurance companies.

(3) An application for the confirmation of a scheme shall be made to the Registrar by or on behalf of any registered insurance company engaged in the transfer or amalgamation, and an application with respect to any matter connected with a scheme or a proposed scheme may be made at any time before it is confirmed, by any person who, in the opinion of the Registrar, is likely to be affected by the scheme or the proposed scheme.

(4) When an application is made under subsection (3), the Registrar shall set a date not less than two months from the date of the application for the hearing of the application.

Revision Date: 31 Dec 2009

(5) At the hearing of the application

- (a) the registered insurance company is entitled to appear and to be heard either through one of its officers or through an attorney-at-law;
- (b) the Registrar may hear any other evidence that he or she considers necessary; and
- (c) any person who, in the opinion of the Registrar, is likely to be affected by the scheme is entitled to be heard.

(6) A registered insurance company that is aggrieved by the refusal of the Registrar to confirm a scheme may appeal against the decision in the manner specified in section 223.

(7) In the case of a foreign insurance company, this section shall apply only to the transfer of its insurance business in Saint Christopher and Nevis relating to its local policies, but in the event of any amalgamation of the foreign insurance company with one or more other foreign insurance companies or foreign companies, the foreign insurance company shall immediately notify the Registrar.

170. Submission of details of scheme.

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

171. Confirmation of a scheme of transfer or amalgamation.

(1) Before a scheme for the transfer of the insurance business of a registered insurance company or the amalgamation of a local insurance company with one or more other local insurance companies is confirmed by the Registrar, each registered insurance company that is a party to the transfer or amalgamation shall

- (a) submit to the Registrar
 - (i) certified copies of its assets; and
 - (ii) a copy of the scheme together with copies of the actuarial and other reports, if any, upon which the scheme was founded;
- (b) transmit to every policyholder affected by the scheme, at least fifteen days before the application for confirmation of the scheme is to be heard, copies of the scheme and of every report submitted to the Registrar or summaries of the scheme and reports approved by the Registrar, unless the Registrar otherwise directs;
- (c) publish in the *Gazette* and in a local newspaper at least one month after the copy of the scheme is submitted to the Registrar, a notice of its intention to make the application, containing such particulars that are prescribed by the Registrar; and
- (d) make the scheme available at its principal office for inspection by any policyholder or shareholder affected by it, for a period of fifteen days after the publication of the notice.

(2) The Registrar may

- (a) 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 registered insurance companies engaged in the transfer or amalgamation; and
- (b) give directions to each of the registered insurance companies engaged in the transfer or amalgamation concerning
 - (i) the publication of advertisements of the scheme;
 - (ii) the giving of notices to shareholders, policyholders or creditors of the registered insurance companies; and
 - (iii) the holding of meetings of the registered insurance company,

and the directions shall be complied with by the person to whom they are given.

(3) When confirmed by the Registrar, the scheme shall be binding on all persons and will have effect notwithstanding anything in

- (a) the constituting instruments;
- (b) the articles of incorporation; or
- (c) the by-laws, of any registered insurance company affected by the scheme, and the directors or principal representative, as the case may be,

of any registered insurance company affected by the scheme shall cause a copy of the scheme to be filed with the Registrar of Companies in accordance with the Companies Act and the Companies Ordinance.

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

172. Return to be made on confirmation of scheme.

If the insurance business carried on by a registered insurance company is transferred to another registered insurance company, or a local insurance company amalgamates with one or more other local insurance companies, the registered insurance company to which the insurance business is transferred or the local insurance company which is the result of the amalgamation shall, within one month after the transfer or the amalgamation, submit to the Registrar

- (a) a certified copy of the agreement or deed under which the transfer or the amalgamation is effected; and
- (b) a statutory declaration made by the Chairperson of the board of directors or by the principal representative, as applicable
 - (i) specifying every payment made or to be made to any person in respect of the transfer or amalgamation; and

Revision Date: 31 Dec 2009

- (ii) stating that to the best of his or her knowledge and belief no payment, other than those specified has been or is to be made in money, policies, bonds, valuable securities, property of any description or any other valuable consideration, by or with the knowledge of any parties to the transfer or amalgamation.

PART VII – GENERAL INSURANCE

173. Application of this Part.

This Part shall apply to all insurance companies registered under this Act to carry on any class of general insurance business.

174. Registration of policy.

(1) A registered insurance company carrying on any class of general insurance business shall not issue a policy or other insurance product unless the terms and conditions of the policy or product have been registered by the Registrar.

(2) A policy or other insurance product shall not be registered by the Registrar if he or she is not satisfied that the risk management system of the registered insurance company is adequate to manage the risks inherent in the policy or other insurance product.

175. Premium rates to be approved by actuary.

(1) Without limiting the generality of section 174(2), the Registrar may, at any time, require a registered insurance company carrying on general insurance business to obtain and to furnish him or her with a report by an actuary as to the suitability of the rate of premium chargeable under any policy or type of policy issued by the registered insurance company and, if the actuary considers that the rate is not suitable, a report as to the rate of premium that the actuary approves as suitable in respect of that policy or type of policy.

(2) When preparing a report referred to in subsection (1) in respect of a rate of premium under a policy or type of policy, the actuary shall have regard to

- (a) the maximum rate of commission proposed to be paid to any person; and
- (b) the maximum rate of reduction of premium to be allowed to any person,

in respect of that policy or type of policy.

(3) Where the report referred to in subsection (1) finds the rate of premium for a policy or type of policy is not suitable, the registered insurance company shall not pay or allow in respect of that policy or any policy of that type a commission or a reduction of premium at a rate greater than the maximum rate of commission or reduction of premium that the report finds suitable for that policy or type of policy.

176. Misrepresentation.

A policy of general insurance shall not be voided by reason only of any incorrect statement made in any proposal or other document on the faith of which the policy was issued or renewed by the registered insurance company unless the statement

- (a) was fraudulently untrue; or
- (b) is material in relation to the risk of the registered insurance company under the policy.

177. Reinsurance arrangements.

(1) An insurance company registered to transact general insurance business in Saint Christopher and Nevis shall within fourteen days of the commencement of each underwriting year, submit to the Registrar, in respect of each class of insurance business to be transacted, the information regarding its reinsurance arrangements as may be prescribed.

(2) A registered insurance company that contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

178. Condition of average

(1) Notwithstanding any condition in a policy, where the sum insured in a policy on a residential building or on its contents is at least eighty-five per centum of the value of the property, the liability of the insurance company in respect of loss of or damage to any part of the property insured is not reduced by reason only of any provision included in the policy requiring that the insured be his or her own insurer for the proportion by which the value of the risk exceeds the sum insured.

(2) For the purpose of this section,

“value” means

- (a) if the policy is on a reinstatement basis, the lesser of the cost of reinstating the buildings or contents to their condition when new or the cost of replacement at the date of any loss or damage; and
- (b) if the policy is on an indemnity basis, the cost of reinstatement calculated as in paragraph (a) above, less a reasonable provision for depreciation;

“residential building” means a building that is occupied or has been set apart for occupation as a private dwelling and includes residential apartments in a town house or condominium as well as outbuildings and other appurtenances to it.

179. Structured settlements.

(1) In awarding judgment to a claimant in respect of a claim, liability for which is covered by a policy, a court may, with the consent of all parties, instead of ordering a lump

Revision Date: 31 Dec 2009

sum payment, order specified payments with interest to be made at the intervals and over a period not exceeding three years as the court may specify.

(2) Nothing in subsection (1) operates to prevent a registered insurance company and a person who has made a claim against a registered insurance company from entering into a settlement agreement for the payment by the registered insurance company of specified payments at specified intervals and over a specific period in satisfaction of the claim that has been made.

(3) Notwithstanding anything contained in the Income Tax Act, No. 17 of 1966, no tax is payable by the insured or the beneficiary in respect of payments made or, as the case may be, received pursuant to this section.

180. Reserves for unexpired policies.

A registered insurance company shall, in respect of its unexpired policies, include among the liabilities provided in its annual statement of account, reserves computed in accordance with industry standards.

181. Reserves for outstanding claims.

A registered insurance company shall, in addition to the reserves required to be included pursuant to section 180,

- (a) provide reserves for meeting outstanding claims; and
- (b) set aside reserves for catastrophic losses in a manner that may be prescribed.

182. Methods for calculating reserves.

(1) A registered insurance company shall furnish to the Registrar details of the methods used in calculating the reserves to be provided under sections 180 and 181.

(2) The Registrar may disallow any method used in calculating the reserves referred to in subsection (1) if the Registrar is satisfied that the method does not result in the provision of adequate reserves.

183. Prohibition on payment of dividends.

A dividend may not be paid by any local insurance company

- (a) while its assets are less than the amount required for solvency by section 54; or
- (b) if the dividend would reduce its assets below the amount referred to in paragraph (a) or would impair its capital.

184. Deficiency in solvency margin.

(1) If it appears to the Registrar that the assets of any registered insurance company fall below the amount required for solvency by section 54, the Registrar, after giving the registered insurance company not more than thirty days to be heard by him or her, may—

- (a) forthwith cancel the registration of the registered insurance company;

- (b) on any terms and conditions he or she considers necessary, specify a time not exceeding three months within which the registered insurance company shall make good the deficiency; or
- (c) if the admissible assets of the registered insurance company are less than its total liabilities, including the reserves referred to in sections 180 and 181 or if the registered insurance company has contravened the requirements of section 183, cancel the registration of the registered insurance company.

(2) If a registered insurance company fails to make good a deficiency within the time specified by the Registrar pursuant to paragraph (b) of subsection (1), the Registrar shall cancel the registration of the registered insurance company.

185. Appropriation of profits towards surplus.

(1) A local insurance company shall at the end of each year appropriate towards surplus at least twenty-five per centum of its profits for that year until its surplus equates with or exceeds its liability in respect of

- (a) unexpired policies required to be included in the annual statement in accordance with section 180; and
- (b) the reserves referred to in section 181.

(2) In this section “surplus” means the excess of assets over all the liabilities of the local insurance company, including its liability in respect of unexpired policies required to be included in the annual statement in accordance with section 181.

PART VIII – PENSION FUND PLANS

186. Plans to be registered.

(1) In this part,

- (a) “plan” refers to a “pension fund plan”;
- (b) “registered plan” means a plan registered under this Part.

(2) After one year from the date that this Act comes into effect, a person shall not operate a pension fund plan, in Saint Christopher and Nevis unless the plan is registered under this Part.

