

Insurance Act,
1994

Insurance Regulations,
1995

NO. OF 1994

VIRGIN ISLANDS
THE INSURANCE ACT, 1994

ARRANGEMENT OF SECTIONS

Section

PART I PRELIMINARY

1. Short title and commencement.
2. Interpretation

PART II ADMINISTRATION

3. Staff.
4. Powers of Commissioner.
5. Access to books, records etc.
6. Annual report.
7. Records of the Commissioner.
8. Proof of licence and certificate of authority.
9. Immunity and actions by the Commissioner.

PART III GENERAL PROVISIONS APPLICABLE TO ALL INSURERS

Licensing of Insurers

10. Deemed carrying on insurance business.
11. Insurers to be licenced.
12. Application for a licence.
13. Insurers to be incorporated and have insurance licences.
14. Minimum capital requirements for licences.
15. Minimum assets required for licences.
16. Granting and refusal of a licence.

17. Form of a licence.
18. Publication of licence.
19. Effect of licence.
20. Reinsurance with unlicensed insurers.

Regulation of Licenced Insurers

21. Principal office and appointment of insurance manager.
22. Annual accounts and annual statement.
23. Unpaid balances and prohibited investments not to be shown as assets.
24. Segregation of insurance accounts, assets and liabilities.
25. Conditions in licence.
26. Cancellation of licence.
27. Cancellation procedure.
28. Appeal to the Court.
29. Publication of cancellation.
30. Termination of licence and publication thereof.

PART IV SPECIAL PROVISIONS APPLICABLE TO INSURERS CARRYING ON DOMESTIC BUSINESS

Carrying on Domestic Business

31. Definition of domestic business.
32. Specific authority to carry on domestic business.
33. Domestic business assets vested in trust.
34. Assets not to be vested in trust.
35. Prohibited loans and investments.

Termination of Domestic Business

36. Application to release domestic business assets.
37. Conditions for release of assets.
38. Governor may authorize release of assets.
39. Governor may authorize trustee to deal with assets.
40. Release of assets to liquidator.

PART V SPECIAL PROVISIONS APPLICABLE TO INSURERS
CARRYING ON LONG -TERM BUSINESS

Appointment of Actuary

1. Application of Part V.
2. Appointment of approved actuary.
3. Annual and periodic actuarial valuations.

Separate Accounts and Segregated Funds

4. Separate accounts.
5. Segregated funds.
6. Actuarial certification required for declaration of dividends etc.

Transfer of Long –term Business

7. Restriction on transfer of long-term business.
8. Enforcement of contracts when change of insurer.

PART VI WINDING-UP OF LICENCED INSURERS

9. Winding-up rules.
10. Winding-up by the court.
11. Reduction of contracts as alternative to winding-up.

Winding-up of Insurers
Carrying on Long-term Business

12. No voluntary winding-up.
13. Protection of segregated funds assets.
14. Continuation of long-term business of insurer in liquidation.

Voluntary Winding-up

15. Notice of voluntary winding-up.

Winding-up of Insurers Incorporated
Outside the Territory

56. Winding-up by the court of insurers incorporated outside the Territory.

PART VII Insurance Managers, Intermediaries And Professionals

General Provisions Applicable to
Insurance Managers and Intermediaries

- 57. Certificate of authority.
- 58. Application for a certificate.
- 59. Issue of the certificate.
- 60. Refusal to grant a certificate.
- 61. Revocation or suspension of certificate.
- 62. Application of sections 27, 28, 29 and 30 with necessary modifications.

Insurance Managers

- 63. Prohibited interests.
- 64. Reporting duties of insurance manager.
- 65. Notice of intention to terminate management agreement.

Insurance Agents and Brokers

- 66. Evidence of agency agreement and security.
- 67. Agent or broker receiving premium deemed agent of insurer and trustee of premium.
- 68. Personal liability of agents and brokers.

Approved Auditors and Actuaries

- 69. Reporting duties and exclusion of liability.

PART VIII GENERAL

- 70. Privilege of information and gateways for justifiable disclosure.
- 71. Insurer in breach of law.
- 72. Dealing with unlicensed insurers.
- 73. Restriction on the use of words associated with the insurance business.
- 74. Governor's power to grant exemption from certain provisions.
- 75. Service of process on insurers.
- 76. Exemption from certain enactments.
- 77. Regulations.

78. Incorporation of insurance companies etc.

79. Transitional.

80. Repeal of No. 3 of 1990 and No. 1 of 1991.

PART IX PENALTIES

81. General penalty.

82. False or misleading statements etc.

83. Burden of proof in prosecution.

84. Prosecution time.

NO. OF 1994 The Insurance Act, 1994 Virgin Islands

I Assent

Governor

, 1994

VIRGIN ISLANDS

No. of 1994

An Act to provide for the regulation and Control of the Carrying on of insurance business in and from within the Virgin Islands; to provide for the licencing of insurers and other persons engaged in that business and for related matters.

(Gazetted ,1994)

ENACTED by the Legislature of the Virgin Islands as follows -

PART I PRELIMINARY

Short title an Commencement 1. This Act may be cited as the Insurance Act, 1994, and shall come into force on such date as the Governor may appoint by Proclamation published in the Gazette.

Interpretation. 2. (1) In this Act unless the context otherwise requires -

"actuary" means a person qualified as an actuary by examination of the institute of Actuaries in England or the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America or Canada, or a person recognised by the Governor as an actuary;

"adjuster" means a person who, not being a barrister or a solicitor acting in the usual course of his profession or a trustee of the insured property or the person having an insurable interest in the insured property" for compensation, directly or indirectly solicits the right to negotiate the settlement loss under a contract of insurance on behalf of the insured or the insurer, or holds himself out as an adjuster of losses or assessor of damages under Contracts of insurance.

"auditor" means a person who -

- a) is qualified as an accountant by examination conducted by one of the institutes of Chartered Accountants or Certified Accountants in England and Wales, Ireland or Scotland, the Canadian Institute of Chartered Accountants or the American Institute of Certified Public Accountants and is a current member in good standing of one of those institutes; or

b) possesses such other qualification in accountancy as the Governor, by order approves and is in good standing with respect to such qualification;

"commissioner" means the Commissioner of Insurance appointed under section 3 or such other person as may be exercising his powers and discharging his duties under this Act and includes the Deputy Commissioner of Insurance;

"contract or contract of insurance" includes any Policy, certificate, interim receipt, renewal, or receipt writing evidencing the Contract, whether sealed or not, and a binding oral agreement;

"court" means the High Court;

"financial year" means any period of not more than twelve months at the end of which the balance of the accounts of an insurer is struck;

"general business" means insurance business that is not long-term business;

"Governor" means the Governor in Council;

"insurance agent" means a person who, for compensation, solicits insurance on behalf of any insurer or transmits, for other persons, an application for or a policy of insurance to or from the insurer or offers or assumes to act in the negotiation of insurance or in negotiating its continuance or renewal;

"insurance broker" means a person who, for compensation, acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance, or in negotiating the continuance or renewal of insurance contracts with insurers on behalf of other persons;

"insurance business" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of certain risk or peril to which the object of insurance might be exposed, or to provide a service or pay a sum of money or other thing of value on the happening of a certain event and includes reinsurance and any of the activities and actions set out in section 10;

"insurance manager" means a person not being the employee of any insurer who is, or has available to him a person with such insurance knowledge and expertise as the Governor may deem necessary for the conduct and management of the insurance business of any one or more insurers in a competent manner;

"insurer" means a person who undertakes or effects or agrees or offers for valuable consideration to undertake or effect a contract of insurance business within the meaning of this Act;

"long-term business" means

a) an undertaking by an insurer to pay insurance money

(i) on death;

(ii) on the happening of an event or contingency dependant on human life;

(iii) for a term dependant on human life;

- (iv) at a fixed or determinable future time;
- (v) in the event of sickness of the person insured;
- (vi) in the event of an accidental death of the person insured where the undertaking of the insurer is incidental to and part of any of the undertakings mentioned in subparagraphs (i) to (v);

b) an undertaking by an insurer to provide an annuity dependant on human life whether it is for a fixed period or whether the periodic payments are in equal or unequal amounts; or

c) an undertaking by an insurer to pay insurance money or other benefits in the event that the person insured becomes disabled as a result of bodily injury or disease;

"Lloyds" means the association of individual underwriters formed on the plan known as Lloyd's of London, whereby each associate underwriter becomes liable for a stated, limited or proportionate part of the whole amount insured by a contract;

"Minister" means the member of the Executive Council charged by the Governor with the administration of this Act;

"mutual insurance company" means a Company that is not limited by shares and carries on insurance business on the mutual principle as a co-operative enterprise where the company is owned by its policy holders and must maintain a reserve fund to which policy holders contribute by way of premiums;

"officer" includes the president, a vice- president, a managing director, the secretary, the treasurer, the insurance manager, the actuary of an insurer and any other person designated as an officer of the insurer by by-law or by the memorandum and articles of association or by resolution of the directors of the insurer;

"policy" means an instrument evidencing a contract of insurance;

"policyholder" means the person with whom- an insurer has effected a contract of insurance;

"premium" means the single or periodical payment whether equal or unequal to be made for Insurance, and includes dues, assessments, and other consideration;

"prescribed" means prescribed by regulations made under this Act;

"principal office" means the chief place of business required to be maintained within the Territory by every insurer licenced under this Act and at which the insurer's books and records which are prescribed by the regulations are kept permanently;

"regulations or the regulations" means regulations made under this Act;

- (2) In this Act
 - (a) any reference to carrying on business from within the territory includes reference to carrying on business outside the Territory from a principal place of usiness within the Territory;
 - (b) every company incorporated under the laws of the territory with object and power to carry on insurance business, shall, if carrying on insurance business anywhere, be deemed to be carrying on insurance business in or from within the Territory.

