

INTERNATIONAL BUSINESS COMPANIES ACT

SAINT LUCIA

No. 40 of 1999

Arrangement of Sections

PART I

Short Title and Interpretation

1. Short title and commencement.
2. Interpretation.

PART II

Registration and Constitution of Companies

3. Business purposes.
4. Application for registration.
5. Registration.
6. Certificate of incorporation.
7. Memorandum.
8. Articles.
9. Amendment of memorandum or articles.
10. Name.
11. Annual fee.
12. Prohibitions.
13. Penalty.
14. Powers.
15. Validity of acts of company.
16. Personal liability.

PART III

Capital and Dividends

17. Consideration for shares.
18. Kind of consideration for shares.
19. Amount of consideration for shares .
20. Fractional shares.
21. Authorized capital in several currencies.
22. Capital and surplus accounts.
23. Dividend of shares.
24. Increase or reduction of authorized capital.
25. Division and combination.
26. Nature of shares.
27. Share certificates.
28. Share register.
29. Rectification of share register.
30. Transfer of registered shares.
31. Transfer of registered shares of deceased, incompetent or bankrupt.
32. Seizure.
33. Acquisition of own shares.
34. Treasury shares disabled.
35. Increase or reduction of capital.
36. Dividends.
37. Appreciation of assets.

PART IV

Registered Office and Registered Agent

- 38. Registered office.
- 39. Registered agent.
- 40. Resignation of registered agent.
- 41. Change of registered office or registered agent.

PART V

Directors, Officers, Agents and Liquidators

- 42. Management by directors.
- 43. Election, term and removal of directors.
- 44. Number of directors.
- 45. Powers of directors.
- 46. Emoluments of directors.
- 47. Committees of directors.
- 48. Meetings of directors.
- 49. Notice of meetings of directors.
- 50. Quorum for meetings of directors.
- 51. Consents of directors.
- 52. Alternates for directors.
- 53. Officers and agents.
- 54. Standard of care.
- 55. Reliance on records and reports.
- 56. Conflicts of interest.
- 57. Indemnification.
- 58. Insurance.

PART VI

Protection of Members and Creditors

- 59. Meetings of members.
- 60. Notice of meetings of members.
- 61. Quorum for meetings of members.
- 62. Voting by members.
- 63. Consents of members.
- 64. Service of notice on members.
- 65. Service of process.
- 66. Books, records and common seal.
- 67. Inspection of books and records.
- 68. Contracts generally.
- 69. Contracts before incorporation.
- 70. Contracts for payment or transfer.
- 71. Notes and bills of exchange.
- 72. Power of attorney.
- 73. Authentication or attestation.
- 74. Company without members.

PART VII

Merger, Consolidation, Sales of Assets, Forced
Redemptions, Arrangement and Dissenters

- 75. Interpretation for purposes of Part VII
- 76. Merger or consolidation.
- 77. Merger with subsidiary.
- 78. Effect of merger or consolidation.
- 79. Merger or consolidation with foreign company.
- 80. Disposition of assets.
- 81. Redemption of minority shares.
- 82. Arrangements.
- 83. Rights of dissenters

PART VIII

Continuation

- 84. Continuation.
- 85. Provisional registration.

PART IX

Winding-up, Dissolution and Striking-Off

- 89. Compulsory winding-up and dissolution.
- 90. Voluntary winding up and dissolution.
- 91. Powers of directors.
- 92. Appointment and duties of liquidator.
- 93. Powers of liquidator.
- 94. Procedure.
- 95. Rescission.
- 96. Winding-up and dissolution for unpaid claims.
- 97. Winding-up and dissolution by the Court.
- 98. Receivers and managers.
- 99. Striking-off.
- 100. Restoration to Register.
- 101. Effect of striking-off.
- 102. Appointment of official liquidator.
- 103. Dissolution of company struck-off.

PART X

Fees and Penalties

- 104. Fees to be prescribed.
- 105. Penalties.
- 106. Recovery of fees.
- 107. Liability of fees.
- 108. No action pending payment.

PART XI

Exemptions from Income Tax and other Taxes, Duties
and Exchange Controls Restrictions

- 109. Exemptions from income tax and other taxes.
- 110. Exemptions for dividends and distributions.
- 111. Books and records.
- 112. Exemption from exchange controls.
- 113. Tax concessions

PART XII

Miscellaneous

- 114. Employment of Registrar.
- 115. Form of certificate.
- 116. Certificate of good standing.
- 117. Inspection.
- 118. Filed memorandum and articles.
- 119. Optional registration of registers.
- 120. Registration of mortgages and charges.
- 121. Jurisdiction.
- 122. Declaration by Court.
- 123. Judge in Chambers.
- 124. Regulations.

SAINT LUCIA

No. 40 of 1999

An Act to make provision for the incorporation, regulation and operation of international business companies and related matters.

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the House of Assembly and the Senate of Saint Lucia, and by the authority of the same as follows:

PART I

Short Title and Interpretation

Short title and commencement

1. (1) This Act may be cited as the International Business Companies Act, 1999.
- (2) This Act shall come into force on a day to be prescribed by the Minister by Order published in the Gazette.