187. Qualifications for registration.

(1) Subject to this Part, if a plan establishes a fund under trusts that are subject to the laws in force in Saint Christopher and Nevis, in connection with an undertaking or a combination of undertakings carried on wholly or partly in Saint Christopher and Nevis, and the main purpose of that fund is

- (a) the provision of superannuation allowances on retirement to persons employed in the undertaking or in the combination of undertakings in connection with which the fund is established;

Revision Date: 31 Dec 2009

- (b) the provision of pensions to the spouses of persons who are or have been so employed and of periodical allowances to or in respect of the children of those persons; or
- (c) the assurance of capital sums on the death of persons who were so employed,

the plan shall be qualified for registration under this Part if the rules of the plan comply with the requirements set out in Part I of the Fifth Schedule.

(2) If a plan establishing a fund for any of the purposes set out in paragraph (1)(a), (b) or (c) is in operation before the commencement of this Act that plan shall, subject to such directions as to the amendment of its rules that the Registrar may give, be treated as qualified for registration under this Part even where

- (a) the fund created under the plan is not established under trusts or under trusts that are subject to the laws of Saint Christopher and Nevis; or
- (b) the plan does not comply with the requirements set out in Part I of the Fifth Schedule.

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

(4) The Minister may by Order published in the Gazette amend the Fifth Schedule.

188. Registration of plans.

(1) An application for the registration of a plan under this Part must be addressed to the Registrar and

- (a) be on the form approved by the Registrar;
- (b) be signed by the trustees of the plan;
- (c) specify the address at which communications concerning the plan will be received (in this Part referred to as the “address of the plan”); and
- (d) be accompanied by
 - (i) a copy of the trust deed and of the rules of the registered plan;
 - (ii) a copy of the actuarial report on which the plan is based;
 - (iii) a list of the names and addresses of the trustees of the plan;
 - (iv) in the case of an insured plan a copy of the policy of insurance related to benefits provided by the plan; and
 - (v) any other documents or further information that may be required by the Registrar.

(2) When an application is made in accordance with this Part for the registration of a plan, the Registrar must register the plan and the rules of the plan if he is satisfied that the plan is qualified for registration.

(3) In the event that

- (a) the trust deed or the rules, or both, of a registered plan registered under this Part are amended; or
- (b) there is any change in the address of the registered plan or in the names or addresses of the trustees of the plan,

the trustees must, within twenty-one days of the amendment or the change, apply for the registration of the amendment or the change.

(4) An application for an amendment or for a change must be addressed to the Registrar and must be

- (a) on the form approved by the Registrar;
- (b) signed by one of the trustees of the registered plan; and
- (c) accompanied
 - (i) in the case of an amendment, by a copy of the amendment signed by one of the trustees; or
 - (ii) in the case of a change, by the particulars necessary for the correction of the records.

189. Amendment not valid until registered.

(1) An amendment to the trust deed or rules, or both, of a registered plan shall not be valid unless the amendment is registered.

(2) Where an application for the registration of an amendment is made in accordance with section 188(4), the Registrar shall register the amendment if he or she is satisfied that the trust deed or the rules, or both, as amended would not have disqualified the plan from registration under this Part.

190. Certificate of registration.

(1) The Registrar shall on registering any plan or any amendment to the trust deed or the rules, or both, of a registered plan under this Part, issue to the applicant a certificate of registration.

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

191. Cancellation of registration of plan.

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

(2) Trustees who intend to wind up a registered plan shall notify the Registrar in writing of that intention at least sixty days before the date of the intended winding-up.

Revision Date: 31 Dec 2009

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

(4) On receiving notice in writing that a registered plan has been wound-up, the Registrar shall cancel the registration of the plan if he is satisfied that the

- (a) registered plan has been wound-up; and
- (b) assets of the registered plan have been applied in accordance with the rules of the registered plan.

192. Fees payable.

The fees payable in respect of

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

shall be as set out in the Third Schedule.

193. Additional powers of the Registrar.

(1) The Registrar may require any person who is an employer, a registered insurance company, a trustee or an officer of

- (a) a plan for which an application for registration has been made under this Part; or
- (b) a registered plan,

to furnish either by statutory declaration or otherwise, any information or explanation that may be necessary for the proper exercise and performance of the powers and duties of the Registrar under this Part.

(2) If the trustees of a registered plan commit a breach of trust by making an unauthorised investment or by violating any rule of the plan, where the rule is necessary for registration under this Part, the Registrar shall have the same remedies in all respects for the breach of trust as if he or she were a person beneficially interested in the registered plan.

(3) The Registrar or any person authorised by the Registrar in writing may at any reasonable time inspect or examine any books, records or other documents relating to a registered plan or any plan in respect of which an application for registration is made under this Part, or any assets or obligations in which pension fund monies of a plan are invested.

194. Penalties for default.

(1) A trustee of a registered plan shall not, in respect of that plan, default in complying with any of the requirements of this Part relating to

- (a) accounts and reports;

- (b) the making of applications for the registration of any amendment to the trust deed or to the rules, or both, of the registered plan or the correction of the records in respect of a change in the address of the registered plan or in the names and addresses of the trustees of the registered plan; or
- (c) the giving of notice to the Registrar or the winding-up of the registered plan.

(2) It is a defence to any proceedings instituted under subsection (1) against the trustees of a registered plan to prove that the default occurred without their consent or connivance and was not facilitated by any neglect on their part.

(3) A trustee of a registered plan who defaults in complying with subsection (2) commits an offence and is liable on summary conviction to fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both.

(4) A person who is lawfully required under this Part by the Registrar to furnish any information or explanation that could with reasonable diligence be furnished by that person shall comply with the requirement within fourteen days after written notice of the requirement has been delivered to such person.

(5) A person who fails to furnish any information required under subsection (4) commits an offence and is liable on summary conviction to a fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding two years or to both.

195. Submission of annual accounts.

- (1) The trustees of each registered plan shall
 - (a) submit annually to the Registrar a balance sheet and statement of accounts for each accounting year within six months of the expiration of that accounting year; and
 - (b) file with the Registrar annually or at the periods and in the form set out in the Fifth Schedule any information or return relating to the registered plan.
- (2) The balance sheet and statement of accounts referred to in subsection (1) must—
 - (a) be audited by an auditor approved by the Registrar before they are submitted to the Registrar; and
 - (b) be prepared in accordance with the format set out in the Fifth Schedule.

196. Actuarial investigation.

(1) The trustees of each registered plan shall appoint an actuary to make an investigation into the financial condition of the registered plan and to report on his or her findings.

(2) An investigation under subsection (1) shall be made every four years or at a shorter interval as specified by the Registrar.

Revision Date: 31 Dec 2009

(3) The trustees of a registered plan shall furnish to the Registrar a copy of the report of the actuary.

(4) Subsections (1), (2) and (3) shall not apply to a registered plan insured with a registered insurance company, but the trustees of the plan must obtain from the registered insurance company a certificate of registration to the effect that the plan has been valued by an actuary.

(5) The trustees shall deposit the certificate of registration required by subsection (4) with the Registrar.

197. Investment of registered plan in assets.

(1) The trustees of a registered plan may invest the funds of the plan only in the assets prescribed in the Fourth Schedule.

(2) A trustee may not invest the assets of a pension fund in the equity, debentures or other evidence of indebtedness of the employer or any subsidiary or associate of the employer or of any company of which the employer is a subsidiary or an associate.

PART IX – CONFIDENTIALITY

198. Information obtained by Registrar confidential.

(1) Subject to subsection (5), all information regarding the business or affairs of a registered insurance company or regarding a person dealing with a registered insurance company, that is obtained by the Registrar, or by any person acting under the direction of the Registrar, as a result of the administration or enforcement of this Act, and all information prepared from that information, is confidential and shall be treated accordingly.

(2) Nothing in subsection (1) shall prevent the Registrar, on a reciprocal basis by way of memorandum of understanding, from disclosing any information to

- (a) any government agency or body in Saint Christopher and Nevis that regulates or supervises financial institutions, for purposes related to that regulation or supervision;
- (b) any other agency or body in Saint Christopher and Nevis that regulates or supervises financial institutions, for purposes related to that regulation or supervision;
- (c) the Minister or any officer of the Ministry of Finance authorised in writing by the Minister or the Governor of the Eastern Caribbean Central Bank or any officer of the Eastern Caribbean Central Bank authorised in writing by the Governor of the Eastern Caribbean Central Bank, for the purposes of policy analysis related to the regulation of financial institutions; or
- (d) to any foreign Registrar or regulator of foreign institutions by memorandum of understanding or otherwise,

if the Registrar is satisfied that the information will be treated as confidential by the agency, body or person to whom it is disclosed.

199. Disclosure by Registrar.

(1) The Registrar shall disclose, at such times and in such manner as the Minister may determine, such information obtained by the Registrar under this Act as the Minister considers ought to be disclosed for the purposes of the analysis of the financial condition of a registered insurance company which

- (a) is contained in returns filed pursuant to the Registrar's, financial regulatory reporting requirements in respect of registered insurance companies; or
- (b) has been obtained as a result of an industry-wide or sectoral survey conducted by the Registrar in relation to an issue or circumstances that could have an impact on the financial condition of registered insurance companies.

(2) The Minister shall consult with the Registrar before making any determination under subsection (1).

200. Information to be made available.

(1) A registered insurance company shall make available to the public such information concerning

- (a) the compensation of its executives, as that expression is defined by the regulations; and
- (b) its business and affairs for the purposes of the analysis of its financial condition,

in such form and manner and at such times as may be prescribed in Regulations made by the Minister for the purpose.

(2) The Minister may by Order exempt a class or classes of registered insurance companies from the requirement contained in subsection (1) (a).

PART X – CORPORATE GOVERNANCE

201. High Court may order shareholders meeting.

(1) On the application of the Registrar, the High Court may order a local insurance company to convene a meeting of shareholders for any reason the High Court thinks fit.

(2) The directors of a local insurance company shall establish an audit committee to perform such duties as may be prescribed.

(3) An audit committee established under subsection (2) shall be comprised of directors who are not also officers of the local insurance company.

(4) A local insurance company shall, within thirty days after each annual meeting, provide the Registrar with a return showing,

- (a) in respect of each director holding office immediately following the meeting,
 - (i) his or her name, place of residence and citizenship;

Revision Date: 31 Dec 2009

- (ii) his or her mailing address;
 - (iii) the companies of which he or she is an officer or director and the unincorporated entities of which he or she is a member;
 - (iv) the positions he or she occupies in the local insurance company or any affiliate of the local insurance company;
 - (v) the name of each committee of the local insurance company on which he or she serves;
 - (vi) the date of expiration of his or her term of appointment; and
- (b) the name and address of the auditor of the local insurance company and the date of appointment.

(5) A local insurance company shall forthwith provide the Registrar with such information as is required to maintain the return in a complete and accurate form where

- (a) any information relating to a director or auditor of a local insurance company shown in the latest return made to the Registrar under subsection (3), other than information referred to in paragraph (c) of subsection (3), becomes inaccurate or incomplete; or
- (b) a vacancy in the position of auditor of the local insurance company occurs or is filled by another person, or
- (c) a vacancy on the board of directors of the local insurance company occurs or is filled.