PART II ADMINISTRATION

- | | | |
|-----------------------------|----|---|
| Staff. | 3. | <ul style="list-style-type: none"> (1) The Governor shall appoint <ul style="list-style-type: none"> (a) a Commissioner of Insurance; (b) a Deputy Commissioner of insurance, both of whom shall be public officers; and <ul style="list-style-type: none"> (c) any other public officers may be required for the administration of this Act (2) The Commissioner shall act under the instructions of the minister and shall have the powers conferred and the duties imposed upon him by this Act. (3) The Governor may delegate any of the powers or duties of the Commissioner to the Deputy Commissioner and thereupon this Act shall be read as if those powers or duties were originally conferred or imposed on the Deputy Commissioner. (4) The Commissioner, the Deputy Commissioner or any employee in the office of the Commissioner, shall not directly or indirectly be interested. <ul style="list-style-type: none"> (a) as a shareholder in any company that is licenced under this Act as an insurer on insurance business in or from within the Territory, or (b) as a shareholder in a company or a partner in a partnership that is authorized under this Act to act as an insurance manager, agent or broker. |
| Powers of the Commissioner. | 4. | <ul style="list-style-type: none"> (1) The Commissioner shall - <ul style="list-style-type: none"> (a) have general supervision of the insurance business being carried on in or from within the Territory ; (b) ensure that the laws and regulations relating to the conduct of the insurance business are enforced and obeyed; and (c) examine and report to the Minister from time to time on all matters connected with insurance; and (d) have the same power as any Court has in Civil cases to summon persons to attend at a hearing or as witnesses, to enforce their attendance, and to compel them to produce books, documents and things and to give evidence. |

- (2) For the purposes of discharging his duties and in the exercise of his powers under this Act or the regulations, the Commissioner may require to be made and may take and receive affidavits, statutory declarations and depositions, and may examine witnesses under oath and certified to by the Commissioner.
- (3) An oath required to be taken under this Act maybe administered and certified to by the Commissioner.
- Access to books, 5. his and
- (1) The Commissioner or person records etc. authorized under shall, at all reasonable times have access to and may take copies of all the books, securities, records and documents of any insurer, insurance manager agent, adjuster or broker which relate to insurance business and any officer, agent or person in charge, possession, custody or control of any of those books, securities, records or documents who refuses or neglects to afford such access shall be guilty of an offence.
- (2) The Commissioner or any person authorized under his hand may make an inquiry to any insurer, insurance manager, agent, adjuster or broker relating to the conduct of its business or its financial affairs and such insurer, insurance manager agent or broker shall make prompt and explicit answer to the inquiry.
- (3) Any insurer, insurance manager, agent, adjuster or broker who refuses or neglects to answer any inquiry made under this section is guilty of an offence.
- Annual report. 6.
- (1) The Commissioner shall on or before the 30th day of April in each year prepare for the Minister an annual report showing an overall statement of affairs and statistics of all matters relating to insurance business carried on and Conducted in and from within the Territory during the proceeding calendar year.
- (2) The report shall be tabled by the Minister before the Legislative Council.
- Records of the 7.
- (1) The Commissioner shall keep the following registers-
- (a) a register of all licences issued to insurers under this Act, in which shall appear -
- (i) the name of the insurer;
- (ii) the address of the insurer's head office outside the Territory;
- (iii) the address of the insurer's principal office in the Territory;
- (iv) particulars of the insurance business and classes of insurance for which the insurer is licenced; and
- (v) any other information the Commissioner may consider necessary for the purposes of this Act;
- (b) a register of all certificates of authority issued under this Act to-
- (i) insurance managers and agents showing their names and addresses and the names and addresses of the insurers for

whom they are authorized to act; and

- (ii) insurance brokers and adjusters showing their names and addresses;
 - (b) a register of names and addresses of all directors of every insurer licenced under this Act.
- (2) Notwithstanding anything to the contrary in any other enactment the registers required to be kept by this section shall be open to inspection by any person during business hours and upon payment of the fee that may be prescribed by regulations.
- (3) The commissioner shall, during March in each year, publish in the Gazette a list of licenced insurers and authorized insurance managers agents, adjusters and brokers.
- Proof of licence 8. A certificate issued under the hand and certificate and seal of office of the commissioner that the of authority person named therein is, or is not licenced as an insurer or authorized as an insurance manager, adjuster or broker under this Act shall be admitted in evidence as prima facie proof of the facts stated in such certificate.
- Immunity and action by the Commissioner 9. (1) No liability shall be incurred by and no suit, action or proceeding shall lie against the Crown, the Commissioner, the Deputy Commissioner, or any person acting under their authority for anything done or omitted to be done bona fide for the purpose of executing any of the provisions of this Act or the regulations in the performance or intended or supposed performance of their duties under this Act or under any other enactment that imposes duties on them.
- (2) The Commissioner may bring actions and institute proceedings in his name of office for the enforcement of any of the provisions of this Act or the regulations or for the recovery of fees and any other sum payable under this Act or the regulations.
- (3) The Commissioner shall not be required to prosecute, defend or take part in any proceeding outside the jurisdiction of any Court in the Territory unless he is indemnified by or behalf of the person who wishes him to act against any judgment, order or costs that may be awarded against him by deed guarantee or deposit as the Commissioner may require.

PART III GENERAL PROVISIONS APPLICABLE TO ALL INSURERS

Licencing of Insurers

- Deemed carrying on insurance 10. An insurer that -
- (a) carries on or offers to carry on business, insurance business in or from within the Territory;
 - (b) within the Territory sets up or causes to be set up any sign containing the name of an insurer;
 - (c) in or from within the Territory distributes or publishes or causes to be distributed or published any proposal, circular, card, advertisement, printed form or like document relating to insurance business;
 - (d) makes or causes to be made, in or from within the Territory any written or oral solicitation for insurance business;

- Minimum capital requirements for licences. 14.
- (1) A licence shall not be granted to an insurer which is a joint stock company or to an insurer which is a mutual insurance company unless the fully paid-up capital of the joint stock company or fund of the mutual insurance company is, in the currency of the United States of America or the equivalent in a foreign currency, not less than -
 - (a) \$200,000 where the insurer proposes to carry on long-term business;
 - (b) \$100,000 where the insurer proposes to carry on general business; or
 - (c) \$300,000 where the insurer proposes to carry on both long-term business and general business.
 - (2) The Governor may, on the recommendation of the Commissioner, require an insurer to increase its fully paid-up capital or reserve fund, as the case may be, to such greater amount as the Governor may determine for the nature and volume of the insurance business being or being sought to be carried on by the insurer.
 - (3) Subject to the approval of the Governor, the minimum capital or reserve fund, as the case may be, required for licences may be in the form of cash or an irrevocable letter of credit issued by a financial institution approved by the Commissioner.
- Minimum assets required for at licence 15.
- (1) A licence shall not be granted or renewed under this Act unless the is satisfied that the total value of the insurer's assets exceeds the total amount of its liabilities by least the amount prescribed by regulations.
 - (2) For the purposes of this Act the total value of any assets and the total amount of any liabilities shall be determined an the basis prescribed by the regulations.
- Granting and refusal of a licence. 16.
- (1) Where the Governor is satisfied that it is proper to do so he may, in his discretion, grant or refuse a licence in respect of which application has been made under section 12.
 - (2) Where the Governor refuses to grant a licence he shall not be bound to assign any reason therefor and his decision shall not be subject to appeal or review in any Court.
- Form of licence. 17.
- The licence shall be in the form determined by the Governor, and it shall -
- (a) specify the insurance business and classes of insurance which the insurer is authorized to carry on and whether such business shall be carried on in the Territory, from within the Territory or both in and from within the Territory;
 - (b) be subject to the payment of the annual fee prescribed by the regulations;
 - (c) be subject to such terms, conditions, limitations, or restrictions as the Governor may specify therein and may from time to time see fit to impose; and
 - (d) expire on December, 31 in each year but may be renewed from year to year upon application to and subject to the approval of the Governor and payment of the prescribed renewal fee.
- Publication of 18. Every insurer on first being granted and obtaining a licence shall forthwith give

Licence. shall forthwith give notice thereof in two successive issues of the Gazette and shall give the like notice when it ceases to carry on Insurance business in or from within the Territory.

Effect of licence. 19. A licence issued under this Act authorizes the insurer named therein to exercise all rights and powers that are reasonably incidental to the carrying on of the kind of insurance business and the class or classes of insurance named in the licence and which are not inconsistent with this Act or the regulations or with the objects and terms stated in the insurer's memorandum and articles of association or other instrument of incorporation.

Reinsurance with Unlicensed Insurers. 20. Nothing in this Act prevents a licenced Insurer that has lawfully effected a contract of insurance in or from within the Territory from re-insuring the risk or any portion thereof with any insurer carrying on business outside the Territory and not licenced under this Act provided such reinsurer is acceptable to the Commissioner.

Regulation of Licenced Insurers

Principal office and appointment of insurance manager. 21. (1) Every insurer licenced under this Act shall -

- (a) maintain a principal office in the Territory at which it shall maintain permanently full and proper books and records of its insurance business as may be prescribed by the regulations;
- (b) appoint and maintain an insurance manager resident in the Territory; and
- (c) where required by the commissioner, appoint for its business an actuary who shall be approved by the Commissioner.

(2) An insurer at the time of issue of its licence shall notify the Commissioner in writing of -

- (a) the address of its principal office in the Territory;
- (b) the name and address of its insurance manager resident in the Territory; and
- (c) the name and address of its auditor to be approved by the commissioner.

(3) The insurer shall notify the commissioner in subsection (2) writing of any change in any of the information required in within twenty-one days from the date of such change.

(4) An insurer who fails to comply with any of the provisions of this section is guilty of an offence.

Annual accounts and annual Statement. 22. (1) Every insurer licenced under this Act shall -

- (a) prepare accounts for each financial year in accordance with accounting principles acceptable to the Commissioner and such accounts shall be audited by the insurer's auditor approved by the Commissioner in this Act referred to as the "insurer's approved auditor";
- (b) prepare annually and deliver to the Commissioner within three months of the end of each financial year, or at such later date as may be granted by the Commissioner upon written application by the insurer, a statement of the conditions of the insurer's affairs as

at the end of the preceding financial year and such statement shall –

- (i) be in the form and content prescribed by regulations;
- (ii) exhibit the assets, liabilities, receipts and expenditures of the insurer for the preceding financial year;
- (iii) exhibit particulars of the business transacted by the insurer in or from within the Territory during the preceding financial year;
- (iv) be accompanied by a report from the insurer's approved auditor in which he shall -
 - (A) state that he has examined the books and records of the insurer and is satisfied that the insurer is not in breach of any conditions attached to its licence or in contravention of any provision of this Act or the regulations; and
 - (B) name the Country or Jurisdiction of which the generally accepted auditing standards were applied in auditing the insurer's accounts.