Interpretation

2. (1) In this Act

"agent" means agent of an international business company;

"articles" unless the context otherwise requires means the articles of association of a company incorporated under this Act;

"articles of merger" means the articles of merger executed under section 77(5);

"authorised capital" of a company means the sum expressed in dollars of the aggregate par value of all outstanding shares with par value which the company is authorised by its memorandum or articles to issue, plus the amount if any, stated in its memorandum or articles as authorised capital to be represented by shares without par value which the company is authorised by its memorandum or articles to issue;

"capital" of a company means the sum expressed in dollars of the aggregate par value of all outstanding shares with par value of the company and shares with par value held by the company as treasury shares plus

(a) the aggregate of the amounts designated as capital of all outstanding shares without par value of the company, and shares without par value held by the company as treasury shares; and

(b) the amounts as are from time to time transferred from surplus to capital by a resolution of the directors;

- "certified translation" means a translation into English language by a person approved to do so by the Minister responsible for Foreign Affairs;
- "certificate of continuation" means a certificate of continuation issued under Part VIII;
- "company" means a body corporate however and wherever incorporated;
- "Companies Act" means the Companies Act, 1996;
- "continued" unless the context requires otherwise, means, continued within the context of Part VIII;
- "Court" means the High Court;
- "director" means director of an international business company;
- "Financial Centre Corporation" means the company registered under the Companies Act as Company Number 126 of 1999;
- "international business company" means a company incorporated under this Act;
- "International Financial and World Investment Centre Limited" or "IFWIC" means the company incorporated under the Companies Act as Company No. 195 of 1999;
- "liquidator" means liquidator of an international business company appointed under section 92;
- "member" means a person who holds shares in an international business company;
- "memorandum " means the memorandum of association of an international business company;
- "Minister" means the Minister responsible for International Financial Services;
- "officer" means officer of an international business company;
- "official liquidator" means the official liquidator of a company appointed under section 102;
- "person" includes a natural person, a company, a trust, the estate of a deceased person, a partnership, a limited liability or duration company, or an unincorporated association of persons;
- "prescribed" unless the context otherwise requires means prescribed in Regulations made under section 124;
- "property" includes money, movable or immovable property, corporeal or incorporeal property, real or personal property, and an interest in property;
- "resident" means a person who ordinarily resides within Saint Lucia or carries on business from an office or other fixed place of business within Saint Lucia but does not mean a company incorporated under this Act;
- "Register" means the Register of International Business Companies maintained by the Registrar in accordance with section 5 (2);
- "registered agent" means a person licensed to carry on the business of international financial services representation under the Registered Agent and Trustee Licensing Act, 1999;
- "registered office" means registered office of an international business company referred to in section 38;

"Registrar" means the Registrar of International Business

Companies employed under section 114;

"securities" means shares, debt obligations, or options, warrants or rights to acquire shares or debt obligations;

"share certificate" means certificate used in respect of the shares of an international business company;

"surplus" in relation to a company, means the excess, if any, at the time of the determination, of the total assets of the company over the sum of its total liabilities, as shown in the books of accounts, plus its capital;

"treasury shares" means shares of a company that were previously issued but were repurchased, redeemed or otherwise acquired by the company and not cancelled.

- (2) A reference to money in this Act is a reference to the currency of the United States of America;
- (3) A company that is incorporated under the Companies Act or under the laws of a jurisdiction outside Saint Lucia shall be a company incorporated under this Act if it is continued as a company incorporated under this Act in accordance with Part VIII and references in this Act to a "company incorporated under this Act" shall be construed accordingly.
- (4) References in this Act to voting in relation to shares, shall be construed as a reference to voting by members holding the shares, except that it is the votes allocated to the shares that shall be counted, and not the number of members who actually voted, and a reference to shares being present at a meeting shall be given a corresponding construction.
- (5) Unless otherwise defined in the articles of a company incorporated under this Act, the expression "a resolution of directors" means
 - (a) a resolution approved at a duly constituted meeting of directors or of a committee of directors of a company, by affirmative vote of a simple majority or such larger majority as may be specified in the articles, of the directors present at the meeting who voted and did not abstain; or
 - (b) a resolution consented to in writing by an absolute majority, or such larger majority as may be specified in the articles, of all the directors or of all the members of the committee;

but, where a director is given more than one vote in any circumstances, the director shall in the circumstances be counted for the purpose of establishing majorities by the number of votes he or she casts.

- (6) Unless otherwise defined in the articles of a company incorporated under the Act, the expression "a resolution of members" means
 - (a) a resolution approved at a duly constituted meeting of the members of a company by the affirmative vote of
 - (i) a simple majority, or such larger majority as may be specified in the articles, of the votes of the shares that were present at the meeting and entitled to vote thereon, and were voted and did not abstain; or

- (ii) a simple majority, or such larger majority as may be specified in the articles of the votes of each class, or series of shares, which were present at the meeting, and entitled to vote thereon, as a class or series and were voted and not abstained and of a simple majority, or such larger majority as may be specified in the articles, of the votes of the remaining shares entitled to vote thereon that were present at the meeting and were voted and not abstained; or
- (b) a resolution consented to in writing by
 - (i) an absolute majority, or such larger majority as may be specified in the articles, of the votes of shares entitled to vote thereon, or
 - (ii) an absolute majority, or such larger majority as may be specified in the articles, of the votes or series of shares entitled to vote thereon as a class or series and of an absolute majority, or such larger majority as may be specified in the articles, of the votes of the remaining shares entitled to vote thereon.
- (7) A reference in this Act to international mutual fund business is a reference to international mutual fund business as defined in the International Mutual Funds Act, 1999.
- (8) A reference in this Act to international insurance business is a reference to the international insurance business as defined in the International Insurance Act, 1999.
- (9) A reference in this Act to international banking business is a reference to the international banking business as defined in the International Banking Business Act, 1999.