202. Directors to be fit and proper.

(1) Every person who is, or is likely to be a director, officer or manager of a local insurance company, the principal representative of a foreign insurance company or a person authorised under section 79(2), must be a fit and proper person to hold the particular position which he holds or is likely to hold.

(2) In determining whether a person is a fit and proper person to hold any particular position, regard shall be given to

- (a) that person's probity, competence and soundness of judgment for fulfilling the responsibilities of that position;
- (b) the diligence with which that person is fulfilling or is likely to fulfill the responsibilities of that position; and
- (c) whether the interests of policyholders or potential policyholders of the registered insurance company are, or are likely to be, in any way threatened by that person holding that position.

(3) Without prejudice to the generality of the foregoing provisions, regard may be given to the previous conduct and activities in business or financial matters of that person in question and, in particular, to any evidence that he or she has

- (a) committed an offence involving fraud or other dishonesty or violence;
- (b) contravened any provision made by or under an enactment designed for protecting members of the public against financial loss due to

- dishonesty, incompetence or malpractice by persons concerned in the provision of banking, insurance, investment or other financial services or the management of companies or against financial loss due to the conduct of a discharged or undischarged bankrupt;
- (c) engaged in any business practices appearing to the Registrar to be deceitful or oppressive or otherwise improper whether unlawful or not, or which otherwise reflect discredit on that person's method of conducting business;
 - (d) an employment record which leads the Registrar to believe that the person carried out an act of impropriety in the handling of his or her employer's business; or
 - (e) engaged in or been associated with any other business practices or otherwise conducted himself in such a way as to cast doubt on his competence and soundness of judgment.

203. Ceasing to hold position as director.

(1) Any person who is a director, officer or manager of a local insurance company, a principal representative of a foreign insurance company or a person authorized under section 79(2) shall cease to hold that position

- (a) upon notification by the Registrar of a finding
 - (i) of that person's permanent incapacity or serious neglect of or misconduct in, office; or
 - (ii) that the person is not a fit and proper person in accordance with the criteria specified in section 202(2); or
- (b) if that person
 - (i) is or was convicted of an offence under this Act;
 - (ii) has been declared bankrupt or is compounding with or suspending payment to, his or her creditors; or
 - (iii) has been convicted in a court of law of any offence involving fraud, dishonesty, or violence.

(2) Any person who

- (a) has been sentenced for an offence involving a term of imprisonment of six months or more or is in default of payment of a fine;
- (b) has been a director, manager or Judicial Manager of a company which has been wound-up by a court or has been placed in receivership;
- (c) has been a director or manager of, or directly or indirectly concerned in the management of an insurance company, the certificate of registration of which has been revoked, unless such revocation was due to
 - (i) its amalgamation with another registered insurance company; or

Revision Date: 31 Dec 2009

- (ii) its voluntary winding-up shall not, without the express approval of the Minister after consultation with the Registrar, act or continue to act as a director or manager of, or be directly or indirectly concerned in any way in the management of any registered insurance company.

(3) A person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction to a fine not exceeding fifteen thousand dollars or to imprisonment for a term not exceeding one year or to both.

204. Prudential guidelines.

(1) The Registrar may issue prudential guidelines in administering the provisions of this Act and, without limiting the generality of the foregoing, may issue guidelines respecting

- (a) policies, practices and procedures for evaluating the quality of assets;
- (b) the suspension and reversal of accrued interest;
- (c) policies, procedures and systems for identifying, monitoring and controlling country risk, transfer risk, market risk, liquidity risk, interest rate risk, operational risk and such other risks as he or she shall specify;
- (d) liquidity requirements and ratios;
- (e) treatment of assets and investments;
- (f) related party transactions;
- (g) corporate governance;
- (h) auditors;
- (i) actuaries;
- (j) disclosure; and
- (k) anti-money laundering and combating the financing of terrorism matters.

(2) Every registered insurance company shall, in addition to complying to the provisions of this Act and Regulations made under this Act, also comply with the following

- (a) any relevant provisions of the Anti-money Laundering Regulations made under the Proceeds of Crime Act No. 16 of 2000;
- (b) any relevant provisions of the Anti-Terrorism Act No. 21 of 2002; and
- (c) any other relevant financial services legislation promoting good governance, financial accountability and made to safeguard against money laundering and financing of terrorist activity.

205. Limit on acquisition of shares.

(1) Subject to subsection (7), except with the approval of the Registrar, a person shall not hold or acquire either directly or indirectly so much of the paid-up capital of a local insurance company that would confer upon him or her more than 20 per cent of the total voting rights attached to all the shares that can be voted at a general meeting of the local insurance company.

(2) Where the Registrar determines that the interests of a group of two or more shareholders of a local insurance company are connected or related, the total holdings of those shareholder.

(3) A local insurance company shall submit a report quarterly to the Registrar on the names and addresses of any person who owns five per cent or more of the total voting rights attached to all the shares of the local insurance company and where such a person is a nominee, the name and address of any beneficial owner for whom such a person holds the shares.

(4) In the event that the Registrar determines that a person owns an interest in a local insurance company in violation of subsection (1), the Registrar may issue an order to the person requiring the divestment of so much of the offending interest as is necessary to secure compliance with the provisions of subsection (1).

(5) A director of a local insurance company who knows or ought reasonably to know of a transfer made in violation of subsection (1) and who fails to disclose it to the Registrar commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding three months.

(6) Any person who knowingly acquires an interest in violation of subsection (1)

- (a) commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars or to imprisonment for a term not exceeding one year or to both, except where that person acquires such interest by operation of law:
- (b) but the acquisition was by operation of law, shall divest himself of the excess interest in accordance with instructions issued to him or her by the Registrar.

(7) Subsection (1) shall not apply to the Government or to any person who at the commencement of this Act has acquired more than 20 per cent of the total voting rights attached to all the shares of the local insurance company, but such person shall not, without the consent of the Registrar, acquire any additional shares which shall have the effect of increasing that person's percentage of the total voting rights.

206. Registrar to examine.

(1) The Registrar shall examine or cause an examination to be made of each registered insurance company from time to time or whenever in his or her judgment such examination is necessary or expedient in order to determine that a registered insurance company is in a sound financial condition and that the requirements of this Act have been complied with in the conduct of its business.

Revision Date: 31 Dec 2009

(2) For the purpose of determining the condition of a registered insurance company and its compliance with this Act, the Registrar may at any time examine or cause an examination to be made of any affiliate of the registered insurance company in Saint Christopher and Nevis or abroad or any of its overseas offices to the same extent that an examination may be made of the registered insurance company.

(3) The Registrar may assess a registered insurance company for the reasonable expenses of conducting an examination under subsection (1) or (2).

(4) The Registrar shall forward copies of balance sheets, statements and reports on the results of any examination to the Minister and the registered insurance company.

(5) A registered insurance company and an affiliate of the registered insurance company shall produce for the inspection of any examiner appointed by the Registrar at such time as the examiner specifies such books, minutes, accounts, cash, securities, documents and vouchers relating to the business of the registered insurance company and the business of the affiliate as requested by the examiner for the purpose of this Act.

(6) A registered insurance company and an affiliate of the registered insurance company who contravenes subsection (1), commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand dollars.

(7) If any information supplied or item produced pursuant to subsection (5) is false in any material particular, the registered insurance company or affiliate commits an offence and is liable on conviction to a fine not exceeding fifty thousand dollars.

PART XI – MISCELLANEOUS

207. Policy to be issued expeditiously.

(1) In this Part, “register” refers to register of policies.

(2) If a person has entered into a policy with a registered insurance company, the registered insurance company must forward to that person the relevant insurance policy documents within thirty days of entering into the policy or at some other time as the Registrar may consider reasonable.

(3) A registered insurance company shall not issue a policy in Saint Christopher and Nevis that, is not printed or typed in clearly legible letters.

(4) A registered insurance company who contravenes subsection (2) or (3) commits an offence and is liable on summary conviction to a fine not exceeding two thousand dollars.

208. Jurisdiction over local policies.

A policy issued in Saint Christopher and Nevis shall, notwithstanding any agreement to the contrary, be governed by the laws of Saint Christopher and Nevis and shall be subject to the jurisdiction of the courts of Saint Christopher and Nevis.

209. Insurance company to maintain register of policies.

(1) A registered insurance company shall maintain at its registered office or principal office, a register of policies in Saint Christopher and Nevis.

(2) A local policy existing at the date of commencement of this Act shall as at that date be registered by the registered insurance company in the register.

(3) A registered insurance company shall specify its registered office or principal office in Saint Christopher and Nevis on every policy issued by it.

(4) A registered insurance company shall immediately after issue of a local policy issued after the commencement of this Act, register the policy in the register.

(5) A local policy may at the written request of the policyholder and with the consent of the registered insurance company, be transferred from a register outside Saint Christopher and Nevis to a register in Saint Christopher and Nevis, or from a register in Saint Christopher and Nevis, to a register outside of Saint Christopher and Nevis.

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

210. Policy not invalidated by breach of this Act.

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

211. Restriction on use of insurance terms.

(1) A person other than a registered insurance company or a registered insurance intermediary shall not have or use the word “insurance” or “assurance” or any derivative of the word in the name under which such person carries on business.

(2) A registered insurance company, insurance broker or insurance agent shall not change the name by which it is registered without the prior written permission of the Registrar.

212. Inspection of documents lodged with Registrar.

(1) A person may, subject to the payment of the prescribed fee, inspect and make a copy of any prescribed returns and any audited statement furnished by a registered insurance company to the Registrar under this Act.

(2) The Registrar shall without charge furnish at the request of any person

- (a) the name of the principal representative of a foreign insurance company in Saint Christopher and Nevis;
- (b) the address of the principal office of a foreign insurance company in Saint Christopher and Nevis notified to him in accordance with Part III; and
- (c) in respect of an association of underwriters, the name and address of any person nominated pursuant to Part IV.

Revision Date: 31 Dec 2009

213. Annual licences.

(1) A registered insurance company shall pay to the Accountant General the licence fee for the transaction of insurance business set out in the Third Schedule.

(2) The licence fee must be paid at registration and subsequently in the month of January of every year for the continuance of the registration of an insurance company and in the event that the licence fee is paid after the last day of January, a sum equal to five per centum of the licence fee for each month that the fee is unpaid after that date, shall be paid in addition to the relevant licence fee.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding five thousand dollars.

(4) If it appears to the Registrar that a registered insurance company has failed to comply with the requirements of sections 23, 29 and 39 the Registrar may refuse the renewal.

214. Publication of registrations and cancellations.

(1) The Registrar shall cause notice of the registration or the cancellation of registration of an insurance company or of an insurance intermediary to be published in the *Gazette*.