- (2) For the purpose of the annual statement required under this section, the assets insurer shall be valued and its liabilities shall be calculated in the manner prescribed by the regulations

Unpaid balances and prohibited investments not to be shown as assets. 23.

The annual statement required under section 22 shall not show as assets the unpaid balances owing by agents or other insurers that are more than six months overdue, or bills receivable on account thereof, or bills receivable more than one year overdue, or investment in office furniture or equipment, or unpaid capital, or unpaid premium on subscribed shares of capital stock, nor shall such statement include as assets any investments prohibited or not authorized by this Act or the regulations.

Segregation of Insurance accounts, assets liabilities. 24.

An insurer which carries on any business other than insurance business shall keep separate accounts in respect of its insurance business, and shall segregate the assets and liabilities of its insurance business from those of its other business.

Conditions in Licence . 25.

- (1) It is a condition of every licence issued under this Act to an insurer, breach of which shall render the licence liable to cancellation by the Governor, that-
 - (a) the Licenced insurer shall notify the Commissioner forthwith of –
 - (i) any material change in the information supplied in or accompanying the application or in the documents submitted therewith; or
 - (ii) The removal from office or the resignation resignation of any director or officer of the insurer giving the reasons therefor;
 - (b) no shares or other interests, whether legal or equitable, in the insurer shall be issued, transferred or otherwise disposed of and no

appointment of a director or an officer of the insurer shall be made without the prior written approval of the Governor;

- (c) the licenced insurer shall not, without the prior written approval of the Governor -
 - (i) enter into any merger, amalgamation or consolidation;
 - (ii) transfer, other than in the ordinary course of its business by way of reinsurance any of its contracts of insurance or the whole or any part of its property, assets or liabilities;
 - (iii) charge or pledge the whole or any part of its assets;
 - (iv) change its name from that set out in its licence;
 - (v) engage in or carry on insurance business other than that of the class or classes of insurance named in the licence or other than- in the manner specified therein;
 - (vi) alter the terms of its memorandum and articles of association or other instrument of incorporation.
- (2) The Governor shall not grant to any insurer the prior written approval required under subparagraphs (i) and (ii) of paragraph (c) of subsection (1) unless he is satisfied that-
 - (a) the proposed insurer involved in the merger, amalgamation or transfer with the insurer applying for approval is properly licenced or qualified to be licenced under this Act; and
 - (b) the paid-up capital and unimpaired surplus of such proposed insurer after the merger, amalgamation, consolidation or transfer will be in amounts which are approved by the auditor and actuary of such proposed insurer and acceptable to the Governor.

Cancellation of Licence

Cancellation of
of licence

26. The Governor may cancel the licence of an insurer if it-

- (a) has contravened any condition of its licence;
- (b) has failed to prepare and deliver to the Commissioner its annual audited accounts and annual statement in accordance with section 22 or its long-term business annual or periodic actuarial valuations certified in accordance with section 43;
- (c) has committed an offence under this Act or the regulations;
- (d) has failed to comply with any provision of law or of this Act and the regulations or any directives issued thereunder;
- (e) has contravened any term of its memorandum and articles of association or other Instrument of incorporation;
- (e) has wilfully furnished misleading, false or inaccurate information for the purposes of any provision of this Act or the regulations or failed to disclose any information required thereunder;
- (g) has insufficient assets to justify its continuance to carry on

insurance business in or from within the Territory;

- (h) is experiencing a serious state of affairs that is or may be prejudicial to the interests of its policyholders or creditors;
- (i) has ceased to carry on insurance business in or from within the Territory;
- (j) has failed to commence carrying on insurance business in or from within the Territory during a continuous period of twelve months from the date its licence was issued; or
- (k) is in the opinion of the Governor carrying on insurance business in or from within the Territory in a manner that is or may be detrimental to the public interest.

- | | | |
|------------------------------|-----|--|
| Cancellation procedure. | 27. | <ul style="list-style-type: none">(1) The Governor shall give an insurer reasonable notice in writing of his intention to cancel its licence under section 26 and shall afford the insurer an opportunity of making representations to him.(2) A notice under subsection (1) shall specify the ground on which the Governor intends to cancel the licence.(3) When the Governor cancels a licence he shall notify the insurer in writing of the cancellation stating his reasons therefor.(4) Upon the cancellation of its licence an insurer shall forthwith cease to engage in or carry on any insurance business in or from within the Territory unless the Governor in his discretion authorizes the insurer so to do -<ul style="list-style-type: none">(a) pending the determination of an appeal against the cancellation;(c) for such period as the Governor may specify for the purpose of running off and closing the insurer's business.(5) The Governor shall exercise his powers under subsections (1) and (2) through the Commissioner who shall act on behalf of and by the authority of the Governor. |
| Appeal to the Court. | 28. | <ul style="list-style-type: none">(1) An insurer aggrieved by the cancellation by the Governor of its licence may appeal to the Court by serving the Governor with a notice of appeal within twenty-one days or such longer period as the Court may allow after receipt of notification of such cancellation. |
| U.K. S.I. 1967 223. | | <ul style="list-style-type: none">(2) An appeal under this section shall be made by way of summons to a judge in Chambers.(3) If an appeal is allowed by the Court, the insurer shall be entitled to carry on its insurance business in or from within the Territory in the same manner as it did before its licence was cancelled.(4) If an appeal is dismissed by the Court, the insurer shall, forthwith or in such time as the Governor may allow, cease to engage in or carry on any insurance business in or from within the Territory. |
| Publication of cancellation. | 29. | Where the insurer does not appeal the cancellation of its licence in accordance with section 28 or where it appeals the cancellation and its appeal is dismissed by the Court, the Commissioner shall cause a notice of cancellation to be published in the Gazette and in a local newspaper. |

Termination of a licence 30. Where an insurer goes into liquidation or is being wound-up and or otherwise publication becomes void for all purposes and thereupon the Commissioner shall cause a notice of termination to be published in the Gazette and in a local newspaper.

PART IV SPECIAL PROVISIONS APPLICABLE TO INSURERS
CARRYING ON DOMESTIC BUSINESS

Carrying on Domestic Business

Definition of domestic business. 31. (1) For the purposes of this Act every contract insuring a person domiciled or resident in the Territory at the date thereof, or the subject matter of which is property of any kind within the Territory or in transit to or from the Territory, or in this Act called "domestic business" shall be deemed to be made in the Territory and shall be construed accordingly.

(2) This section has effect notwithstanding any agreement, condition or stipulation to the contrary.

Specific Authority to carry on domestic business. 32. No insurer shall carry on domestic business unless it is specifically authorized to carry on so to do in a licence issued to it by the Governor under this Act.

Domestic Business assets vested in trust 33. (1) The Governor shall not grant authorization in a licence issued under this Act to any insurer to carry on domestic business unless such Insurer maintains within the Territory -

(a) in cash; or

(b) In securities in which trustees may invest trust money and acceptable to the Governor assets equal to its liabilities in the Territory and such assets, in this Act called "domestic business assets", shall be vested in trust in a bank Licenced under the Banks and

No. 9 of 1990 Trust Companies Act, 1990 and approved by the Governor.

(2) A trust deed shall be approved by the Commissioner before it is entered into.

(3) A trustee of the insurer's domestic business assets may deal with such assets in any provided for in the Trust Deed but in such way that the total value of such assets shall at all times be at least equal to the total amount of the insurer's liabilities in the Territory.

Assets not to be vested in trust. 34. (1) An insurer authorized to carry on domestic business in may not, for the purpose of its domestic business assets, vest in trust securities issued by or debt obligations of such insurer or any of its subsidiaries or affiliates.

(2) For the purposes of this section -

(a) a company is a subsidiary of the insurer if -

(i) it is controlled by the insurer; or

- (ii) it is controlled by two or more companies each of which is controlled by the insurer; or
- (iii) it is a subsidiary of a subsidiary of the insurer;
- (b) a company is controlled by the insurer if shares of such company carrying more than fifty percent of the votes for the directors are held, otherwise than by way election of insurer and such votes are sufficient, if exercised, to elect a majority of the board of directors of such company.
- (c) a company is an affiliate of an insurer if such company or the insurer is the subsidiary of the other or both are subsidiaries of one and the same company.

- Prohibited loans and investments 35.
- (1) An insurer that is authorized to carry on domestic business shall not make or retain an Investment other than a loan on the security of a policy insuring human life issued by it –
 - (a) by way of a loan to any director or officer of the insurer, or to the wife or child of any such director or officer; or
 - (b) in a corporation that is a substantial shareholder of the insurer.
 - (2) For the purposes of this section
 - (a) an "investment" means –
 - (i) an investment in a corporation by way of purchasing its shares, bonds, debentures, notes or other evidence of its indebtedness; or
 - (ii) a loan to a person or persons but does not include any normal working balance between an insurer and any other corporation licenced and authorized under this Act to carry on domestic business or, any loan or advance that is merely ancillary to the main domestic business of the insurer;
 - (b) a corporation is a substantial shareholder of the insurer if it owns beneficially either directly or indirectly shares of any class to which are attached more than ten percent of the full or limited voting right attached to the total shares of the insurer for the time being outstanding.

Termination of Domestic Business

- Application to release domestic business assets. 36.
- (1) An insurer which intends to discontinue carrying on domestic business in the Territory shall give the Commissioner written notice of such intention and the reasons therefore at least four months prior to the date of discontinuance.
 - (2) An insurer that discontinues its domestic business in the Territory, in this Part referred to as the "discontinuing insurer", may apply to the Governor in writing for the release of its domestic business assets.
- Conditions for 37. Except as provided in this Part, the domestic business assets in the Territory

release of assets.

of a discontinuing insurer shall not be released unless such insurer assets.