PART II

Registration and Constitution of Companies

Business purposes

- 3. A company may be incorporated under this Act for any purpose not prohibited under this Act or under any other law in force in Saint Lucia.

Application for Registration

- 4. A person licensed under the Registered Agent and Trustee Licensing Act 1999 as a licensee may singly or jointly with others apply to the Registrar to incorporate and register a company as an international business company by submitting to the Registrar the memorandum and articles of the company.

Registration

- 5. (1) Where an application is made under section 4 the Registrar shall subject to subsection (3) and, upon payment of the prescribed fee by the person making the application, register the company as an international business company if the Registrar is satisfied that
 - (a) the requirements of this Act in respect of registration have been complied with; and
 - (b) the registered agent named in the articles as registered agent certifies that the requirements of this Act in respect of registration have been complied with.

- (2) The Registrar shall retain in either electronic or written form the memorandum and articles submitted to him or her under section 4 and shall register the company as an international business company in a Register to be maintained by the Registrar, and to be known as the Register of International Business Companies.
- (3) The Registrar shall not incorporate an international business company under this Act for the purpose of engaging in international banking business, international insurance business or international mutual fund business unless its incorporation has been consented to by the Minister.
- (4) A person who requires the consent of the Minister pursuant to subsection (3) shall submit a proposal to that effect to the Minister and the Minister may consent to the incorporation.
- (5) Nothing done by the Minister pursuant to subsection (4) shall preclude the Minister from refusing an application for a licence under the International Banks Act 1999, the International Insurance Act 1999 or the International Mutual Funds Act 1999.

Certificate of incorporation

6. (1) Upon the registration of an international business company, the Registrar, shall issue a certificate of incorporation under the Registrar's hand and seal certifying that the international business company is incorporated.
- (2) Upon the issue by the Registrar of a certificate of incorporation of an international business company, the company is from the date shown on the certificate of incorporation, a body corporate under the name contained in the certificate of incorporation with the full capacity of a person who is sui juris.
- (3) A certificate of incorporation of an international business company issued by the Registrar is prima facie evidence of compliance by the international business company with all requirements of this Act in respect of incorporation.
- (4) A member, director or officer of an international business company may order upon payment of the prescribed fee to the Registrar, a duplicate copy of the certificate of incorporation for that international business company and the Registrar shall issue the ordered copy.

Memorandum

7. (1) A Memorandum shall include the following
 - (a) the name of the international business company;
 - (b) the address within Saint Lucia of the registered agent and registered office of the international business company;
 - (c) the object or purposes for which the international business company is to be incorporated;
 - (d) the currency in which shares in the international business company shall be issued and whether shares may be issued in more than one currency;
 - (e) a statement of the authorised capital of the international business company;
 - (f) a statement of the number of classes and series of shares, the number of shares of each such class and series, and the par value of shares with par value and the shares which may be without par value, if that is the case;

- (g) a statement of the designations, powers, preferences and rights, and the qualifications, or restrictions of each class and series of shares that the international business company is authorised to issue, unless the directors are to be authorised to fix any such designations powers, preferences, rights, qualifications, or restrictions and in that case, an express grant of any authority as may be desired to grant to the directors to fix by a resolution any such designations, powers, preferences, rights, qualifications, or restrictions that have not been fixed by the memorandum;
- (2) For the purposes of paragraph (c) of subsection (1), if a memorandum contains a statement either alone or with other purposes that the purpose of the international business company is to engage in any act or activity that is not prohibited under any law in force in Saint Lucia, the effect of that statement is to make all acts that are not illegal part of the purposes of the company, subject to any limitations in the memorandum.
- (3) A memorandum shall be subscribed to by the registered agent named in the memorandum.
- (4) Where an international business company is registered under section 5 its memorandum binds the international business company and its members to the same extent as if each member had subscribed his or her name and affixed his or her seal thereto and as if there were contained in the memorandum, on the part of herself or himself, his or her heirs, executors and administrators, a covenant to observe the provisions of the memorandum, subject to this Act.

Articles

- 8. (1) Articles shall
 - (a) prescribe regulations for the international business company; and
 - (b) be subscribed to by the registered agent named in the articles.
- (2) Where an international business company is registered under section 5, the articles bind the international business company and its members to the same extent as if each member had subscribed his or her name and affixed his or her seal thereto and as if there were contained in the articles on the part of himself or herself, his or her heirs, executors and administrators, a covenant to observe the provisions of the articles, subject to this Act.