(2) The Registrar shall, from time to time, cause to be published in the *Gazette* and in a newspaper circulating in Saint Christopher and Nevis updated lists of local insurance companies, associations of underwriters, foreign insurance companies and persons registered under Part V.

215. Misleading advertisements.

(1) A registered insurance company or a registered insurance intermediary shall not make or cause to be made any advertisement that, directly or by implication, has the capacity or tendency to mislead or deceive prospective policyholders with respect to its assets, corporate structure, financial standing or relative position in the insurance business or in any other material respect.

(2) In this section and in sections 216 and 217, “advertisement” includes every form of advertising whether by oral statement or in the form of a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs, cinematographic films, video tapes or by way of electronic broadcasting or by any other means.

216. Approval required for notice offering shares for subscription.

(1) A person shall not publish, in respect of any local insurance company or in respect of a local insurance 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 local insurance company or proposed local insurance company, unless the prospectus, notice, circular, advertisement or other invitation is first submitted to and approved by the Registrar.

(2) The Registrar shall, by notice in writing, inform the person whether or not he or she approves the prospectus, notice, circular, advertisement or other invitation within three months of receipt by him or her.

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

217. Publication of authorised and paid-up capital.

If any advertisement, notice or other document of a registered insurance company contains a statement of the amount of its authorised capital or of its issued capital, the publication shall also contain a statement of the amount of the capital that has been paid up.

218. False documents.

If a person prepares or issues a document referred to in this Act that is false or misleading in any material respect, that person and every other person who took part in the preparation or issue of the document or who signed it commits an offence, unless it is proved that

- (a) the offender, if an individual; or
- (b) all the persons who acted on behalf of the offender, if an entity, had no knowledge of the falsity or misleading character of the document when it was prepared or issued and had taken every reasonable precaution to ensure its accuracy.

219. Translation of documents.

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

220. Regulations.

(1) The Minister may make Regulations for giving effect to this Act and, in particular, may make Regulations in relation to all or any of the following:

- (a) the forms to be used in connection with any provision of this Act;
- (b) anything that is required or authorised to be prescribed by this Act;
- (c) amendments to or addition of any Schedule to this Act;
- (d) reinsurance business;
- (e) the investment of funds by registered insurance companies;
- (f) the form, procedure and time limits for appeals;
- (g) the valuation of assets;

Revision Date: 31 Dec 2009

- (h) the writing-off of preliminary expenses and the deferring of acquisition costs in respect of new insurance business;
- (i) the registration of persons as insurance intermediaries, the holding of an examination to qualify for registration and the exemption of a person from the examination;
- (j) fees for the holding of examinations for insurance intermediaries;
- (k) the sale of universal life, annuity and variable life products;
- (l) prohibitions, limitations or restrictions on the disclosure by registered insurance companies of prescribed supervisory information;
- (m) the amount of deposits for the purposes of subsection 23(1);
- (n) the carrying out of a plan of mutualisation or a plan of demutualization for the purposes of section 162, 163, 164, 165, 166, 167 and 168;
- (o) the remuneration and allowances of the members of the Tribunal established under sections 223 and 224; and
- (p) generally for the effective implementation of this Act.

(2) The Minister may by Order extend the period prescribed under this Act for the performance of an act, or thing as to him or her may seem necessary for the fulfilment of the Act.

221. No Liability.

No action lies against the Minister or the Registrar or any person acting under the direction of the Registrar for anything done or omitted to be done in good faith in the administration or discharge of any powers, duties or functions that under this Act are intended or authorised to be executed or performed.

222. Registrar may authorise extension of time.

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

223. Appeals Tribunal and appeals.

(1) For the purpose of hearing appeals under this Act, there is hereby established an Insurance Appeals Tribunal.

(2) A person who is aggrieved by a decision of the Registrar under this Act, including a cancellation of his registration, or a refusal to register him or her as an insurance company or as an insurance intermediary may within twenty-one days of the decision, appeal to the Tribunal.

(3) Except with the permission of the Minister, the Tribunal shall determine an appeal within a period not exceeding six months from the date that the appeal is filed and in the event that the appellant fails to supply information as required by the Tribunal, the appeal shall be dismissed.

(4) An appeal shall lie from a decision of the Tribunal to a Judge of the High Court.

(5) An appeal under subsection (4) shall be made within thirty days of the decision of the Tribunal.

(6) Where an appeal is pending an order made by the Registrar shall be suspended until the final determination of the appeal.

(7) Notwithstanding subsection (6) if an appeal is made against the action of the Registrar to intervene in the affairs of a registered insurance company in accordance with section 57 the intervention must have effect notwithstanding the appeal.

224. Composition of Tribunal.

(1) The Tribunal shall consist of a Chairperson who shall be an attorney-at-law of not less than five years standing and two other members, one of whom shall be a representative of the insurance industry.

(2) The members of the Tribunal shall be appointed by the Minister and, subject to subsections (3), (4) and (5), will hold office for a period not exceeding three years as specified in the instrument of appointment, but shall be eligible for re-appointment.

(3) A member of the Tribunal other than the Chairperson may at any time resign his or her office by instrument in writing addressed to the Chairperson who shall cause it to be transmitted to the Minister.

(4) The Chairperson of the Tribunal may at any time resign his or her office by instrument in writing addressed to the Minister.

(5) The Minister may at any time, for cause, revoke the appointment of the Chairperson or any other member of the Tribunal.

(6) At a meeting of the Tribunal, the Chairperson and one other member shall constitute a quorum.

(7) The members of the Tribunal shall be paid such remuneration and allowances as may be prescribed.

(8) The Minister shall appoint a Secretary to the Tribunal who shall perform the prescribed duties.

(9) Subject to this section, the Tribunal may regulate its own procedure.

(10) If a member of the Tribunal is for any reason temporarily unable to perform his or her duties under this Part, the Minister may appoint some other person to act as a temporary member of the Tribunal during the inability, save that if the member is the Chairperson, the person appointed to act as a temporary member shall be an attorney-at-law of not less than five years standing.

225. Offences.

(1) A person who contravenes

- (a) a provision of this Act or Regulations made under this Act;
- (b) a provision of any rules prescribed under this Act; or

Revision Date: 31 Dec 2009

- (c) a direction or requirement given or made or a condition specified by the Registrar

commits an offence, unless he proves that he did not knowingly commit the contravention and, in the case of a default in complying with a provision, direction, requirement or condition, the offence shall be deemed to be a continuing offence so long as the default continues.

(2) If a registered insurance company commits an offence against this Act 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, officer, or an actuary or auditor of the registered insurance company, that person, as well as the registered insurance company, shall be deemed to have committed the offence.

(3) If a document required by or under this Act to be signed by any person is false in any material particular to the knowledge of the person who signs it, that person commits an offence.

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

226. Penalties.

An offence against this Act for which no penalty is prescribed, is punishable on summary conviction, in the case of a registered insurance company, by a fine not exceeding five thousand dollars and in the case of an individual by a fine not exceeding two thousand dollars or to imprisonment for a term not exceeding six months.

227. Married persons.

The Married Women's Property Act, Cap. 12.11 or any other legislation in force relating to married persons' property, in so far as it creates a statutory trust of a life policy, has no effect in relation to sections 119 to 130 of this Act.

228. Fees and other charges to Accountant General.

(1) Every insurer shall pay to the Accountant General a tax of five per centum of all non-life premiums in respect of policies issued or applicable in Saint Christopher and Nevis.

(2) Any sums collected monthly under subsection (1) shall be paid to the Accountant General within fifteen days after the end of each calendar month.

(3) Every insurer shall pay to the Accountant General a registration fee of two dollars for every one thousand dollars worth of insurance up to a maximum registration fee of thirty dollars per policy in respect of any insurance policy issued or applicable in Saint Christopher and Nevis.

(4) The fee provided for under subsection (3) shall be payable quarterly, within fifteen days after the end of each quarter, and shall be accompanied by a statement in duplicate showing the number of policies issued, the value of every policy and any other

information required by the Accountant General, a copy of which statement shall be transmitted to the Registrar.

Revision Date: 31 Dec 2009

[inserted by Act 10/2009]

FIRST SCHEDULE

[section 8]

Classes of Insurance Business

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

company shall not for the purpose of this Act be treated as carrying on liability insurance business by reason only of the incidental inclusion in such contract of a provision whereby the registered insurance company assumes liability against the risk of the person insured incurring liabilities to third parties.

4. (1) “Marine, aviation and transport business” means the business of effecting and carrying out contracts of insurance
 - (a) upon vessels or aircraft, or upon the machinery, tackle, furniture or equipment of vessels or aircraft;
 - (b) upon goods, merchandise or property of any description on board vessels or aircraft;
 - (c) upon the freight of, or any other interest in or relating to vessels or aircraft;
 - (d) against damage arising out of, or in connection with, the use of vessels or aircraft, including third-party risks;
 - (e) against risks incidental to the construction, repair or docking of vessels including third-party risks;
 - (f) against loss of or damage to merchandise, baggage and other goods in transit (whether the transit is by sea, inland water, land or air, or partly one and partly another), including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance; or
 - (g) against any other insurance risks which are customarily undertaken in conjunction with, or falls within this definition by virtue of subparagraphs (a),(b),(c),(d),(e) and (f).
 - (2) If the principal object of a contract of insurance is to insure a person against risks of a kind covered by insurance business of some other class, a registered insurance company shall not for the purpose of this Act be treated as carrying on marine, aviation and transport insurance business by reason only of the incidental inclusion in such contract of a provision whereby the registered insurance company assumes liability of a kind that by itself would constitute liability against any of the risks specified in paragraph 4(1)(a), (b), (c), (d), (e), (f) and (g).
5. (1) “Motor vehicle insurance business” means the business of effecting and carrying out contracts of insurance against loss of, or damage to, or loss or damage arising out of or in connection with the use of motor vehicles, inclusive of third-party risks but exclusive of transit risks.
 - (2) For the purposes of this Act a registered insurance company shall not be treated as carrying on motor vehicle insurance business by reason only of the fact that goods, merchandise or property upon which a contract of insurance is effected by it being goods, merchandise or property on board of a vessel or an aircraft, consist of, or include motor vehicles.