- (a) obtains the surrender of its outstanding policies in the Territory or transfers them with another insurer that -
 - (i) is licenced and authorized to carry on domestic business under this Act and approved by the Commissioner; and
 - (ii) its paid-up capital and unimpaired surplus shall, after the transfer be in amounts approved by its approved auditor and actuary; and
- (b) provides the commissioner with proof of the publication, for eight consecutive weeks in a local newspaper of a notice that it will apply to the Governor for the release of its assets in the Territory on a day specified in the notice, which shall be at least two months after the date of the notice, and calling on its policyholders in the Territory opposing the release to file their opposition with the Commissioner on or before that day.

Governor may Authorize the release of assets.

38. After the day specified in the notice required under section 37 (b), the Governor may authorize the release to the discontinuing insurer of its domestic business assets in the Territory, if he is satisfied that such insurer has discharged or provided for the discharge of all its obligations in the Territory including its liabilities under its domestic business policies issued in the Territory.

Governor may authorize trustee to deal with

39. The Governor may authorize the trustee the domestic trustee business assets of the discontinuing insurer to employ any portion of those assets for the purpose of effecting with the surrender or transfer of outstanding policies of such assets. insurer in the Territory but not so as to reduce the domestic business assets below the amount of the total liabilities of such insurer under its continuing policies in the Territory.

Release of assets to Liquidator

40. (1) Notwithstanding the provisions of this Part, the domestic business assets of a discontinuing insurer that is incorporated under the laws of the Territory and is in liquidation or being wound-up, may on the order of a Court of competent jurisdiction within the Territory, be released to the liquidator appointed by such court.
- (2) In any winding-up or liquidation of a discontinuing insurer the domestic business assets of such insurer shall be available only to meet its liabilities under its domestic business policies notwithstanding any provision or rule of law to the contrary.
- (3) Subsection (1) shall apply to a discontinuing insurer that is incorporated outside the Territory only in so far as its affairs in the Territory are being wound-up in the same manner as an insurer incorporated under the laws of the Territory pursuant to the provisions of section 56.

PART V SPECIAL PROVISIONS APPLICABLE TO INSURERS CARRYING ON LONG-TERM BUSINESS

Appointment of Actuary

Application Part V.

41. This Part shall apply to insurers of licenced to carry on long-term business.

Appointment of approved

42. (1) An insurer to which this Part applies shall at the time of the issue of its licence to carry on long-term business, appoint an actuary approved by the

- actuary. Commissioner, in this Act referred to as the "insurer's approved actuary".
- (2) When and so often as an appointment of an actuary under this section is terminated; the insurer shall forthwith notify the Commissioner in writing of such termination and the reasons therefor and within fourteen days from such notice make a new appointment in accordance with the provisions of Subsection (1).
- Annual and periodic actuarial valuations. 43. (1) An insurer to which this Part applies shall, in addition to any other requirement under this Act and the regulations, prepare annually and deliver to the Commissioner with actuarial its annual statement required under section 22 an actuarial valuation of its assets and liabilities certified by the insurer's approved actuary.
- (2) In addition to the annual actuarial valuation required by subsection (1), the Commissioner may, at the intervals he determines, require periodic actuarial valuations certified by the insurer's approved actuary of the assets and liabilities of individual long-term business segregated funds required to be maintained by the insurer pursuant to the provisions of this Part.
- (3) The certificate of actuary shall be in the form and shall contain the information prescribed by the regulations.

Separate Accounts and Segregated Funds

- Separate accounts. 44. An insurer to which this Part applies which carries general business in addition to its long-term business shall keep separate and distinct accounts in respect of its long-term business.
- Segregated funds. 45. (1) In this Act
- "segregated funds"** means a separate and distinct fund with separate and distinct assets maintained pursuant to subsection (2) –
- (2) Every insurer to which this Part applies shall maintain in respect of each class or category of contracts of long-term business it issues one or more separate and distinct funds with separate and distinct assets for each fund.
- (3) A segregated fund shall at all times consist of money or securities in which trustees may invest trust money.
- (4) A segregated fund is available only to meet the liabilities arising under contracts of long term business in respect of which the segregated fund segregated is maintained, except that money or securities in the fund may, at the discretion of the insurer's directors but subject to actuarial certification by the insurer's approved actuary and filed with the Commissioner, be withdrawn from the segregated fund and paid into the shareholders' fund but the amount of money and the market value of any securities when so withdrawn shall not exceed in the aggregate the proportionate interest of the shareholders in the segregated fund.
- Actuarial certification required for declaration of dividend etc. 46. An insurer to which this Part applies shall not -
- (a) declare any dividend;
- (b) redeem any debenture or preference share;

- (c) purchase, redeem or cancel any of its own shares unless a certificate from the insurer's approved actuary is filed with the Commissioner stating that the Insurer's margin of solvency prescribed by the Regulations is sound and will not thereby be breached and that the assets in the insurer's segregated funds continue to be sufficient at all times to meet its long-term liabilities.

Transfer of long-term Business

Restriction on transfer of long-term business.

47. (1) Where an agreement for the transfer of the whole or any part of the long-term business of any insurer to which this Part applies has been entered into, the insurers that are parties to such agreement shall apply to the Court by petition for an order to sanction and confirm the agreement.
- (2) The Court shall not entertain such a petition unless it is accompanied by the following documents -
- (a) certified copies of the statement of the assets liabilities of the insurers that are parties to the agreement;
 - (b) a certified copy of the agreement under which the transfer is effected;
 - (c) certified copies of the actuarial and other reports on which the agreement is founded;
 - (d) a declaration by two directors and the insurance manager of each insurer that is party to the agreement that to the best of their knowledge and belief every payment made or to be made to any person whomsoever on account of the transfer, is therein fully set out and that no other payments beyond those set out have been made or are to be made either in money, contracts of insurance, bonds, valuable securities or other property, by or with the knowledge of any of the parties to the agreement; and
 - (e) proof satisfactory to the Court that -
 - (i) sufficient notice of the agreement has been served on each policyholder affected and that such notice has been published in the Gazette at least thirty days before the application to the Court is made; and
 - (ii) copies of the petition and all accompanying documents have been served on the Commissioner.
- (3) The Commissioner and any person who alleges that he will be adversely affected by the sanctioning and confirmation of the agreement shall be entitled to be heard on any petition under this section.
- (4) The Court shall hear and determine the matter and may approve the agreement as presented or approve it subject to compliance with any terms or conditions it thinks fit, having regard to the rights and interests of all policyholders affected by the agreement.
- (5) Notwithstanding anything in this section the Court shall not make an order sanctioning and confirming the agreement unless it is satisfied that the insurer to which the long-term business is being transferred under the agreement is or, after the making of the order, will be entitled under this Act to carry on long-term business.

Enforcement of 48. The insurer to which the long-term business is transferred under an agreement contracts when sanctioned and confirmed by the court pursuant to section 47 shall assume liability under change of insurer. contracts of insurance transferred to it and any person entitled to rights under contracts may enforce such rights against such insurer as though those contracts have been issued by such insurer.

PART VI WINDING-UP OF LICENCED INSURERS

Winding-up 49. The winding-up rules applicable to companies Incorporated under the laws of the Rules. Territory, in this Part referred to as the "companies' winding-up rules" shall apply to the winding-up of insurers licenced under this Act in so far as such rules are not inconsistent with the provisions of this Act.

Winding-up 50. (1) An insurer licenced under this Act by may be wound-up by the Court - the Court.

(a) on a petition by the Commissioner with the approval of the Governor if the Court is satisfied that -

(i) the insurer is unable to pay its debts within the meaning of subsection (2);

(ii) the insurer has failed to prepare its annual accounts and deliver to the Commissioner its annual statement as required by section 22 or its annual or periodic actuarial valuations required under section 43;

(iii) the insurer has carried on business or entered into a contract or used its funds in a manner or for a purpose prohibited or not authorized by this Act or the regulations or by the insurer's instrument of incorporation; or

(iv) other sufficient cause has been shown.

(b) on a petition of ten or more of the insurer's policyholders holding policies of an aggregate sum insured of not less than \$100,000.00 which petition shall not be presented except by leave of the Court, and such leave shall not be granted unless a prima facie case has been established to the satisfaction of the Court and unless security for costs for such amount as the Court may think reasonable has been given.

(2) For the purposes of this Act an insurer shall be deemed to be unable to pay its debts if at any time the total value of its assets does not exceed the total amount of its liabilities by the amount prescribed by the regulations.

(3) In any proceedings upon a petition to wind-up an insurer, evidence that the insurer was insolvent at any time before the proceedings is evidence that the insurer continues to be unable to pay its debts, unless the contrary is proved.

(4) Where the petition for the winding-up of an insurer is presented by any person other than the Commissioner, a copy of the petition shall be served on the Commissioner and he shall be entitled to be heard on the petition.

Reduction of 51. Where an insurer has been proved to be unable to pay its debts, the Court may, contracts as if it thinks fit, reduce the amount of the insurer's contracts on such terms and subject alternative to winding-up. to such conditions as the court thinks just, instead of making a winding-up order.