Amendment of memorandum or articles

- 9. (1) Subject to any limitations in its memorandum or articles, an international business company may amend its memorandum or articles by a resolution of members or, where permitted by its memorandum or articles or by this Act, by a resolution of directors.
- (2) An international business company that amends its memorandum or articles shall submit a copy of the amendment to the Registrar, accompanied by the prescribed filing fee, and the Registrar must retain and register the copy of the amendment.
- (3) An amendment to the memorandum or articles has effect from the time the amendment is registered by the Registrar.
- (4) An international business company that wilfully contravenes subsection (2) is liable to a penalty of fifty dollars for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Name

10. (1) The words "Limited", "Corporation", "Incorporated", "Societe Anonyme", or "Sociedad Anonima" or the abbreviations "Ltd.", "Corp.", "Inc." or "S.A...", or the equivalent term in any language must be part of the name of an international business company, and an international business company may use and be legally designated by either the full or the abbreviated form.

(2) A company shall not be incorporated under this Act under a name that -

- (a) is identical with that under which a company in existence is already incorporated under this Act or registered under the Companies Act or so nearly resembles the name as to be calculated to deceive, except where the company in existence gives its consent; or
- (b) contains the words "Assurance", "Bank", "Building Society", "Chamber of Commerce", "Chartered", "Cooperative", "Imperial", "Insurance", "Municipal", "Royal" or a word conveying a similar meaning; or
- (c) other word that, in the opinion of the Registrar, suggests or is calculated to suggest
 - (i) the patronage of Her Majesty or that of a member of the Royal family,
 - (ii) a connection with Her Majesty's Government or a department thereof, or
 - (iii) a connection with a municipality or other local authority or with a society or body incorporated by Royal Charter; except with the approval or, in the approval in writing, of the Registrar;
- (d) is indecent, offensive or, in the opinion of the Registrar, objectionable.

(3) An international business company may amend its memorandum and articles to change its name.

(4) If an international business company is incorporated under a name that

- (a) is identical with a name of another international business company in existence or a company registered under the Companies Act; or
- (b) so nearly resembles the name of another international business company or a company registered under the Companies Act as to be calculated to deceive;

the Registrar may without the consent of the international business company or company in existence, give notice to the last registered international business company to change its name and if it fails to do so within sixty days from the date of the notice, the Registrar shall amend the memorandum and articles of the international business company to change its name to a name which the Registrar is satisfied is appropriate, and the Registrar shall publish notice of the change in the Gazette.

- (5) (a) Subject to subsections (2) and (4), where an international business company changes its name, the Registrar shall enter the new name on the Register in place of the former name, and shall issue a certificate of amendment indicating the change of name and shall cause notice of the change to be published in the Gazette.
- (b) After the issue of the certificate of amendment under sub paragraph (a) the memorandum of the company to which the certificate relates is amended accordingly on the date shown on the certificate.

- (6) A change of name does not affect any rights or obligations of an international business company, or render defective any legal proceedings by or against a company, and all legal proceedings that have been commenced against the international business company by its former name may be continued against it by its new name.
- (7) Subject to subsection (2) and payment of the prescribed fee the Registrar may, upon a request made by any person, reserve for up to thirty days a name for future adoption by an international business company under this Act.
- (8) Where under this Act an international business company is required to lodge with the Registrar any instrument, certificate or document or a certified copy thereof and the same is not written in the English language, but is written in a foreign language, alphabet, or characters, subject to the foregoing provisions of this Act the Registrar will accept the same, provided it is accompanied by a certified translation thereof.
- (9) For the purposes of the administration of this Act, the name of an international business company as it appears in the certified translation shall be the name which is registered under this Act, but for all other purposes the international business company shall be deemed to be also registered with the name expressed in the foreign language, alphabet or characters.
- (10) Notwithstanding anything contained in this section, an international business company that is continued under this Act is entitled to be continued with the name it lawfully had before that continuance provided that there is no other company registered under this Act or the Companies Act in that name.
- (11) The name of an international business company contained in its memorandum and articles shall end with the words "International Business Company" or the abbreviation "IBC".

Annual fee

11. An international business company shall pay the prescribed annual fee at such times and in such manner as may be prescribed.

Prohibitions

12. (1) An international business company shall not
 - (a) carry on business with persons resident in Saint Lucia;
 - (b) own an interest in immovable property situated in Saint Lucia, other than a lease referred to in paragraph (e) of sub section (2);
 - (c) carry on international banking business unless it is licensed to do so under the law in force in St. Lucia relating to international financial services;
 - (d) carry on a banking business with a resident whether alone or in conjunction with any other activity, unless it is licensed to do so under the Banking Act 1991;
 - (e) carry on an international insurance business unless it is licensed to do so under the law in force in St. Lucia relating to international financial services;
 - (f) carry on a shipping business with a resident whether alone or in conjunction with any other activity, unless it has complied with an enactment relating to the carrying on of shipping business;
 - (g) carry on the business of international financial services representation;

- (h) carry on international mutual funds business unless it is licensed to do so under the law in force in St. Lucia relating to international financial services; or
 - (i) carry on business in a manner detrimental to the public interest;
- (2) For the purposes of paragraph subsection (1) (a) an international business company shall not be treated as carrying on business with a person resident in Saint Lucia by reason only that
- (a) it makes or maintains deposits with a person carrying on banking business within Saint Lucia;
 - (b) it makes or maintains professional contact with solicitors, barristers, management consultants, accountants, book keepers, trust companies, administration companies, financial and investment advisers or other similar persons carrying on business within Saint Lucia;
 - (c) it prepares or maintains books and records within Saint Lucia;
 - (d) it holds within Saint Lucia meetings of its directors or members;
 - (e) it holds a lease of property in Saint Lucia for use as an office;
 - (f) it holds shares, debt obligations or other securities in a company incorporated under this Act or under the Companies Act;
 - (g) shares, debt obligations or other securities in the international business company are owned by any person resident or citizen of Saint Lucia or by a company incorporated under this Act or under the Companies Act;
 - (h) it owns a vessel registered in Saint Lucia in accordance with the Shipping Act, 1994;
 - (i) it employs a resident, or leases or purchases property (other than real property) in Saint Lucia in connection with its operations; or
 - (j) a ship or vessel owned by the international business company does business with a resident in the course of its operations.