Revision Date: 31 Dec 2009

6. (1) “Pecuniary loss insurance business” means the business of effecting and carrying out contracts of insurance against any of the following risks—
 - (a) loss to the persons insured arising from the insolvency of their debtors or from the failure otherwise than through insolvency of their debtors to pay their debts when due;
 - (b) loss to the persons insured arising from their having to perform contracts of guarantee entered into by them;
 - (c) loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reductions of the scope of such business;
 - (d) loss to the persons insured attributable to incurring unforeseen expenses;
 - (e) loss to the persons insured consequential upon the loss or damage to property, which loss does not fall into the class of “property insurance business”; and
 - (f) risks which neither fall within any of the foregoing sub-paragraphs nor is insurance business of some other class.
- (2) If the principal object of a contract of insurance is to insure a person against risks of a kind covered by marine, aviation and transport insurance business, motor vehicle insurance business or property insurance business, a registered insurance company shall not for the purpose of this Act be treated as carrying on pecuniary loss insurance business by reason only of the incidental inclusion in such contract of a provision whereby the registered insurance company assumes liability against the risks specified in paragraph 6(c) and (d).
7. (1) “Personal accident insurance business” means the business of effecting and carrying out contracts of insurance against the risks of the persons insured
 - (a) dying or sustaining injury as the result of an accident or of an accident of a specified class; or
 - (b) becoming incapacitated as the result of a disease or a disease of a specified class, if such contract does not fall within the classes of contracts specified in sub-paragraph (b) of the definition of “Ordinary long-term insurance business”.
- (2) If the principal object of a contract of insurance is to insure a person against risks of a kind covered by marine, aviation and transport insurance business, motor vehicle insurance business or property insurance business, a registered insurance company shall not for the purpose of this Act be treated as carrying on personal accident insurance business by reason only of the incidental inclusion in such contract of a provision whereby the registered insurance company assumes liability against the happening of personal accidents, whether fatal or not.
8. “Property insurance business” means the business of effecting and carrying out contracts of insurance against risks of loss or damage to property, not being risks of

a kind covered by, aviation and transport insurance business or motor vehicle insurance business.

SECOND SCHEDULE

[Section 23]

Prescribed Assets

Deposits required for transacting insurance business may be in cash, the following prescribed assets or a combination of cash and any of the following prescribed assets:

- (i) bonds and debentures issued by Saint Christopher and Nevis,
- (ii) bonds and debentures issued by a member of Caribbean Community,
- (iii) term deposits with a financial institution licensed under the Banking Act, Cap. 21.01, bonds, debentures, stock issued by the Caribbean Development Bank, and
- (iv) bonds, debentures and stock of the Eastern Caribbean Home Mortgage Bank.

THIRD SCHEDULE

[Sections 14(1), 89(1), 192, 213]

Registration and Licence Fees

1.	Application Fees for Registration (Non-refundable)	\$1,500
2.	Annual registration fees	
	Insurance Broker	\$1,000
	Insurance Adjuster	\$1,000
	Insurance Agent	\$1,000
	Sales Representative	\$500
3.	Annual licence fees	
	(a) Local insurance company	
	Long term insurance business	\$2,500
	General insurance business	\$2,500
	(b) Foreign insurance company	
	Long term insurance business	\$5,000
	General insurance business	\$5,000
4.	(a) Registration of a pension fund plan	\$1,000
	(b) Registration of an amendment/change of a pension fund plan	\$300
5.	Fees for reinstatement of registration	
	Insurance Agent	\$250
	Insurance Broker	\$250
	Insurance Adjuster	\$250
	Sales Representative	\$250

Revision Date: 31 Dec 2009

FOURTH SCHEDULE

[Sections 34 and 197]

Investment of Insurance Fund or Registered plan

A. ASSETS IN WHICH INSURANCE FUND OR A REGISTERED PLAN MAY BE INVESTED

1. Bonds and Debentures:
 - (a) the bonds, debentures and other evidence of indebtedness of or guaranteed by the Government of
 - (i) Saint Christopher and Nevis; or
 - (ii) any other country approved by the Minister.
 - (b) the bonds, debentures and other evidence of indebtedness of a corporation in Saint Christopher and Nevis
 - (i) which is established by statute to administer on behalf of Saint Christopher and Nevis a utility in Saint Christopher and Nevis if its recurrent income is sufficient to meet its operation, maintenance and debt service charges; or
 - (ii) whose indebtedness is fully secured by a statutory charge upon real estate or upon plant and equipment or other tangible assets of the corporation used in the transaction of its business.
 - (c) the bonds, debentures or other securities of, or those guaranteed by, the Caribbean Development Bank, or any other international financial institution approved by the Minister.
2. Ordinary and Preference Shares:
 - (a) the fully-paid ordinary shares of a company incorporated in Saint Christopher and Nevis or in any member of the Caribbean Community that during the five year period immediately preceding the date of purchase, has either paid a dividend in each year upon its ordinary shares, or had earnings in each year available for the payment of a dividend upon the shares, of at least four per centum of the market value of those shares;
 - (b) ordinary shares and preference shares of a company incorporated in Saint Christopher and Nevis or in any member of the Caribbean Community and approved by the Minister.
3. Mortgages:
 - (a) mortgages on real estate or leaseholds in Saint Christopher and Nevis if the amount of the loan does not exceed seventy-five per centum of the value of the real estate;
 - (b) a mortgage if the amount of the loan does not exceed ninety per centum but where the portion of the indebtedness in excess of seventy-five per centum is guaranteed by an agency of, or directly by the Government of Saint Christopher and Nevis, or by a registered

insurance company registered under this Act to carry on that class of insurance business.

4. Real Estate:

- (a) real estate or leaseholds in Saint Christopher and Nevis for the production of income if
 - (i) the lease is made to or guaranteed by the Government of Saint Christopher and Nevis and provides for a net revenue sufficient to yield a reasonable interest return and to repay the amount invested over a period not exceeding thirty years;
 - (ii) the real estate or leasehold has produced over the previous three years revenue sufficient to yield a reasonable interest return and to repay the amount invested for a period of the economic life time of the investment not exceeding forty years;
- (b) real estate in Saint Christopher and Nevis required by the company for its use or occupation or reasonably required for the natural expansion of its business;
- (c) real estate in Saint Christopher and Nevis acquired by foreclosure of a mortgage on real estate where the mortgage qualifies as an investment under this Act.

5. Deposit Certificates:

Deposits for fixed terms in

- (a) any bank in Saint Christopher and Nevis;
- (b) any financial institution licensed under the Banking Act No. 6 of 1991; or
- (c) any other financial institution operating in Saint Christopher and Nevis and approved by the Minister.

6. Unit Trusts:

Units in mutual funds and unit trusts approved by the Minister.

B. LIMITATIONS ON THE INVESTMENT OF POLICYHOLDER RESERVES

For the purpose of the investment of policyholder reserves and of pension fund plans the following limitations shall apply:

- (a) Real Estate:
 - (i) the total amount of investment in real estate shall not exceed twenty per centum of a long term insurance fund or a pension fund plan;
 - (ii) the Registrar may permit an investment in real estate to be included as part of a general insurance fund but this authority should not exceed twenty per centum of a fund;
 - (iii) in the case of pension fund plans the Registrar may, on the recommendation of an actuary permit investment in real estate in excess of twenty per centum of the fund.

Revision Date: 31 Dec 2009

- (b) Mortgages:
No single mortgage included as an asset of a fund shall exceed 10 per centum of the total assets of the insurance company.
- (c) Bonds and Debentures:
An insurance company shall not invest in bonds and debentures on which payment of principal or interest is in default.
- (d) Ordinary Shares:
 - (i) An insurance company shall not invest more than thirty per centum of a fund in ordinary shares;
 - (ii) An insurance company shall not purchase more than thirty per centum of the ordinary shares in a company where those shares are to be included in an insurance fund.
- (e) Purchase of Life Insurance Company:
A registered insurance company engaged in long term insurance business shall not purchase the shares of an insurance company carrying on long term insurance business if that investment is to be included in its insurance fund.

FIFTH SCHEDULE

[Sections 187 and 195]

Registered Pension and Provident Fund Plans

PART I – REQUIREMENTS AS TO THE TRUST DEED AND RULES OF REGISTERED PENSION AND PROVIDENT FUND PLANS

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

- (a) the whole of the objects for which the plan is established;
- (b) the appointment and removal of trustees;
- (c) the vesting in the trustees of all property belonging to the plan;
- (d) the investment in the names of the trustees of all capital monies belonging to the plan and the authorisation of the investments in which, in addition to those authorised by law, that the trustees may invest the monies; but the rules of a plan may provide for the deposit of the monies with a bank;
- (e) the making of contributions to the plan by the employers of persons employed in the undertaking or combination of undertakings in connection with which the plan is established;
- (f) the contributions payable to and the rates of benefits payable from the fund or the method of calculating benefits so payable;
- (g) the conditions on which persons may become and may cease to be, contributors to, and entitled to benefits from, the fund;

- (h) the protection of the vested rights of contributors to the plan;
- (i) the preparation of all statements of accounts, balance-sheets and reports required by this Act to be prepared;
- (j) the supply (on demand) to every person having any rights in the plan, being a person who is or has been employed in the undertaking in connection with which the plan is established, of a copy of the rules of the plan and of all amendments to the plan, and of the latest statements of accounts, balance-sheet and actuarial report prepared in accordance with the requirements of this Act;
- (k) the circumstances in which the plan may be wound up and in the event of a winding-up, the application of any surplus in the fund and the use of the plan to purchase immediate annuities for contingent pensioners;
- (l) the person or persons to whom any surplus is payable upon the winding-up of the plan; and
- (m) the method by which the rules may be amended.

PART II – FORMS

FORM A

Revenue Account for the periodto.....

Pension Fund Plan

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

Revision Date: 31 Dec 2009

FORM B

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

Balance Sheet as at20.....

For.....**Pension Fund Plan**

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

* Details to be specified in a Schedule.

PART III – ACTUARIAL VALUATION REPORT

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

(a) Changes in the membership of the fund during the inter-valuation period as well as the membership of the fund on the valuation date as follows–

Age Group	Number of Members at Beginning of Period	Number of New Members	Number of Cessations of Membership				Number of Members at the end of the Period
			Transfer or on deferred pensions	Withdrawal	Death	Retirement	
Under 25							
25–30							
30–35							
35–40							
40–45							
45–50							
50–55							
55–60							
60–65							
TOTAL							

Revision Date: 31 Dec 2009

- (b) Changes in the number of pensioners of the fund during the inter-valuation period as follows:

Age Group	Number of pensioners at beginning of period		Number of pensioners on pension during period		Number of pensioners who dies during period		Number of pensioners ceasing to receive pension for other cause		Number of pensioners at end of period	
	Ill Health	Age	Ill Health	Age	Ill Health	Age	Ill Health	Age	Ill Health	Age
Under 35 ...										
...										
35-45										
45-55										
55-65										
65-75										
75 and over ...										
TOTAL										

2. The second part of the report must contain the following information:
- general observations regarding mortality, withdrawal and retirement from service and progression of salary during the inter-valuation period and general observations on any other factors entering into the valuation;
 - a description of the mortality and all other rates used (specimen rates to be shown in an appendix to the report);
 - average rates of interest realised by the assets of the fund whether invested or not during each year and the inter-valuation period;
 - the rate of interest assumed in the calculations for the purpose of the valuation;
 - a statement indicating
 - whether and how it has been ascertained that the estimated net liability in respect of any employer is not negative;
 - the amount of and the reason for any special reserves that have been set up.
3. The final part of the report must 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.