Winding-up of Insurers
Carrying on Long –term Business

- | | | |
|---|-----|--|
| No voluntary winding-up. | 52. | Notwithstanding anything in the companies winding-up rules an insurer which carries on long-term business shall not be wound-up voluntarily. |
| Protection of segregated funds assets. | 53. | <p>(1) In the winding-up of an insurer carrying on long-term business the assets of the segregated funds of such insurer shall be available only to meet the insurer's long-term liabilities attributable to such funds and not otherwise.</p> <p>(2) Where the value of the assets mentioned in subsection (1) exceeds the amount of the insurer's liabilities attributable to such assets the excess may be available to meet other liabilities of the insurer.</p> <p>(3) Where under the companies winding-up rules the Court orders any delinquent person to repay or restore any money or property to the insurer or to contribute any sum to its assets, the Court shall, in so far as the delinquency relates to assets belonging to the insurer's segregated funds attributable to its long-term business, order that such money, property or contribution shall be treated for the purposes of this Act as assets of such segregated funds and this Act shall have effect accordingly.</p> |
| continuation of long-term business of insurer in liquidation. | 54. | <p>(1) The liquidator shall, unless otherwise ordered by the Court, carry on the long-term business of the insurer being wound up and, subject to the approval of the Court, sell or transfer such business as a going concern to another insurer licenced and authorized under this Act to carry on such business.</p> <p>(2) In carrying, on the insurer's business pursuant to subsection (1) the liquidator may, subject to the approval of the Court, agree to the variation of any contracts of insurance in force at the commencement of the winding-up but shall not effect any new contracts of insurance.</p> <p>(3) The Court may, if it thinks fit and subject to such terms as it may determine, reduce the amounts of the contracts made by the insurer in the course of carrying on its long-term business.</p> <p>(4) Where the liquidator is satisfied that the interests of the insurers policyholders and Creditors in respect of its long-term business require the appointment of -</p> <ul style="list-style-type: none">(a) a special manager to manage such business; or -(b) an actuary to conduct actuarial valuations of such business; <p>he may apply to the Court and the Court may on such application appoint a special manager or an actuary or both as it thinks fit.</p> <p>(5) A special manager or an actuary appointed under subsection (4) shall</p> <ul style="list-style-type: none">(a) act during such time as the Court may direct, with such powers as may be entrusted to him by the Court; and(b) give such security and account in such manner as the Court shall direct and receive such remuneration as may be fixed by the Court. |

Voluntary Winding-up

- Notice of Voluntary winding-up.
55. (1) Where an insurer, other than that which carries on long-term business, proposes to cease carrying on business or to call a general meeting to consider a resolution for voluntary winding-up under the companies winding-up rules it shall give at least thirty days notice in writing thereof to the Commissioner.
- (2) Where such insurer has passed a resolution for voluntary winding-up, the insurer shall notify the Commissioner in writing of such resolution and of the date at which contracts of insurance will cease to be entered into by the insurer, and of the name and address of its liquidator.
- (4) The notice required under subsection (2) shall be published by the insurer in the Gazette and in any newspaper and other publications as the Commissioner may require.

Winding-up of insurers Incorporated Outside the Territory

- Winding-up by the Court of insurers incorporated outside the Territory.
56. Where the Governor
- (a) cancels the licence of an insurer incorporated outside the Territory and the cancellation was not appealed by the insurer or its appeal was dismissed by the Court in accordance with the provisions of this Act; and
- (b) the Governor is satisfied that it would be in the interests of any creditor of such insurer or any other person to whom the insurer has an obligation that the affairs of the insurer in the Territory should be wound-up in the same manner as an insurer incorporated under the laws of the Territory,

The Governor may direct the Commissioner to petition the Court to wind-up such affairs and the Court may make such orders for the winding-up of such affairs pursuant to the provisions of this Part as is practicable.

PART VII INSURANCE MANAGERS, INTERMEDIARIES, AND PROFESSIONALS

General Provisions Applicable to Insurance Managers and Intermediaries

- Certificate of authority.
57. (1) Except as provided in subsection (3), no person shall, either on his own account or as a member or representative of a corporation or partnership, act or offer to undertake to act, as an insurance manager, agent, adjuster or broker in or from within the Territory unless such person applies for and is granted a certificate of authority issued under this Act.
- (2) A corporation or a partnership may apply for a certificate of authority in its name and shall designate one individual who has the insurance knowledge and expertise to act as its or their representative and the certificate of authority, if granted, shall be issued in the name of the Corporation or the partnership and shall designate the name of its or their representative.

- (3) Subsection (1) does not apply to -
- (a) an agent holding a Certificate of authority who acts as an adjuster for and with the approval of any insurer for whom he is the authorized agent and within the limits specified in his agency agreement; and
 - (b) a person who is not resident or domiciled in the Territory and who because of his special knowledge and expertise receives from the Minister, upon the recommendation of the Commissioner, written permission to adjust a particular loss or assess particular damage which occurred within the Territory.
- (4) Any person who contravenes subsection (1) is guilty of an offence.
- Application for a certificate. 58.
- (1) An application for a certificate of authority shall be made to the Minister in the form determined by him and delivered to the Commissioner accompanied by the prescribed fee and any information and documents the Minister may reasonably require.
- (2) The application shall be endorsed in writing -
- (a) in the case of an insurance manager by any insurer who appointed him pursuant to section 21;
 - (b) in the case of an insurance agent by any insurer with whom the agent signed an agency agreement;
 - (c) in the case of an insurance broker by any insurer authorizing him to place risks with it; and
 - (d) in the case of an insurance adjuster, by any insurer Licenced under this Act.
- (3) The endorsement of the insurers required under subsection (2) shall be given by the insurer's president or managing director.
- Issue of the Certificate. 59.
- (1) on receipt of the application and the prescribed fee in accordance with the requirements of section 58, the Minister may, upon the recommendation of the commissioner and if he is satisfied that the applicant has the qualifications required to act in the capacity applied for, issue to the applicant certificate of authority.
- (2) The certificate shall be in the form determined by the Minister and shall -
- (a) be subject to the payment of the annual fee prescribed by the regulations;
 - (b) be subject to any limitations, restrictions or conditions specified therein or that the Minister may, from time to time, see fit to impose; and
 - (c) expire on December 31 in each year, but may be renewed application to and subject to the approval of the Minister and payment of the prescribed fee.
- Refusal to grant a certificate. 60.
- (1) If the Minister, after due investigation, is of the opinion that an applicant is not for any reason a suitable person to receive a certificate of authority to act in the capacity applied for, he may, in his discretion refuse to grant a certificate of authority to the applicant.

- (2) Where the Minister refuses to grant a certificate of authority to an applicant he shall not be bound to assign any reason therefor and his decision shall not be subject to appeal or review in any Court.
- Revocation or suspension of certificate. 61. (1) The Minister may revoke or suspend a certificate of authority if the holder thereof -
- (a) has committed an act of misrepresentation, fraud, deceit or dishonesty;
 - (b) has contravened any law or any of the provisions of this Act or the regulations, or any conditions attached to his certificate;
 - (b) has unreasonably failed to pay over to an insurer, agent or an insured person entitled thereto any money received or collected by him on the account of the business under the authority of his certificate; or
 - (c) has demonstrated his incompetency or untrustworthiness to undertake the duties and responsibilities of the capacity in which he is authorized to act by reason of anything done or omitted in or about the business conducted under the authority of his certificate.
- (2) A person who acts or holds himself out to the public as an insurance manager, agent, adjuster or broker without holding a valid and subsisting certificate of authority or during the suspension of his certificate is guilty of an offence.
- (3) No person whose certificate of authority has been revoked shall be granted another certificate to act in any capacity until the lapse of a period of three years after revocation.
- Application of sections 27, 28, 29 and 30 with necessary modifications. 62. Sections 27, 28, 29 and 30 shall apply with the necessary modifications in relation to a holder of a certificate of authority as they apply to a licenced insurer.

Insurance Managers

- Prohibited Interests 63. A person authorized under this Act to act an insurance manager or any employee or associate thereof shall not directly or indirectly be interested as a shareholder in or a director, officer or employee of any insurer for whom he is authorized to act as its insurance manager.
- Reporting duties of insurance manager. 64. (1) If it appears to the insurance manager or if he has knowledge or information that any of the insurers for which he acts as manager -
- (a) is conducting its business in a manner that would expose such insurer to the risk of becoming insolvent;
 - (b) is not complying with any of the provisions of this Act or the regulations;
 - (c) has defaulted on the payment of any of its liabilities;
 - (d) is experiencing a serious state of affairs that is or may be prejudicial to the interests of such insurer's policyholders or creditors;
 - (e) is involved as a defendant in any criminal proceedings in any country or

jurisdiction; or

(f) has ceased to carry on business in or from within the Territory;

he shall forthwith report to the Commissioner giving particulars of information and documents in his possession.

(2) In reporting to the Commissioner in good faith and in discharge of his duties pursuant to subsection (1) the insurance manager shall not, nor shall any director, officer, member, agent or employee thereof be liable to any action, suit or proceeding for with respect to such reporting.

Notice of intention to terminate management agreement.

65. Where either the insurance manager or the insurer which appointed him intends to terminate their management agreement, the insurance manager shall give to the Commissioner written notice of such intended termination and the reasons therefor at least thirty days prior to the date on which the termination takes effect.

Insurance Agents and Brokers

Evidence of agency agreement and security.

66. (1) Every insurance agent or broker shall, before receiving a certificate of authority, deliver to the Commissioner -
- (a) in the case of an insurance agent evidence satisfactory to the Commissioner of an agency agreement entered into with the insurer who endorsed the agent's application for a certificate of authority;
 - (b) in the case of an insurance broker any form or type of security acceptable to the Minister; and
 - (c) a list of all insurers who authorize the agent to act on their behalf or the broker to place risks with them.
- (2) Every Insurance agent and broker -
- (a) shall notify the Commissioner in writing of any change in the list of insurers required in paragraph (c) of subsection (1) within ten days from the date of such change;
 - (b) who fails to comply with the provision of paragraph (a) is guilty of an offence.
- (3) The certificate of authority is ipso facto suspended where -
- (a) in the case of an insurance agent, the agency agreement referred to in subsection (1) (a) is terminated; and
 - (b) In the case of an insurance broker, the security required under subsection (1) (b) is altered in any way.
- (3) A certificate of authority that is suspended under subsection (3) is, subject to the approval of the Commissioner, reinstated upon proof satisfactory to the Commissioner that -
- (a) in the case of an insurance agent -
 - (i) the agent has discharged or provided for the discharge of all his obligations under the agency agreement which was terminated; and

- (ii) a new agency agreement has been entered into by the agent with another insurer Licensed under this Act; and
 - (b) in the case of an insurance broker, the security required under subsection (1) (b) has been reinstated or replaced with other security acceptable to the Minister.
- Agent or broker receiving premium deemed agent of insurer of premium. 67.
- (1) An agent or broker shall , for the purpose of receiving any premium, be deemed to be agent of the insurer and the payment received by the agent or the broker is deemed payment to the insurer notwithstanding any conditions or stipulations to the and trustee contrary.
 - (2) An agent or broker who acts in negotiating, renewing or continuing a contract of insurance with an insurer Licensed under this Act, and who receives any premium from any person for such a contract is deemed to hold such premium In trust for the insurer.
 - (3) If the agent or broker fails to pay the premium he received pursuant to subsection (2) over to the insurer on demand, his failure shall be deemed prima facie evidence that he is guilty of breach of trust.
- Personal liability of agents and brokers. Or 68.
- An agent or broker is personally liable to the insured person, as if he were the insurer, on all contracts of domestic business unlawfully made by or through the agent or the broker directly or indirectly with any insurer that is not licenced authorized to carry on domestic business insurance under this Act.