Penalty

13. Subject to section 99, an international business company that wilfully contravenes section 12 is liable to be struck off the Register and to a penalty of one hundred dollars for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Powers

14. (1) Subject to any limitations in its memorandum or articles, this Act or any other law in force in Saint Lucia, notwithstanding any of the provisions of the Companies Act, an international business company has the power, irrespective of corporate benefit, to perform all acts and engage in all activities necessary or conducive to the conduct, promotion or attainment of the purposes of the international business company, including the power to do the following:
- (a) issue registered shares;
 - (b) issue the following:
 - (i) voting shares;
 - (ii) non voting shares;

- (iii) shares that may have more or less than one vote per share;
 - (iv) shares that may be voted only on certain matters or only upon the occurrence of certain events; or
 - (v) shares that may be voted only when held by persons who meet specified requirements;
 - (c) issue common shares, preferred shares, limited shares or redeemable shares;
 - (d) issue shares that entitle participation only in certain assets;
 - (e) issue options, warrants or rights or instruments of a similar nature to acquire any securities of the international business company;
 - (f) issue securities that, at the option of the holder thereof or of the international business company or upon the happening of a specified event, are convertible into, or exchangeable for, other securities in the international business company or any property owned or to be owned by the international business company;
 - (g) purchase, redeem or otherwise acquire and hold its own shares;
 - (h) guarantee a liability or obligation of any person and to secure any of its obligations by mortgage, pledge or other charge, of any of its assets for that purpose;
 - (i) protect the assets of the international business company for the benefit of the international business company, its creditors and its members, and at the discretion of the directors, for any person having a direct or indirect interest in the international business company;
 - (j) issue shares in any one or more currencies, so long as a mechanism for calculating exchange rates into dollars is provided in its articles; and
 - (k) subject to sections 12 and 38 maintain offices or branches or a presence in any form whatsoever, in any jurisdiction.
- (2) For the purposes of subsection (1), notwithstanding any other provision of this Act, or any other law in force in Saint Lucia or any rule of law to the contrary, the directors may cause the international business company to transfer any of its assets in trust to one or more trustees, or to any person and with respect to the transfer, the directors may provide that the international business company, its creditors, its members, or any person having a direct or indirect interest in the international business company, may be the beneficiaries, creditors, members, certificate holders, partners or holders of any other similar interest.

Validity of acts of company

15. (1) An act of an international business company or a transfer of property by or to an international business company is not invalid by reason only of the fact that the international business company was without capacity or power to perform the act, or to transfer or receive the property, but the lack of capacity or power may be pleaded in the following cases
- (a) in proceedings by a member against the international business company to prohibit the performance of any act or the transfer of property by or to the international business company; or
 - (b) in proceedings by the international business company whether acting directly or through a receiver, trustee, or other legal representative, or through members in a derivative action, against the incumbent or former directors of the international business company for loss or damage due to their unauthorised act.

- (2) For purposes of paragraph (a) of subsection (1), the Court may set aside and prohibit the performance of the contract if:
- (a) the unauthorised act or transfer sought to be set aside or prohibited is being, or is to be, performed or made under any contract to which the international business company is a party;
 - (b) all the parties to the contract are parties to the proceedings; and
 - (c) it appears fair and reasonable to set aside or prohibit the performance of the contract; and in so doing the Court may, in applying this subsection, award to the international business company or to the other parties to the contract, such compensation as may be reasonable, except that in determining the amount of compensation the court shall not take into account anticipated profits to be derived from the performance of the contract.

Personal liability

16. Subject to section 74, a member, director, officer, agent or liquidator is not liable for any debt, obligation or default of the international business, unless specifically provided in this Act, or in any other law in force in Saint Lucia and except in so far as he or she may be liable for his or her own conduct or acts under general principles of law applicable to the same.

PART III

Capital and Dividends

Consideration for shares

17. A share in an international business company shall not be issued unless the consideration in respect of the share is fully paid and when issued the share is for all purposes fully paid and non assessable save that a share issued for a promissory note or other written obligation for payment of a debt may be issued subject to forfeiture in the manner prescribed by the directors.

Kind of consideration for shares

18. Subject to limitations in the memorandum or articles, a share in an international business company shall be issued for money, services rendered, personal property (including other shares, debt obligations or other securities in the international business company), an interest in real property located outside of Saint Lucia, a promissory note or other binding obligation to contribute money or property, or any combination of the money or property.