 Revision Date: 31 Dec 2009

4. The report must close with any further observations the actuary may wish to offer on the valuation.

SIXTH SCHEDULE

[section 23]

Deposits

Class of insurance business	Deposit payable
1. Long-term insurance business	One million dollars (\$1000 000)
2. Motor vehicle insurance business	the greater of – (i) five hundred thousand dollars (\$500 000), or (ii) an amount equal to forty per centum of the premium income, net of reinsurance, in respect of motor vehicle insurance business transacted in Saint Christopher and Nevis during the financial year last preceding the date of deposit.
3 Insurance business other than long-term insurance or motor vehicle insurance business	the greater of– (i) five hundred thousand dollars (\$500 000), or (ii) an amount equal to forty per centum of its premium income, net of reinsurance, in respect of its insurance business other than long-term insurance or motor vehicle insurance business transacted in Saint Christopher and Nevis during the financial year last preceding the date of deposit

SEVENTH SCHEDULE

(Section 19 of Cap 1.02)

Insurance Regulations

1. Short title.

These Regulations may be cited as the Insurance Regulations.

2. Interpretation.

In these Regulations,

“Act” means the Insurance Act;

“fire insurance business” means the business of insuring persons against loss or damage caused by fire or by an occurrence incidental to a fire or against any loss or damage against which insurance is customarily effected in conjunction with the business of insurance against loss or damage caused by fire, but does not include the business of insuring persons against such loss or damage if the business is incidental to some other class of insurance business;

“Form” means the appropriate Form prescribed and set out in the Schedule to these Regulations;

“industrial assurance business” means the business of assuming the obligations of an insurer under industrial assurance policies;

“motor vehicle insurance business” means the business of insuring persons against loss or damage or claims arising out of, or in connection with, the use or ownership of motor vehicles;

“sinking fund insurance business” means the business of assuming obligations under sinking fund policies not being life business, annuity business or industrial assurance business;

“State” means the State of Saint Christopher and Nevis;

“transport insurance business” means the business of effecting and carrying out, otherwise than incidentally to some other class of insurance business, policies

- (a) upon vessels or aircraft or upon machinery, tackle, furniture or equipment of vessels or aircraft;
- (b) upon goods, merchandise or property of any description on board vessels or aircraft;
- (c) upon the freight of or any other interest in or relating to vessels or aircraft;
- (d) against damage arising out of or in connection with the use of vessels or aircraft, including third party risks;
- (e) against risks incidental to the construction, repair or docking of vessels, including third party risks;
- (f) against transit risks, whether the transit is by sea, inland water, land or air or partly one and partly another, including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, but excluding risks the insurance of which is motor vehicle insurance business; or
- (g) against any other risks, the insurance of which is customarily effected in conjunction with or as incidental to any business referred to in paragraphs (a) to (f) of this definition.

Revision Date: 31 Dec 2009

3. Form of application for registration of insurers.

An application for registration as insurer made in terms of subsection (1) of section 6 of the Act by a person who

- (a) is not an association of underwriters shall be in the Form 1 in the Schedule hereto;
- (b) is an association of underwriters shall be in the Form 2 in the said Schedule.

4. Supporting documents for application for registration.

(1) An application for registration as an insurer made in terms of subsection (1) of section 6 of the Act by a person other than an association of underwriters shall be accompanied by the following documents:

- (a) in the case of an existing insurer whose head office is in the State,
 - (i) a certificate as to solvency in Form 3, 4 or 5, as the case may be;
 - (ii) a balance sheet in Form 6 for his or her last preceding financial year;
 - (iii) a profit and loss account in Form 7 for his or her last preceding financial year;
 - (iv) a revenue account in Form 8 for life assurance business, if any, for his or her last preceding financial year; and
 - (v) a revenue account in Form 10 and additionally or alternatively Form 11 as the case may be for insurance business other than life assurance business, if any, for his or her last preceding financial year;
 - (vi) an abstract in Form 12 of the report of an actuary on the last investigation into his or her financial position in which a valuation of his or her liabilities was made (the consolidated revenue account and summary and valuation of liabilities included in that abstract to be in Forms 13 and 14), and a statement in Form 15 of his or her assurance business at the date his or her accounts were made up for the purpose of the investigation referred to in sub-paragraph A if he or she carrying on life assurance business; and
 - (vii) the Act, memorandum and articles of association, regulations, byelaws or other document constituting the applicant and regulating the conduct of his or her business;
- (b) in the case of an existing insurer whose head office is not in the State,
 - (i) the documents referred to in sub-paragraphs (i) and (vii) of paragraph (a);
 - (ii) a balance sheet, profit and loss account and revenue account in respect of his or her last preceding financial year as submitted

- to the appropriate authority in the country in which his or her head office is situate;
- (iii) if he or she is carrying on life assurance business, an abstract of the report of an actuary on the last investigation into his or her financial position in which a valuation of his or her liabilities was made as submitted to the appropriate authority in the country in which his or her head office is situate; and
 - (iv) a certificate by the appropriate authority in whom is vested the administration of the insurance law in the country in which the insurer's head office is situate to the effect that the insurer has complied, and is complying, with the insurance law of that country;
- (c) in the case of an applicant who is not an existing insurer,
- (i) the Act, memorandum and articles of association, regulations, byelaws or other document constituting the applicant and providing for the regulation of the conduct of his or her business;
 - (ii) a balance sheet showing his or her authorised and paid-up capital, if any;
 - (iii) if he or she is to carry on life assurance business, a certificate by an actuary approved by the Registrar that the conditions under which the proposed life assurance business is to be carried on are actuarially sound.

(2) An application for registration as an insurer made in terms of subsection (1) of section 6 of the Act by a person who is an association of underwriters shall be accompanied by the following documents:

- (a) a copy of the regulations, byelaws or other document constituting the association and governing the operations of the members;
- (b) a list of members; and
- (c) in the case of an association constituted in a country outside the State, a certificate by the appropriate authority in whom is vested the administration of the insurance law relating to associations of underwriters in that country as to the matters referred to in subparagraph (ii) of paragraph (c) of subsection (1) of section 12 of the Act.

5. Form of application for registration of insurance agents.

An application for registration as an insurance agent made in terms of section 42 of the Act shall be in Form 16.

6. Registrar to be notified of certain changes.

A registered insurer shall, within six months of the end of each financial year, notify the Registrar in writing of any change which occurred in that year in any of the following matters which are hereby prescribed for the purposes of section 24 of the Act:

Revision Date: 31 Dec 2009

- (a) the Act, memorandum and articles of association, regulations, byelaws or other document constituting the insurer and regulating the conduct of his or her business;
- (b) in the case of a local insurer, the names of the directors of the insurer;
- (c) in the case of an external insurer, the situation of the head office of the insurer outside the State.

7. Documents to be furnished annually to Registrar.

For the purposes of subsection (1) of section 25 of the Act, the documents required by that subsection to be furnished to the Registrar shall be in the following Forms:

- (a) the certificate of solvency in Form 3, 4 or 5, as the case may be;
- (b) the balance sheet in Form 6;
- (c) the profit and loss account in Form 7;
- (d) the revenue account in respect of life assurance business, if any, in Form 8;
- (e) the statement of life assurance business in Form 9; and
- (f) the revenue accounts in respect of insurance business, other than life assurance business, if any, in Form 10 and additionally or alternatively in Form 11 as the case may be.

8. Form of Abstract of Actuary's Report.

(1) The abstract of the report of an actuary recognised and approved by the Registrar such as is referred to in subsection (2) of section 38 of the Act and which a life assurer is required to prepare and furnish to the Registrar in terms of that subsection shall be in Form 12, and the Consolidated revenue account and summary and valuation of liabilities included in that abstract shall be in Forms 13 and 14 respectively.

(2) The statement of assurance business referred to in subsection (2) of section 38 of the Act which a life assurer is required to prepare and furnish to the Registrar in terms of that subsection shall be in Form 15.

(3) Notwithstanding anything to the contrary contained in this regulation, a life assurer who is an external assurer may furnish to the Registrar a summary and valuation of liabilities and a statement of his or her assurance business in the form which he or she is required to furnish to the appropriate authority in the country in which his or her head office is situate.

9. Fees.

The fees payable under section 58 of the Act shall be,

- (a) for the inspection of any document, 25 cents;
- (b) for the inspection and copying of any document, or for a certified copy of or abstract from any document, 25 cents for every 100 words or part thereof.

10. Statement of Currency in Documents.

If in a document furnished to the Registrar in terms of these Regulations a sum of money is not stated in the currency of the State, the appropriate rate of conversion of the sum of money to such currency shall be stated in the document or in an annexure to the document.

SCHEDULE TO THE REGULATIONS

(Regulation 1)

LIST OF FORMS

Form 1.

Application for registration as an insurer by a person who is not an association of underwriters.

Form 2.

Application for registration as an insurer by an association of underwriters.

Form 3.

Certificate as to solvency of an insurer, other than an association of underwriters, who carries on insurance business which is not life assurance business.

Form 4.

Certificate as to solvency of an insurer, other than an association of underwriters, who carries on life assurance business only.

Form 5.

Certificate as to solvency of an insurer, other than an association of underwriters, who carries on both life assurance business and other classes of insurance business.

Form 6.

Balance sheet showing the financial position of the insurance business of an insurer, other than an association of underwriters, at the close of the financial year
..... 20

Form 7.

Profit and loss account in respect of insurance business carried on by an insurer, other than an association of underwriters, in the financial year ended
..... 20

Form 8.

Revenue account in respect of life assurance business carried on by an insurer, other than an association of underwriters, in the financial year ended
..... 20

Form 9.

Revision Date: 31 Dec 2009

Statement of life assurance business, other than business in connection with industrial assurance and sinking fund policies, carried on in the federation by an insurer, other than an association of underwriters, in the financial year ended 20

Form 10.

Revenue account, in respect of insurance business other than transport and life assurance business carried on by an insurer, other than an association of underwriters, in the financial year ended 20

Form 11.

Revenue account in respect of transport insurance business carried on by an insurer, other than an association of underwriters, in the financial year ended 20

Form 12.

Abstract of a report of an actuary on an investigation into the financial position of a life assurer, other than an association of underwriters.

Form 13.

Consolidated revenue account of a life assurer, other than an association of underwriters.

Form 14.

Summary and valuation of the liabilities of a life assurer, other than an association of underwriters, in respect of life assurance business at 20

Form 15.

Statement of the life assurance business of a life assurer, other than an association of underwriters.

Form 16.

Application for registration of a person as an insurance agent.