Approved Auditors and Actuaries

- Reporting duties and exclusion of liability. 69.
- (1) Every approved auditor or actuary shall make an immediate report to the Commissioner where –
 - (a) he becomes aware during the performance of his duties that the
 - (i) is experiencing a financial state of affairs of a serious nature that may breach its margin of solvency as prescribed by the regulations;
 - (ii) is not maintaining adequate long-term segregated funds with sufficient assets to meet its long-term business liabilities;
 - (iii) is not complying with any of the provisions of this Act or the regulations or any condition attached to its licence; or
 - (iv) has defaulted on the payment of any of its liabilities;
 - (b) he forms a view of the affairs or any aspect of the affairs of the insurer which would cause him to add a qualification or adverse notes to any of his reports or certificates required to be submitted by the insurer under the provisions of this Act or the regulations;
 - (c) the insurer terminates his appointment or otherwise he ceases to hold office giving the reasons therefor; or
 - (d) he resigns before the expiration of his term of office or decides not to seek re-appointment giving the reasons therefor.
 - (2) Any report made in good faith to the Commissioner by the approved auditor or actuary in compliance with the requirements of subsection (1) shall not constitute

breach of confidentiality or trust in respect of any person and no liability shall be incurred and no suit, action or proceeding shall lie against the approved auditor or actuary or any partner, director, officer, member, agent or employee thereof in respect of such report.

- (3) This section has effect notwithstanding any provision in any enactment, any rule of law, any agreement, condition or stipulation to the contrary.

PART VIII

General

Privilege of information and gateways for justifiable disclosure.

70. (1) Any information, document, record, statement or thing made or disclosed etc; the Commissioner, the Deputy Commissioner or any person acting under their authority in the course of discharging any duty or exercising any power under this Act or the regulations concerning any person licenced or authorized or applying for a licence or a certificate of authority under this Act, in absolutely privileged and shall not be disclosed except as provided in subsection (2).
- (2) The restriction on disclosure in subsection (1) does not apply when the disclosure is made
- (a) to the Governor, the Minister or a public officer approved by the Minister;
 - (b) to any person for the purpose of discharging any duty or exercising any power under this Act or the regulations;
 - (c) on the order of a Court of competent jurisdiction for the purposes of any criminal or civil proceedings;
 - (d) on request by -
 - (i) a high ranking officer of a competent authority in an international organisation recognised by the Governor; or
 - (ii) a high ranking officer of the law enforcement authority in a country or jurisdiction approved by the Governor, for the purpose of legal assistance in the investigation of any criminal activity; or
 - (e) for the purpose of enabling or assisting a regulatory authority in a country or jurisdiction approved by the Governor in discharging duties or exercising powers corresponding to those under this Act or the regulations;

Provided that in a disclosure made under paragraph (d) or (e) the authority receiving the disclosure shall be required not transmit anything disclosed to any other person except with the prior written consent of the Governor.

- (3) Any person who contravenes this section is guilty of an offence.

Insurer in breach of law.

71. Any act or omission by the insurer in breach of any provision of this Act or the regulations does not render any contract of insurance void or voidable as against the insured or any other having any rights under such contract.

- Dealing with unlicensed insurers.
72. (1) Except as provided in subsection (2) no person shall cause any insurance to be effected with any insurer that is not licensed under this Act.
- (2) Subsection (1) does not apply to
- (a) a contract of reinsurance; or
- (b) any contract of domestic business arranged with the prior written authorization of the Minister in accordance with any conditions, restrictions or limitations imposed by the Minister, notwithstanding any provision in Part IV, or
- (c) any contract of insurance arranged with an association of underwriters organized according to the plan known as Lloyd's and approved by the Minister subject to any conditions, restrictions or limitations as the Minister may think fit to impose.
- (3) Any person who contravenes this section is guilty of an offence.
- Restriction on the use of words associated with the insurance business.
73. (1) Any person who not being licensed as an insurer or authorized as an insurance manager, agent or broker under this Act -
- (a) uses or continues to use the words
- | | |
|----------------|-----------------|
| "insurance", | "assurance", |
| "reinsurance", | "indemnity", |
| "guarantee", | "underwriting", |
| "surety", | "casualty" or |
- any similar words or derivatives of such words in English or any other language which in the opinion of the Commissioner suggests or is likely to suggest the undertaking of insurance business or the business of an insurance manager, agent or broker; or
- (c) by means of advertisements, cards, circulars, letterheads, signs or other methods represents or holds himself out to the public as an insurer, insurance manager, agent or broker; is guilty of an offence.
- (2) Any director, officer or -manager of an insurer, insurance manager, agent or broker who is knowingly a party to an offence committed under subsection (1) shall be liable on summary conviction to a fine of not less than one hundred dollars for every day during which the offence continues.
- Governor's power to grant exemption from certain provisions.
74. (1) On application by an insurer that does not carry on domestic business and upon the recommendation of the Commissioner, the Governor may grant an exemption to such insurer from the application of any of the provisions of this Act or the regulations if the Governor is satisfied that -
- (a) the regulation and supervision of the affairs of such insurer is conducted by a competent authority in a country or jurisdiction outside the Territory which the Governor adopts and considers adequate; or
- (b) the business of such insurer is restricted exclusively to insuring risks of its parent company or affiliated companies.
- (2) For the purposes of this section -

- (a) a **"parent company"** means a corporation that directly or indirectly owns, controls or holds with power to vote more than fifty percent of the outstanding voting shares of the insurer; and
 - (b) **"affiliated company"** means any company in the same corporate group by virtue of common ownership, control, operation or management.
- (3) Where upon application by the insurer and the recommendation of the Commissioner, the Governor is satisfied that it is in the public interest so to do he may grant any insurer exemption from any or all of the provisions of this Act or the regulations.
- (4) In the exercise of his powers under this section the Governor may -
- (a) grant exemption subject to any conditions, limitations or restrictions as may be specified therein or as the Governor from time to time sees fit to impose;
 - (b) grant exemption with retroactive effect or
 - (b) vary, modify or revoke the exemption at any time giving the insurer ten days prior notice in writing.
- Service of process on insurers. 75. (1) Service of any legal process, notice or document on an insurer licenced under this Act may be made by leaving a copy thereof at the principal office of the insurer.
- (2) such office cannot be reasonably located, the service of any such legal process, notice or document may be made by leaving a copy thereof at the office of the Commissioner and publishing notice of that fact in the Gazette and such publication shall be deemed to be due service on the insurer.
- Exemption from certain enactments. 76. The holder of a valid and subsisting licence or certificate of authority under this Act shall not, for the purposes of this Act, be required to hold a licence under (a) or (b)
- Cap. 200 No. 8 of 1990
- (a) the Business, Professions and Trades Licences Act; and
 - (b) the Company Management Act, 1990.
- Regulations. 77. (1) The Governor may make regulations generally for the better administration of this Act and for carrying the intent and purpose of its provisions into effect and, without prejudice to the generality of this power, may make regulations specifically –
- (a) prescribing the margin of solvency for insurers licenced under this Act;
 - (b) dividing the insurance business into classes or categories for the purpose of any provision of this Act and prescribing fees payable for any such classes or categories;
 - (c) prescribing the method of determining the value of the –assets and the amount of liabilities of insurers and the method of evaluation of securities owned by them;
 - (d) prohibiting certain investments or disallowing certain assets for the purposes of any provisions of this Act;
 - (e) prescribing fees payable under thisAct;

- (f) prescribing the form and contents of the annual statement required under section 22 and the form and contents of the certificate of actuary required under section 43;
- (g) prescribing any forms for use under this Act;
- (h) exempting any class of insurance business or any person or classes of persons from any provisions of this Act;
- (i) respecting the experience, training, education and examination of an applicant required for the granting of a certificate of authority as an insurance manager, agent or broker;
- (j) creating offences for the contravention of any regulation and prescribing penalties for such offences; and
- (k) prescribing anything required to be or which may be prescribed under this Act;
- (l) prescribing deposits to be made by licenced insurers and authorised insurance managers agents adjusters and brokers for the purposes of this Act and prescribing the amounts, terms and conditions of such deposits.

(2) The Governor may by general or particular regulations provide that any society, association, corporation, board, commission or the like organisation need not be licenced as an insurer under this Act and thereupon such society, association, corporation, board, commission or the like organisation is not required to be licenced as an insurer and this Act and the regulations shall not apply to-it.

Incorporation of 78.
Insurance Companies
etc.
Cap. 285
Cap. 291

- (1) Notwithstanding anything to the contrary in the Companies Act or in the International Business Companies Ordinance or in any other enactment, no person may incorporate a company under the laws of the Territory for the object and purpose the object and purpose of acting as an insurance manager, agent adjuster or broker unless prior approval for such incorporation has been granted in writing by the Governor.
- (2) The memorandum and articles of association of a company incorporated under the laws of the Territory for the object and purpose of carrying on insurance business of any class, category or kind whatsoever shall, notwithstanding anything to the contrary in any other enactment, be read as if it contained the provision set out in subsection (3).
- (3) A company incorporated for the object and purpose specified in subsection (2) shall not have power to -
 - (a) issue bearer shares, or
 - (b) have a corporate body as a director, or
 - (c) have less than two directors or
 - (d) continue in another country or jurisdiction without the prior written approval of the Governor.
- (4) The Governor from time to time may by regulations declare that any provisions or any part of the Companies Act or the International Business Companies ordinance shall not apply to companies incorporated under either of these enactments for the object and purpose specified in subsection (2) or that in the application of- any provisions or any part of either of the aforesaid enactments such provisions or part shall be varied in such manner as shall be set out in the

regulations.