Amount of consideration for shares

19. (1) Subject to any limitations in the memorandum or articles of an international business company, shares in the international business company may be issued for such amount as may be determined by the directors, except that in the case of shares with par value, the amount shall not be less than the par value, and in absence of fraud, the decision of the directors as to the value of the consideration received by the international business company in respect of the issue is conclusive, unless a question of law is involved.
- (2) A share issued by an international business company upon conversion of, or in exchange for another share or a debt obligation or other security in the international business company, shall be treated for all purposes as having been issued for money equal to the consideration received or deemed to have been received by the international business company in respect of the other share, debt obligation or security.

- (3) Subject to any limitations in the memorandum or articles, treasury shares may be disposed of by an international business company on such terms and conditions as the directors may determine.

Fractional shares

20. Subject to any limitations in its memorandum or articles, an international business company, may issue fractions of a share and unless and to the extent otherwise provided in the memorandum or articles, a fractional share has the corresponding fractional liabilities, preferences, privileges, qualifications, restrictions, rights and other attributes of a whole share of the same class or series of shares.

Authorised capital in several currencies

21. The authorised capital of an international business company may be stated in more than one currency in which case the par value of shares, if any, shall be expressed in the same currencies.

Capital and surplus accounts

22. (1) Upon the issue by an international business company of a share with par value, the consideration in respect of the share constitutes capital to the extent of the par value and the excess constitutes surplus.
 - (2) Subject to any limitations in the memorandum or articles, upon the issue by an international business company of a share without par value, the consideration in respect of the share constitutes capital to the extent designated by the directors and the excess constitutes surplus, except that the directors must designate as capital an amount of the consideration that is at least equal to the amount that the share is entitled to as a preference, if any, in the assets of the international business company upon liquidation of the international business company.
 - (3) Upon the disposition by an international business company of a treasury share, the consideration in respect of the share is added to surplus.

Dividend of shares

23. (1) A share issued as a dividend by an international business company shall be treated for all purposes as having been issued for money equal to the surplus that is transferred to capital upon the issue of the share.
 - (2) In the case of dividend of authorised but unissued shares with par value, an amount equal to the aggregate par value of the shares shall be transferred from surplus to capital at the time of distribution.
 - (3) In the case of a dividend of authorised but unissued shares without par value, the amount designated by the directors shall be transferred from surplus to capital at the time of the distribution, except that the directors must designate as capital an amount that is at least equal to the amount that the shares are entitled to as preference, if any, in the assets of the international business company upon liquidation of the international business company.
 - (4) A division of the issued and outstanding shares of a class, or series of shares, into a larger number of shares of the same class or series, having a proportionally smaller par value, does not constitute a dividend of shares.

Increase or reduction of authorised capital

24. (1) Subject to any limitations in its memorandum or articles, an international business company may, by a resolution of directors, amend its memorandum to increase or reduce its authorised capital, and in connection therewith, the international business company may:
- (a) increase or reduce the number of shares which it may issue;
 - (b) increase or reduce the par value of any of its shares; or
 - (c) effect any combination under paragraphs (a) and (b).
- (2) Where an international business company reduces its authorised capital under subsection (1), then, for purposes of computing the capital of the international business company, any capital that immediately before the reduction was represented by shares but immediately following the reduction is no longer represented by shares shall be deemed to be capital transferred from surplus to capital.
- (3) An international business company shall, in writing, inform the Registrar of any increase or decrease of its authorised capital and the Registrar shall record the same in the Register.

Division and combination

25. (1) An international business company may amend its memorandum:
- (a) to divide the shares, including issued shares, of a class or series into a larger number of shares of the same class or series; or
 - (b) to combine the shares, including issued shares, of a class or series into a smaller number of shares of the same class or series.
- (2) Where shares are divided or combined under subsection (1), the aggregate par value of the new shares must be equal to the aggregate par value of the original shares.

Nature of shares

26. Shares of an international business company are personal property and are not of the nature of real property.

Share certificates

27. (1) An international business company shall state in its articles whether or not share certificates shall be issued.
- (2) A share certificate issued by an international business company
- (a) shall be signed by two directors or two officers, or by one director and one officer of the international business company; or
 - (b) shall be under the common seal of the international business company, with the signature of any director or officer of the international business company; and the articles may provide for the signatures or common seal to be facsimiles.
- (3) A share certificate issued in accordance with subsection (2) specifying a share held by a member of an international business company is prima facie evidence of the title of the member to the share specified in the certificate.

- (4) Where the right to transfer any shares is restricted a notification to that effect shall be given in the share certificate issued in respect of these shares.

Share register

28. (1) An international business company shall keep at its registered office at all times a register to be known as a share register containing
- (a) the names and addresses of the persons who hold registered shares in the international business company;
 - (b) the number of each class and series of registered shares held by each person;
 - (c) the date on which the name of each person was entered in the share register;
 - (d) the date on which any person ceased to be a member; but an international business company may delete from its share register information relating to persons who are no longer members.
- (2) A share register may be in any such form as the directors may approve but if it is in magnetic, electronic or other data storage form, the international business company must be able to produce evidence in writing of its contents.
- (3) An international business company, shall keep at its registered office a copy of its share register commencing on the date of registration of the international business company.
- (4) A share register is prima facie evidence of any matter directed or authorised by this Act to be contained in that share register.
- (5) All shares or fractions of shares issued by an international business company shall be registered in accordance with this section.
- (6) An international business company that wilfully contravenes this section is liable to a penalty of five hundred dollars for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Rectification of share register