FORM 1

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (SECTION 6(1))

INSURANCE REGULATIONS (REGULATION 3(A))

APPLICATION FOR REGISTRATION AS AN INSURER BY A PERSON WHO IS NOT AN ASSOCIATION OF UNDERWRITERS

Name under which applicant seeks registration as an insurer

Address of applicant's head office

Names of Directors

Name of General Manager or Secretary

Name and qualifications of applicant's actuary (if any)

If applicant has an actuary whether or not his services are continuously retained by the applicant

Name and qualifications of applicant's auditor

Countries in which the applicant carries on insurance business

Class of insurance business with respect to which application for registration is made

Chairperson

Director

Date

Principal Officer
(if appointed)

Revision Date: 31 Dec 2009

FORM 2
SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Section 6(1))

INSURANCE REGULATIONS (Regulation 3(b))

**APPLICATION FOR REGISTRATION AS AN INSURER BY AN ASSOCIATION
OF UNDERWRITERS**

Name under which applicant seeks registration as an insurer

Address of applicant's chief office and country in which
constituted

Names of members of the committee, council or governing
body of the applicant

Class of insurance business with respect to which
application for registration is made

Date.....

Chairperson

*Chairperson of Audit
Committee*

FORM 3

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

CERTIFICATE AS TO SOLVENCY OF AN INSURER, OTHER THAN AN ASSOCIATION OF UNDERWRITERS, WHO CARRIES ON INSURANCE BUSINESS WHICH IS NOT LIFE ASSURANCE BUSINESS

We hereby certify that to the best of our knowledge and belief the value of the assets in respect of all classes of insurance business carried on by exceeds the amount of the liabilities (calculated in accordance with the provisions of subsection (2) of section 13 of the Insurance Act 1968) in respect of those classes of insurance business by the appropriate amount specified in paragraph (a) of subsection (1) of section 13 of the Insurance Act, 1968.

.....
Chairperson

.....
Director

.....
Principal Officer

Date
Auditor

FORM 4

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

CERTIFICATE AS TO SOLVENCY OF AN INSURER, OTHER THAN AN ASSOCIATION OF UNDERWRITERS, WHO CARRIES ON LIFE ASSURANCE BUSINESS ONLY

I hereby certify that to the best of our knowledge and belief the liabilities under unmatured life, industrial assurance and sinking fund policies issued by

Revision Date: 31 Dec 2009

.....
.....do not exceed the amount of the life assurance fund.

Date

Actuary of the Insurer

FORM 5

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 3(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

**CERTIFICATE AS TO SOLVENCY OF AN INSURER, OTHER THAN AN
ASSOCIATION OF UNDERWRITERS, WHO CARRIES ON BOTH LIFE
ASSURANCE BUSINESS AND OTHER CLASSES OF INSURANCE BUSINESS**

PART I

I hereby certify that to the best of our knowledge and belief the liabilities under
unmatured life, industrial assurance and sinking fund policies issued by
.....
.....do not exceed the amount of the life assurance
fund.

Date

Actuary of the Insurer

PART II

We hereby certify that to the best of our knowledge and belief the value of the
assets in respect of all classes of insurance business carried on by
.....
exceeds the amount of the life assurance fund together with the liabilities other than
liabilities in respect of unmatured life, industrial assurance and sinking fund policies
(calculated in accordance with the provisions of subsection (2) of section 13 of the
Insurance Act) by the appropriate amount specified in sub-paragraph (ii) of paragraph (c)
of subsection (1) of section 13 of the Insurance Act.

.....
Chairperson

.....
Director

.....

Principal Officer

Date

.....

Auditor

FORM 6

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

BALANCE SHEET

Showing the financial position of the insurance business of an insurer, other than an association of underwriters, at the close of the financial year ended
.....20.....

Name of Insurer

NOTE 1. A balance sheet in this form shall be rendered in respect of each separate fund for which separate investments are made, and every such balance sheet shall, if it relates to business of a kind which the insurer transacts in the State, be in the following form.

NOTE 2. This balance sheet shall state how the values of the stock exchange securities listed are arrived at, and a certificate shall be attached signed by the persons who sign this balance sheet to the effect that, in their belief, the assets set forth in the balance sheet are, in the aggregate, fully of the value stated therein less any investment reserve fund taken into account. In the case of a balance sheet which is in respect of life assurance business and no other business, this certificate is to be given on the occasion only when an investigation into the financial position of the insurer is made in terms of section 34 of the Act.

NOTE 3. Assets in the State must be shown at their value in the currency of the State.

Other sums owing by the insurer	.....	.....	.....	.....
.....
.....	.....	House and landed property	.....	.....
.....	.....	Agents' balances	.....	.....
.....	.....	* Outstanding premiums and deferred instalments	.....	.....
.....	.....	* Outstanding interest, dividends and rents	.....	.....
.....	.....	* Interest accrued but not payable	.....	.....
.....	.....	Cash on deposit	.....	.....
.....	.....	Cash at call or at short notice	.....	.....
.....	.....	Cash on hand, in transit or on current a/c.	.....	.....
.....	.....	Other assets (to be specified)	.....	.....
.....
.....
.....
.....
TOTAL		TOTAL		

* These items are included in the corresponding items in the Revenue Accounts
Date

.....
Chairperson

.....
Director

.....
Principal Officer

.....
Auditor

Revision Date: 31 Dec 2009

FORM 7

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

PROFIT AND LOSS ACCOUNT

in respect of insurance business carried on by an insurer, other than an association
of underwriters, in the financial year ended 20

Name of Assurer

Balance on last year's account.....	Dividends and bonuses to shareholders
Interest, dividends and rents not carried to other accounts:	Expenses not charged to other accounts
In the State	Taxes paid:
Outside the State	In the State
Profit transferred (accounts to be specified).....	Outside the State
Other revenue (accounts to be specified).....	Loss transferred (accounts to be specified)
.....	Other expenditure (accounts to be specified)
Total	Balance as per balance sheet
	Total

Date

.....
Chairperson

.....
Director

.....
Principal Officer

.....
Auditor

Revision Date: 31 Dec 2009

			Amount of life assurance fund at the end of the year, as per balance sheet (total only)		
TOTAL			TOTAL		

NOTE 1. revenue account in the above form need be rendered in respect only of life assurance business of a kind which the assurer transacts in the State. A separate account in this form shall however be rendered in respect of each part of such business for which a separate fund is maintained.

NOTE 2. f any sum has been deducted from the expenses of management account, and taken credit for in the balance sheet as an asset, the sum so deducted shall be separately shown in this account.

NOTE 3. xpenses of management in respect of the "Business in the State" column shall be the expenses incurred within or without the State which relate to business in the State.

NOTE 4. tems in this Account shall be the net amounts after deduction of the amounts paid and received in respect of reinsurances of the assurers' risks.

Date

..... ..

Chairperson Director Principal Officer Auditor

FORM 9

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 21(1))

INSURANCE REGULATIONS (Regulation 7)

SUPPLEMENTARY STATEMENT OF LIFE ASSURANCE BUSINESS

other than business in connection with industrial assurance and sinking fund policies, carried on *in the State* by an insurer, other than an association of underwriters, in the financial year ended20.....

Name of Assurer

A. Statement of revenue and expenditure during the year ended20.....in respect of business in the State.

REVENUE:

Premiums for assurance policies (less bonus reductions) –

(i) Individual

(ii) Group

Consideration for annuities –

- (i) Individual
- (ii) Group

EXPENDITURE:

- Claims by death
- Claims by disability
- Claims by maturity
- Annuities paid –

 - (i) Individual
 - (ii) Group

Surrenders, including surrenders of bonus –

- (i) Individual
- (ii) Group

B. Statement of new life assurance and new annuities effected in the State during the year

	Individual	Group
ASSURANCES:
Number of policies
Sum insured
Annual premiums
Single premiums
ANNUITIES:
Number of policies
Immediate
Deferred
Amount per annum
Immediate
Deferred

NB. All the above figures shall be net figures after deductions of re-insurances.

Date 20

.....

Chairperson

Principal Officer

Director

Auditor

Revision Date: 31 Dec 2009

FORM 10

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

REVENUE ACCOUNT

in respect of fire assurance business carried on by an assurer, other than an association of underwriters, in the financial year ended 20

Name of Insurer

NOTE: SEPARATE REVENUE ACCOUNTS IN THIS FORM SHALL ALSO BE RENDERED FOR MOTOR VEHICLE, PERSONAL ACCIDENT AND MISCELLANEOUS INSURANCE BUSINESS.

	Business in the State	Total		Business in the State	Total
Amount of Fire Insurance Fund at the end of the preceding year	Claims under policies paid and outstanding	.....	.....
Provision for unexpired risks	Gross	.....	.....
Additional reserves (if any)	Deduct:	.....	.....
Premiums:	Reinsurances	.....	.....
Gross	Net	.....	.....
Deduct:	Commission	.....	.....
Reinsurances	Expense of management	.....	.....
Net	Other expenditure (accounts to be specified)	.....	.....
	Transferred to Profit and loss account	.....	.....
Interest, dividends and rents
	Amount of Fire Insurance Fund at the end of the year as per	.....	.....

Revision Date: 31 Dec 2009

Other revenue (accounts to be specified)	.....	.....	balance sheet:	.....	.....
	.....	.....	Provision for unexpired risks being % of premium income for the year .....	.....	.....
Transferred from profit and loss account	.....	.....		.....	.....
.....
.....
.....
.....
TOTAL			TOTAL		

NOTE 1. If any sum has been deducted from the expenses of management account, and taken credit for in the balance sheet as an asset, the sum so deducted shall be separately shown in this account.

NOTE 2. Expenses of management in respect of the “Business in the State” column shall be the expenses incurred within or without the State which relate to business in the State.

NOTE 3. The value of business in the State shall be shown in the currency of the State.

NOTE 4. Except as otherwise shown, items in this account shall be net amounts after deduction of the amounts paid and received in respect of reinsurance of the insurer’s risks.

NOTE 5. In the analyses into “Gross”, “Reinsurances”, “Net” in respect of the “Business in the State” column, the figures for reinsurances, although they relate to reinsurances of business in the State, must include reinsurances of such business wherever placed.

NOTE 6. Amount paid within the State in respect of expenses of management

Date

.....

Chairperson Director Principal Officer Auditor

Revision Date: 31 Dec 2009

FORM 11

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 21(1))

INSURANCE REGULATIONS (Regulations 4(1) and 7)

REVENUE ACCOUNT

in respect of transport insurance business carried on by an assurer, other than an association of underwriters, in the financial year ended 20

Name of Insurer

	Business in the State	Total		Business in the State	Total
Amount of Transport Insurance Fund at the end of preceding year, including additional reserves, if any		Claims paid (less salvages, refunds and reinsurance recoveries)	.....	.....
		Expenses of Managem ent	.....	.....	.....
Premiums (less brokerage, discount, commission and returns):			
Gross
Deduct:		Other expenditure (accounts to be specified)	.....	.....
Reinsurances
Net	Transferred to profit and loss account	.....	.....
Other revenue (accounts to be specified)	Amount of Transport Insurance Fund at the end of the year, including additional reserves, if any, as per balance	.....	.....