- (5) Any regulations made by the Governor under subsection (4) shall be subject to affirmative resolution.

- Transitional. 79. A person who at the date of the coming into force of this Act is carrying on in or from within the Territory insurance business of any kind or acting as insurance manager, agent, adjuster or broker shall, within three months from such date of coming into force, comply with the provisions of this Act.
- Repeal of No. 3 of 1990 and No. 1 of 1991. 80. The Companies (Amendment) Act, 1990 and the Insurance Business (Special Provisions) Act 1991 are repealed.

PART IX PENALTIES

- General penalty. 81. Any insurer or other person omitting or neglecting to fulfil, observe, carry out or perform any duty or obligation created, prescribed or imposed by this Act or the regulations, is, unless otherwise provided in this Act or the regulations, guilty of an offence and liable on summary conviction to a fine of less than \$5,000. and not more than \$50,000 for each offence.
- False statements and statements of 82. Any person who for any purpose of this Act or the regulations - financial standings.
- (a) represents by any method that the issue of a licence to an insurer or the regulation and supervision of insurers under this Act is a warranty or guarantee of the financial soundness of any insurer;
 - (b) willfully makes any statement or gives any information that is false or misleading to the Governor, the Minister, the Commissioner, and the Deputy Commissioner or to any person acting under their authority;
 - (c) knowingly fails to disclose in any application, report or other document any fact required to be disclosed therein by this Act or the regulations;
 - (d) causes, agrees or allows to cause any policy, interim receipt or other insuring document to be printed, published or issued falsely bearing the words "Licenced or authorized under the Insurance Act" or the like effect; or
 - (e) represents by any means that he has any connection or a special status with any government or public official whether that of the Territory or of elsewhere, or that he is recognized in the Territory as a national insurer, insurance manager, agent or broker is guilty of an offence and liable on summary conviction to a fine of not less than \$5,000. and not more that \$50,000 or to imprisonment for a term not exceeding two years or both such fine and imprisonment.
- Burden of proof in prosecution. 83. In any prosecution under this Act or the regulations of any person accused of acting without being the holder of a valid licence or certificate of authority it is incumbent on the accused to prove that he was at the time licenced or authorized under this Act.
- Prosecution time. 84. A prosecution for an offence under five years from the date of the commission of the offence but not there after.

Passed by the Legislative Council this
21st day of November, 1994.

Speaker
Clerk of the Legislative Council

VIRGIN ISLANDS

INSURANCE REGULATIONS, 1995

Arrangement of Regulations

Regulation

PART I

Preliminary

1. Citation and commencement.
2. Interpretation.

PART II

Forms and Fees

Forms

3. Application for an insurance licence.
4. Annual Statement.
- s. Certificate of actuary.

Fees

6. Inspection and application fees etc.

PART III

Minimum Margin of Solvency
Assets and Liabilities

Minimum Margin of Solvency

7. Minimum margin of solvency.
 - a. Allowable assets.

Assets and Liabilities

9. Valuation of assets.
10. Calculation of liabilities.

PART IV

Books and Records of Insurers

11. Books and records to be maintained at the insurer's principal office.
12. Improper records to be examined by an accountant.

Schedule

(Regulations 3, 4 and 5)

PART A (Regulation 3)

Application for a licence to carry on insurance business in or from within the Territory.

PART B (Regulation 4)

Annual Statement

PART C (Regulation 5)

Certificate of actuary.

VIRGIN ISLANDS

STATUTORY INSTRUMENT 1995 NO.

INSURANCE REGULATIONS, 1995

(Gazetted February 10, 1995)

The Governor in exercise of the powers conferred by section 77 of the Insurance Act, 1994 makes the following Regulations -

PART I

Preliminary

- | | | |
|----------------------------|----|---|
| Citation and commencement. | 1. | These Regulations may be cited as the Insurance Regulations, 1995 and shall commence on the 10 day of February, 1995. |
| Interpretation. | 2. | In these Regulations unless the context otherwise requires – |

"the Act" means the Insurance Act, 1994;

"affiliate" has the meaning assigned to it by section 34 (2) (c) of the Act;

"appointed stock exchange" means any stock exchange that the Minister may appoint and causes such appointment to be published in the Gazette;

"financial year" has the meaning assigned to it by section 2 of the Act;

"Minister" has the meaning assigned to it by section 2 of the Act;

"Parent Company" has the meaning assigned to section 74 (2) (a) of the Act; it by

"segregated funds" has the meaning assigned to it by section 45 (1) of the Act;

"subsidiary" has the meaning assigned to it by section 34 (2) (a) and (b) of the Act.

PART II

Forms and Fees

Forms

(Sections 12, 22 and 43 (3))

- Applications for an insurer's licence. 3. Every application for a licence to carry on insurance business in or from within the Territory shall be in the form and shall contain the information specified in Part A of the Schedule to these Regulations.
- Annual Statement. 4. Every annual statement prepared by an insurer under section 22 (1) (b) of the Act shall be in the form and shall contain the information specified in Part B of the Schedule to these Regulations.
- Certificate of actuary. 5. The Certificate of actuary required under section 43 (3) of the Act shall be in the form and shall contain the information specified in Part C of the Schedule to these Regulations.

Fees

(Sections 7 (2), 12, 17 (b) and (d), 58 and 59 (b) and (d))

- Inspection and application fees etc. 6. The following fees are prescribed -
 - (a) for the inspection of any register required to be kept by, the Commissioner under section 7 (2)..... \$50.00
 - (b) or an application to carry on insurance business in or from within the Territory... \$500.00
 - (c) for the issue and annual renewal of an insurer's licence \$2000.00
 - (d) for an application for a certificate of authority to act as an insurance manager, agent or broker \$ 250.00
 - (e) for the issue and the annual renewal of a Certificate of authority \$ 500. 00

PART III

Minimum Margin of Solvency
Assets and Liabilities

Minimum Margin of Solvency

(Sections 15 (1) and 50 (2))

Minimum margin of solvency.

7. (1) The amount by which the total value of an insurer's assets must exceed the total amount of its liabilities, in these Regulations referred to as the "minimum margin of solvency" is hereby prescribed -
- (a) in the case of an insurer carrying on general business only -
- (i) where the net retained annual premium of the insurer does not exceed \$1,000,000 the prescribed amount is \$200,000;
 - (ii) where the net retained annual premium of the insurer exceeds \$1,000,000 but does not exceed \$5,000,000 the prescribed amount is twenty percent of the said net retained annual premium;
 - (iii) where the net retained annual premium of the insurer exceeds \$5,000,000 the prescribed amount is \$1,200,000 plus ten percent of the amount by which the said net retained annual premium exceeds \$5,000,000; and
- (b) in the case of an insurer carrying on long-term business only two hundred fifty thousand dollars; and;
- (c) in the case of an insurer carrying on both general business and long-term business two hundred fifty thousand dollars plus the amounts required for general business in sub-paragraphs (i), (ii), and (iii) of paragraph (a).
- (2) In this Regulation the expression "net retained annual premium" means the gross premium income earned in respect of general business during any financial year of the insurer reduced by any premiums paid by the insurer for approved reinsurance during such financial year.

Allowable Assets

8. (1) meeting the assets In computing the value of the assets of an insurer for the purpose of minimum margin of solvency prescribed by regulation 7 all the insurer's shall be allowable assets within the meaning of sub-regulation (2).
- (2) Subject to sub-regulation (3), allowable assets for the purposes of this regulation are -
- (a) cash in hand or on deposit with financial institutions approved by the Commissioner;
 - (b) bonds, debentures or other evidence of indebtedness issued or guaranteed by-

thereof;

- (i) the government of the United Kingdom or of Territory
 - (ii) the government of the United States of America or of any state thereof;
 - (iii) the government of Canada or of any province thereof; or
 - (iv) any other government approved by the Commissioner;
- (c) bonds, debentures or other evidence of indebtedness issued or guaranteed by any municipal corporation and secured by rates or taxes levied and collectable by such municipal corporation under the authority of any of the governments mentioned in sub-paragraphs (i), (ii), (iii) or (iv) of paragraph (b);
 - (d) other securities quoted on an appointed stock exchange not exceeding twenty percent of the total assets of the insurer;
 - (e) premiums receivable;
 - (e) reinsurance balances receivable;
 - (f) accounts receivable net of provision for bad and doubtful debts;
 - (g) irrevocable letters of credit issued by financial institutions approved by the Commissioner.
- (3) For the purposes of this Regulation, the following assets are not allowable assets.
- (a) investments in and advances to the insurer's Parent Company or any of the insurer's subsidiaries or affiliates unless specifically approved by the Commissioner;
 - (b) real property or mortgages on real property; and
 - (c) securities which are not quoted on an appointed stock exchange.

Assets and Liabilities

(Sections 15 and 22 (2))

Valuation of
by it
assets.

9. (1) The total value of an insurer's assets and the value of any securities owned shall be determined -
- (a) by their market value; or
 - (b) where such market value is not ascertainable, in accordance with generally accepted accounting practices that are considered appropriate by the insurer's approved auditor and acceptable to the Commissioner.

Provided that such total value of an insurer's assets must at any time exceed the total amount of its liabilities by the amount prescribed by these Regulations.