29. (1) If
- (a) information that is required to be entered in the share register under section 28 is entered inaccurately or is omitted; or
 - (b) there is unreasonable delay in entering the information in the share register; a person who is aggrieved by the omission, inaccuracy or delay, may apply to the Court for an order that the share register be rectified and the Court may either grant or refuse the application, with or without costs to be paid by the person making the application, or order the rectification of the share register, and may direct the international business company to pay all costs of the application and any damages sustained by the person making the application.
- (2) The Court may, in any proceedings under subsection (1), determine any question relating to the right of a person who is a party to the proceedings to have his or her name entered in or omitted from the share register, whether the question arises between
- (a) two or more members or alleged members; or

- (b) between members or alleged members and the international business company; and generally the Court may in the proceedings determine any question that may be necessary or expedient to be determined for the rectification of the share register.

Transfer of registered shares

- 30. (1) Subject to any limitations in its memorandum or articles, registered shares of an international business company may be transferred by a written instrument of transfer signed by the transferor and containing the name and address of the transferee.
- (2) In the absence of a written instrument of transfer mentioned in subsection (1), the directors may accept such evidence of a transfer of shares as they consider appropriate.
- (3) An international business company shall not be required to treat a transferee of a registered share in the name of the international business company as a member until the transferee's name has been entered in the share register.
- (4) Subject to any limitations in its memorandum or articles, an international business company shall, on the application of the transferor or transferee of a registered share in the international business company, enter in its share register the name of the transferee of the share.

Transfer of registered shares of deceased, incompetent or bankrupt

- 31. (1) A transfer of registered shares of a deceased, incompetent or bankrupt member made by the member's personal representative, guardian or trustee, or a transfer of registered shares owned by a person as a result of a transfer from a member by operation of law, is of the same validity as if the personal representative, guardian, trustee or transferee had been the registered holder of the shares at the time of the execution of the instrument of transfer.
- (2) For the purposes of subsection (1), what amounts to incompetence on the part of a person is a matter to be determined by the Court after having regard to all the relevant evidence and the circumstances of the case.

Seizure

- 32. (1) Where a Government authority, whether it is legally constituted or not, in any jurisdiction outside Saint Lucia
 - (a) by or in connection with a nationalisation, confiscation, coercion, duress, or similar action; or
 - (b) by or in connection with the imposition of any confiscatory tax, assessment or other governmental charge; takes or seizes any shares or other interest in an international business company, the international business company itself or a person holding shares, or any other interest in the international business company, including an interest as a creditor, may apply to the Court for an order that the international business company disregard the taking or seizure and continue to treat the person who would have held shares or any other interest in the international business company, but for the taking or seizure of the share or other interest, as continuing to hold the shares or other interest.
- (2) Without affecting subsection (1), where a person whose shares or other interests have been taken or seized as referred to in subsection (1) is other than a natural person, the person making the application under subsection (1), or the international business company itself, may apply to the court for an additional Order for the international business company to treat the persons believed by the international business company to have held the direct or indirect beneficial interests in the shares or other interests in the company as the holder of those shares or other interests.

(3) The Court may, upon application made to it under subsection (1) or (2)

- (a) grant such relief as it considers equitable and proper; and
- (b) order that any shares of or other interests in the international business company vest in such trustees as the Court may appoint upon such trusts and for such purposes as the Court determines.

Acquisition of own shares

33. (1) Subject to any limitations in its memorandum or articles, an international business company may purchase, redeem or otherwise acquire and hold its own shares but only out of surplus or in exchange for newly issued shares of equal value.

(2) A purchase, redemption or other acquisition permitted under subsection (1) shall not be made unless the directors determine that immediately after the purchase, redemption or other acquisition

- (a) the international business company will be able to satisfy its liabilities as they become due in the ordinary course of its business; and
- (b) the realisable value of the assets of the international business company will not be less than the sum of its total liabilities other than deferred taxes, as shown in the books of account, and its capital; and, in the absence of fraud, the decision of the directors as to the realisable value of the assets of the international business company is conclusive, unless a question of law is involved.

(3) A determination by the directors under subsection (2) is not required where shares are purchased, redeemed or otherwise acquired

- (a) pursuant to a right of a member to have his or her shares redeemed or to have his or her shares exchanged for money or other property of the international business company;
- (b) by virtue of a transfer of capital pursuant to paragraph (b) (iii) of subsection 35 (1);
- (c) by virtue of the provisions of section 83; or
- (d) pursuant to an Order of the Court.

(4) Subject to any limitations in the memorandum or articles, shares that an international business company purchases, redeems or otherwise acquires may be cancelled or held as treasury shares unless the shares are purchased, redeemed or otherwise acquired by virtue of a reduction in capital in a manner that would be a contravention of the requirements of section 35 (3), in which case they shall be cancelled but they shall be available for reissue; and upon the cancellation of a share, the amount included as capital of the company with respect to that share shall be deducted from the capital of the international business company.

Treasury shares disabled

34. Where shares in an international business company

- (a) are held by the international business company as treasury shares; or
- (b) are held by another international business company of which the first international business company holds, directly or indirectly, shares having more than fifty percent of the votes in the election of directors of the other international business company, the shares of the first international business company are not entitled to vote or to have dividends paid thereon and shall not be treated as outstanding for any purpose under this Act except for purposes of determining the capital of the first international business company.