Revision Date: 31 Dec 2009

Transferred from profit and loss account	.....	.....	sheet	.....	.....
.....
.....
.....
TOTAL			TOTAL		

NOTE 1. If any sum has been deducted from the expenses of management account, and taken credit for in the balance sheet as an asset, the sum so deducted shall be separately shown in this account.

NOTE 2. Expenses of management in respect of the “Business in the State” column shall be the expenses incurred within or without the State which relate to business in the State.

NOTE 3. The value of business in the State shall be shown in the currency of the State.

NOTE 4. Except as otherwise shown, items in this account shall be net amounts after deduction of the amounts paid and received in respect of reinsurance of the insurer’s risks.

NOTE 5. In the analyses into “Gross”, “Reinsurances”, “Net” in respect of the “Business in the State” column, the figures for reinsurances, although they relate to reinsurances of business in the State, must include reinsurances of such business wherever placed.

NOTE 6. Amount paid within the State in respect of expenses of management

Date

.....
Chairperson *Director* *Principal Officer* *Auditor*

Revision Date: 31 Dec 2009

FORM 12

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 34(2))

INSURANCE REGULATIONS (Regulations 4(1) and 8(1))

**ABSTRACT OF A REPORT OF AN ACTUARY ON AN INVESTIGATION INTO
THE FINANCIAL POSITION OF A LIFE ASSURER OTHER THAN AN
ASSOCIATION OF UNDERWRITERS**

Abstract of report on an investigation into the financial position of

NOTE: Separate returns signed by the actuary of the assurer shall be furnished for life policies, industrial assurance policies and sinking fund policies provided, however, that life policies and sinking fund policies may be included in one return.

The abstract shall be prepared in numbered paragraphs containing the information required in the following form:

1. The date to which the assurer's accounts are made up for the purpose of the investigation.
2. The general principles adopted in the valuation and the method followed in the valuation of the particular classes of assurance, including a statement of the method by which the net premiums have been arrived at, and whether these principles were determined by the assurer's articles of association or by his or her regulations, or how otherwise, together with a statement of the manner in which policies on under-average lives are dealt with.
3. The table or tables of morality used in the valuation. In cases where the tables employed are not published, specimen policy values shall be given at the rate of interest employed in the valuation in respect of whole-life assurance policies effected at the respective ages of 20, 30, 40 and 50, and having been respectively in force for five years, ten years and upwards at intervals of five years respectively; with similar specimen policy values in respect of endowment assurance policies, according to age at entry, original term of policy and duration.
4. The rate or rates of interest employed in the calculations.
5. The actual proportion of the annual premium income, if any, reserved as a provision for future expenses and profits separately specified in respect of assurances with immediate profits, with deferred profits, with discounted bonuses and without profits. If no proportion of the annual premium income is reserved as provision for future expenses and profits, how this provision is made shall be stated.
6. The consolidated revenue account since the last valuation or, in the case of an assurer who has made no valuation, since the commencement of business. This return shall be furnished in Form 13.

7. The liabilities of the assurer under life policies and annuities at the date referred to in paragraph 1, showing the number of policies, the amount assured, and the amount of premiums payable annually under each class of policy, both with and without participation in profits. These return shall be furnished in Form 14.

8. A statement of the principles upon which the distribution of profits, if any, among the shareholders and policy-owners is made, giving the number of years' premiums required to be paid before a bonus

- (a) is allotted; and
- (b) vests.

The statement shall specify whether the principles upon which the distribution of profits is made were determined by the assurer's articles of association or by his or her regulations, or how otherwise.

9. A statement of the results of the valuation, giving the total amount of profit made by the assurer since the last valuation (including any amount carried forward from that valuation) allocated as follows:

- (a) as interim bonuses;
- (b) among the policy-owners with immediate participation;
- (c) among the policy-owners with deferred participation;
- (d) among the policy-owners with discounted bonuses;
- (e) among the shareholders, if any;
- (f) to reserve funds or other account;
- (g) carried forward unappropriated.

Date

Actuary of the Assurer

FORM 13

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 34(2))

INSURANCE REGULATIONS (Regulations 4(1) and 8(1))

CONSOLIDATED REVENUE ACCOUNT OF A LIFE ASSURER, OTHER THAN AN ASSOCIATION OF UNDERWRITERS

(See paragraph 6 of the Abstract of the Report of the Actuary in Form 12).

Consolidated Revenue Account of	
for period commencing and ended	
Amount of life assurance fund at the beginning of the period	Claims under policies paid and outstanding:

Revision Date: 31 Dec 2009

Premiums	.....	By death	.....
Consideration for annuities granted	.....	By maturity	.....
Interests, dividends and rents	.....	By disability	.....
Other receipts (accounts to be specified)	.....	Surrenders, including surrenders of bonus	.....
	Annuities	.....	.....
	Bonuses in cash	.....	.....
	Bonuses in reduction of premiums	.....	.....
	Commission	.....	.....
	Expenses of management	.....	.....
	Other payments (accounts to be specified)	.....	.....
	Amount of life assurance fund at the end of the period as per balance sheet .....	.....	.....
Total	.....	Total	.....

NOTE: If any sum has been deducted from the expenses of management account, and taken credit for in the balance sheet as an asset, the sum so deducted shall be separately shown in this account.

Date

Actuary of the Assurer

FORM 14

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 34(2))

INSURANCE REGULATIONS (Regulations 4(1) and 8(1))

SUMMARY AND VALUATION OF THE LIABILITIES OF A LIFE ASSURER

other than an association of underwriters, in respect of Life Assurance Business at 20

(See paragraph 7 of the abstract of the report of the actuary in Form 12)

Name of Assurer

Revision Date: 31 Dec 2009

(i) individual		.....	.....	.....	.....	.....	.....	.....
(ii) group		.....	.....	.....	.....	.....	.....	.....
Other classes (to be specified)		.....	.....	.....	.....	.....	.....	.....
(i) individual		.....	.....	.....	.....	.....	.....	.....
(ii) group		.....	.....	.....	.....	.....	.....	.....
TOTAL OF THE RESULTS		.....	.....	.....	.....	.....	.....	.....

* These figures may be stated net of re-insurances if preferred.

NOTE 1. The term “extra premium” means the charge for any risk not provided for in the minimum contract premium.

NOTE 2. If separate valuations of any portion of the business are required under insurance laws of countries outside the State, a summary statement shall be furnished showing the total net liability in respect of the business so valued in each country.

Date

Actuary of the Assurer

FORM 15

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Sections 6(1) and 34(2))

INSURANCE REGULATIONS (Regulations 4(1) and 8(2))

**STATEMENT OF THE LIFE ASSURANCE BUSINESS OF A LIFE ASSURER
OTHER THAN AN ASSOCIATION OF UNDERWRITERS**

Statement relating to the valuation of the liabilities under life policies and annuities of

Note: Separate returns signed by the actuary of the assurer shall be furnished for life policies, industrial assurance policies and sinking fund policies provided, however, that life policies and sinking fund policies may be included in one return.

The statement shall be prepared in paragraphs numbered to correspond with those appearing below. Statements of reinsurances corresponding to statements in respect of assurances shall be given throughout:

Provided, however, that a single statement giving particulars net reinsurances may be prepared.

1. The published tables or table or premiums for assurances for the whole term of life and for endowment assurances which are in use in the State at the date to which the assurer’s accounts are made up for the purpose of the investigation.

2. Particulars of a kind which would enable an independent actuary to estimate the liability shall be furnished in respect of policies under which the aggregate liability of the assurer is not less than ninety per centum of the total liabilities as shown in Form 14; in calculating this percentage, any liabilities shown against the item “Adjustments, if any (to

be separately specified)'' in Form 14 shall be ignored. If, in accordance with the foregoing provision, an assurer elects to furnish particulars of any of the kinds of policies described in paragraph 3 to 8 below, then such particulars must be as stipulated in those paragraphs.

3. The total amount assured on lives for the whole term of life which are in existence at the date referred to in paragraph 1 of Form 12, distinguishing the portions assured with immediate profits, with deferred profits, with discounted bonuses and without profits, stating separately the total reversionary bonuses and specifying the sums assured for each age or for each group of five ages from the youngest to the oldest, the basis of division as to immediate and deferred profits being stated.

4. The amount of office and net yearly premiums for each age or each group of five ages, after deducting the abatements made by the application of bonuses in respect of the respective assurances referred to in paragraph 3 distinguishing ordinary from extra premiums. A separate statement shall be given of premiums payable for a limited number of years, classified according to the number of years' payments remaining to be made.

5. The total amount assured under endowment assurances, specifying sums assured and office and net yearly premiums separately in respect of each year or group of five years in which such assurances will mature for payment. The reversionary bonuses shall be separately specified, and the sums assured with immediate profits, with deferred profits, with discounted bonuses and without profits separately returned.

6. The total amount of immediate annuities on lives, distinguishing the amount for each age or group of five ages, and distinguishing male and female lives.

7. The total amount of deferred annuities on lives, specifying the amount of annuities and office and net yearly premiums separately, in respect of each year or group of five years in which the annuities will mature for payment.

8. The amount of all annuities on lives other than those specified under paragraphs 6 and 7, distinguishing the amount of annuities payable under each class, and the amount of office and net yearly premiums.

9. The average net rate of interest yielded by the assets, whether invested or uninvested, constituting the life assurance fund of the assurer calculated upon the mean fund of each year during the period since the last investigation. It shall be stated whether or not the mean fund upon which the average net rate of interest is calculated includes reversionary investments.

10. A table of minimum values used in the State if any, allowed for the surrender of policies for the whole term of life and for endowments and endowment assurances, or a statement of the method pursued in the State in calculating such surrender values, with instances of the application of such method to policies of different standing and taken out at various interval ages from the youngest to the oldest.

Date

Actuary of the Assurer

Revision Date: 31 Dec 2009

FORM 16

SAINT CHRISTOPHER AND NEVIS

INSURANCE ACT (Section 38(1))

INSURANCE REGULATIONS (Regulation 5)

**APPLICATION FOR REGISTRATION OF A PERSON AS AN INSURANCE
AGENT**

- (1) Name of insurer making this application.
 - (2) Address of head office of insurer making this application.
 - (3) Address of principal officer.
 - (4) Name of person whom the applicant insurer desires to have registered as his insurance agent.
 - (5) Name under which the insurance agent proposes to carry on business as an insurance agent if different from (4) above.
 - (6) Address at which the insurance agent proposes to carry on business as an insurance agent.
 - (7) If insurance agent is a company, names of Directors.
.....
.....
.....
.....
.....
.....
- Date

Chairperson

Director