- (2) Where the market value or any other ascertainable value of the total assets of an insurer declines at any time below the value that is required to maintain the insurer's minimum margin of solvency as prescribed by these Regulations, the insurer shall forthwith rectify the deficiency and notify the Commissioner.
- Calculation of liabilities. 10. (1) The total amount of an insurer's liabilities shall be determined in accordance with generally accepted accounting principles and practices that are considered appropriate by the insurer's approved auditor and acceptable to the Commissioner.
- (2) In computing the liabilities of an insurer under this Regulation all contingent and prospective liabilities, other than liabilities in respect of share capital and contributed surplus shall be taken into account.
- (3) In the case of an insurer which carries on both long-term business and general business, the amount of the liabilities of its long-term business at any time shall, for the purposes of this Regulation be taken to be –
- (a) an amount equal to the total amount at that time standing to the credit of the insurer's long-term business segregated funds; or
 - (b) the amount of those liabilities last ascertained and certified by the insurer's approved actuary pursuant to section 43 of the Act, whichever is greater.

PART IV

Books and Records of Insurers

(Section 21 (1))

- Books and records to be maintained at the insurer's principle office. 11. (1) Every licenced insurer shall maintain permanently at its principal office in the Territory such books and records of its insurance business and financial affairs –
- (a) as will show adequately the type and classes of insurance business carried on by the insurer in or from within the Territory; and
 - (b) as will enable the Commissioner at any time to conduct a proper examination of the insurer's affairs and to ascertain with reasonable accuracy its financial position.
- (2) Without prejudice to the generality of the provisions of sub-regulation (1) the books and records to be kept by every licenced insurer at its principal office in the Territory shall include -
- (a) financial statements;
 - (b) a record of premium income and claims paid including reinsurance;

- (c) a register of the insurer's directors and officers showing their names and addresses;
- (d) minutes of all proceedings of the insurer's general meetings, meetings of its directors and of its Committees;
- (e) general and subsidiary ledgers and general journals;
- (f) a record of the insurer's reinsurance programs or treaties showing underwriting limits by each class of insurance and amounts retained by the insurer;
- (g) an up-to-date list of all the insurer's agents; and
- (h) any other registers or records as may be directed or authorised by the Commissioner.

Improper records 12.
to be examined
by an accountant.

- (1) If, at any time, it appears to the Commissioner that the books of account and records of any insurer are not kept in such business – like way so as to enable him to conduct a proper examination of the insurer's affairs and to ascertain its financial position, he shall thereupon -
 - (a) appoint a competent accountant to examine, under his direction the books of account and records of the delinquent insurer; and
 - (b) such accountant shall give the necessary instructions to the delinquent insurer which shall forthwith rectify the delinquency.
- (2) The expense of such accountant –
 - (a) shall not exceed \$2000.00 per day and shall be borne by the delinquent insurer; and
 - (b) shall be certified and approved by the Minister and thereupon -
 - (i) shall be paid forthwith by the delinquent insurer; and
 - (ii) if not so paid may be recovered as a debt due to the Commissioner in his name of office.

SCHEDULE

Regulation 3

PART A

Application for a Licence to carry on
Insurance Business in or from within
the Territory

1. Name of applicant insurer.
2. Date and place of incorporation.
3. Method of incorporation

State whether a company limited by shares or a mutual Company.
4. Address of -
 - (a) principal office in the Territory;
 - (b) registered office in the Territory if incorporated under its laws -
 - (c) Head office and registered office outside the Territory.
5. State -
 - (a) the amount of the issued and paid-up capital at the time of application and the date paid in;
 - (b) whether the whole of the paid-up capital has been subscribed in cash and if not give full details;

whether the insurer intends to increase the paid-up capital before commencing to carry on the
(b)
insurance business for which the application is being made, giving details of the proposed increase.
6. If a mutual insurance company state the amount of reserve fund and give details thereof.
7. Name and address of the insurer's bank or other financial institution which can supply a reference for the applicant insurer.
8.
 - (a) State the amount by which the total value of the applicant insurer's assets exceeds the total amount of its liabilities at the time of the application (including all contingent and prospective liabilities other than those in respect of share capital).
 - (b) What the amount stated in paragraph (a) is likely to be when the applicant insurer commences
 - (c) carrying on insurance business if granted a licence.

9. Names and addresses of
 - (a) insurance manager of the insurer resident in the Territory;
 - (b) insurer's attorney's in the Territory;
 - (c) insurer's auditor stating his professional qualifications;Attach evidence of acceptance of appointment of each of those mentioned in paragraphs (a), (b) and (c).
10. Names, addresses and nationalities of all the insurer's directors and officers and attach a banker's reference and two personal references for each one of such directors and officers.
11.
 - (a) Names and addresses of all beneficial shareholders of the insurer stating the number of shares held by each shareholder holding more than ten percent of the issued shares of the insurer and the type of voting rights attached to such shares.
 - (b) provide a banker's reference and two personal references for each of the insurer's beneficial shareholders.
12. State whether the applicant insurer proposes to carry on insurance business -
 - (a) In the Territory (domestic business);
 - (b) from within the Territory; or
 - (c) in and from within the Territory.
13. State
 - (a) what category of insurance business the applicant insurer proposes to carry on
 - (i) general business;
 - (ii) long-term business; or
 - (iii) both general and long-term business;
 - (b) what classes of general and long-term business the applicant insurer proposes to carry on.
14. State whether application for registration or licencing as an insurer has been made in any other country or jurisdiction and if so, whether registration or licence has been refused, suspended, cancelled or revoked giving reasons therefor.
15. If carrying on or proposing to carry on any business other than insurance business give particulars of such other business and state whether the insurance business accounts, assets and liabilities are being kept separate and distinct from those of such other business.
16. Give detailed particulars of the nature and extent of any actual or proposed reinsurance programme or treaties in respect of each class of business stating -
 - (a) the name and address of each reinsurer;
 - (b) the class or classes of business and the amounts which will be reinsured by each such reinsurer; and
 - (c) whether each such reinsurer has been rated by recognised rating organisations and if so, give the most recent ratings of each such reinsurer.

17. State the methods by which losses are to be adjusted and claims to be settled indicating whether the insurer employs qualified staff adjusters or retains the services of Independent adjusters and loss assessors giving their names, addresses and professional qualifications.
18. State whether the insurer is a direct writer or whether it markets its policies and products through an established brokerage and agency system.
19. State the date on which -
 - (a) the insurer proposes to commence carrying on business if granted a licence; and
 - (b) the insurer's financial year ends.
20. Give details of -
 - (a) any loans made or proposed to be made to any director or officer of the insurer or the wife, child or any member of the immediate family of such director or officer; or
 - (b) any loans or advances to or investments in the insurer's parent company or any of its subsidiary or affiliated companies whether made or proposed to be made.

PART B
Regulation 4

Annual Statement

For the year

Name of insurer

(a) Statement of Assets and Liabilities

(General Business)

Assets

Liabilities

(Long-term Business)

Assets

Liabilities

(b) Statement of Receipt and Expenditures

(c) Particulars of the Business transacted In and From Within the Territory

(d) Report of Auditor

I / we
(name)

of
(name of firm and business address)

Do hereby confirm as follows –

1. That I/We am/are the duly appointed and approved independent auditor (s) of
.....
(name of licenced insurer)

which is currently licenced under the Insurance Act 1994 (the Act) to carry on the following categories and classes of insurance

- (a) general business
- (b) long-term business
- (c) domestic business

in and/or from within the Territory; and

2. That I/We have examined the books and records of the said licenced insurer and am/are satisfied that the insurer is not in breach of any condition attached to its licence or in contravention of any provision of the Act or of the Insurance Regulations 1995 (the Regulations); and

3. That I/We am/are satisfied that the said licenced insurer has at all times during the financial year

maintained the minimum solvency margin prescribed by the Regulations; and

4. That I / We am/are satisfied that the said licenced insurer has at all times during the financial year maintained adequate segregated funds with separate and distinct assets for each fund liabilities; and
5. That in my/our opinion the accounts of the said licenced insurer have been properly prepared in accordance with the provisions of the Act and the Regulations and with the generally accepted accounting principles; and
6. That I/We have audited the insurer's financial statements in accordance with generally accepted auditing standards of

(name of country or jurisdiction)

Save and Except the following Exceptions
and Qualifications *

.....
.....

*Delete as applicable

Dated at this day of 19

Signed

.....

(name and position of the individual signing above)

PART C

Regulation 5

Certificate of Actuary

I
(name)

of
(address)

Do hereby certify as follows -

1. That I am the duly appointed and approved independent actuary of
.....
(name of licenced insurer)

which is currently licenced and authorised under the Insurance Act, 1994 (the Act) to carry on long-term business in and/or from within the Territory; and

2. That I have conducted a valuation of the said licenced insurer's assets and liabilities attributable to its long-term business pursuant to the requirements of section 43 of the Act, for.....the periodto ; and

3. That my valuation included the assets and liabilities of the insurer's individual segregated funds maintained by the insurer pursuant to section 45 of the Act; and

4. That proper and accurate records are being kept by the insurer which enabled me to carry out proper valuation of its long-term business; and

5. That I am satisfied that at the date of my valuation -

(a) the value of the assets attributable to each segregated fund exceeded the amount of liabilities under each such segregated fund by a margin sufficient to meet all unmatured liabilities guaranteed under the terms of long-term insurance contracts attributable to each such segregated fund; and

(b) the total value of the overall assets identified as representing the entire long-term business of the insurer exceeded the aggregate of the amount of liabilities under all long-term insurance contracts issued by the insurer and the amount of any other liabilities of the insurer attributable to its long-term insurance contracts by an amount of \$; and

6. That the insurer has throughout the financial year / the period to which this certificate refers maintained a prudent and satisfactory margin of solvency that exceeded the minimum margin of solvency prescribed by the Insurance Regulations, 1995 by the amount stated in 5 (b), above; and

7. That I have / have not recommended to the insurer that -

(a) it alters its investment in ; or

(b) it alters its rates of premiums

which in my opinion was necessary to preserve the Insurer's margin of solvency and the insurer has / has not implemented my recommendations; and

8. That in formulating my valuation I have / have not made allowance for reinsurance to the extent ofand I have / have not discounted such reinsurance in my valuation.

This certificate is issued without any qualifications /
is subject to the following qualifications: *

* Delete as applicable

Dated atthis.....day of 19

(Approved Actuary)
(name and position)

Made by the Governor this day of , 1995.

Clerk of the Executive council