Increase or reduction of capital

35. (1) Subject to any limitations in the memorandum or articles and subject to subsections (3) and (4), the capital of an international business company may, by a resolution of directors, be
- (a) increased by transferring an amount out of the surplus of the international business company to capital; or
 - (b) reduced by
 - (i) returning to members any amount received by the international business company upon the issue of any of its shares, the amount being surplus to the requirements of the international business company;
 - (ii) cancelling any capital that is lost or not represented by assets having a realisable value; or
 - (iii) transferring capital to surplus for the purpose of purchasing, redeeming or otherwise acquiring shares that the directors have resolved to purchase, redeem or otherwise acquire.
- (2) Where an international business company reduces its capital under subsection (1), the international business company may
- (a) return to members any amount received by the international business company upon the issue of any of its shares;
 - (b) purchase, redeem or otherwise acquire its shares out of capital; or
 - (c) cancel any capital that is lost or not represented by assets having a realisable value.
- (3) A reduction of capital shall not be effected if it reduces the capital of the international business company to an amount that is less than the sum of
- (a) the aggregate par value of
 - (i) all outstanding shares with par value; and
 - (ii) all shares with par value held by the international business company as treasury shares; and
 - (b) the aggregate of the amounts designated as capital of
 - (i) all outstanding shares without par value; and
 - (ii) all shares without par value held by the international business company as treasury shares that are entitled to a preference, if any, in the assets of the international business company upon liquidation of the company.
- (4) A reduction of capital shall not be effected under subsection (1) unless the directors determine that immediately after the reduction
- (a) the international business company will be able to satisfy its liabilities as they become due in the ordinary course of business; and

- (b) the realisable value of the assets of the international business company will not be less than its total liabilities, other than deferred taxes, as shown in the books of account, and its remaining capital; and, in the absence of fraud, the decision of the directors as to the realisable value of the assets of the international business company is conclusive, unless a question of law is involved.

Dividends

36. (1) Subject to any limitations in its memorandum or articles, an international business company may, by a resolution of its directors, declare and pay dividends in money, shares or other property.

(2) A dividend shall only be declared and paid out of surplus.

(3) A dividend shall not be declared and paid unless the directors determine that immediately after the payment of the dividend

- (a) the international business company will be able to satisfy its liabilities as they become due in the ordinary course of its business; and
- (b) the realisable value of the assets of the international business company will not be less than the sum of its total liabilities,

other than deferred taxes, as shown in the books of account, and its capital; and in the absence of fraud, the decision of the directors as to the realisable value of the assets of the international business company is conclusive, unless a question of law is involved.

Appreciation of assets

37. Subject to any limitations in its memorandum or articles, an international business company may, by a resolution of its directors, include in the computation of surplus for any purpose under this Act the net unrealised appreciation of the assets of the international business company, and, in the absence of fraud, the decision of the directors as to the value of the assets is conclusive, unless a question of law is involved.

PART IV

Registered Office and Registered Agent

Registered office

38. An international business company shall at all times have a registered agent and a registered office in saint Lucia.

Registered agent

39. The registered agent of an international business company shall be licensed pursuant to the Registered Agent and Trustee Licensing Act 1999, and shall be the registered office of the international business company.

Resignation of registered agent

40. The Registrar shall not accept the resignation of the registered agent of an international business company until such time as another registered agent is appointed to replace the first registered agent.

Change of registered office or registered agent

41. (1) An international business company may, by a resolution of directors, amend its memorandum or articles to change the place of its registered office and to change its registered agent.
- (2) A change of registered agent and registered office shall be effective upon the proper filing with the Registrar of an amendment to the international business company's memorandum or articles.

PART V

Directors, Officers, Agents and Liquidators

Management by directors

42. (1) Subject to any limitations in its memorandum or articles, the business and affairs of an international business company shall be managed by a board of directors that consists of one or more persons who may be natural persons or companies.
- (2) An international business company shall keep at its registered office at all times, a register to be known as the directors register containing
- (a) the names and addresses of persons who are directors of the international business company;
 - (b) the date on which each person was appointed as a director; and
 - (c) the date on which any person ceased to be a director; but an international business company may delete from its director's register information relating to persons who are no longer directors.

Election, term and removal of directors

43. (1) The first directors of an international business company shall be elected by the subscribers to the memorandum and thereafter, the directors shall be elected by the members for such term as the members may determine, and where permitted by the memorandum or articles of an international business company, the directors may also elect directors for such term as the directors may determine.
- (2) A director holds office until his or her successor takes office or until his death, resignation or removal.
- (3) Subject to any limitations in the memorandum or articles:
- (a) A director may be removed from office by a resolution of members or by a resolution of directors; and
 - (b) a director may resign his or her office by giving written notice of his or her resignation to the company and the resignation has effect from the date the notice is received by the international business company or from such later date as may be specified in the notice.
- (4) Subject to any limitations in the memorandum or articles, a vacancy in the board of directors may be filled by a resolution of members or of a majority of the remaining directors.

Number of directors

44. The number of directors shall be fixed by the articles and, subject to any limitations in the memorandum or articles, the articles may be amended to change the number of directors.

Powers of directors

45. The directors have all the powers of an international business company that are not reserved to the members under this Act or in the memorandum or articles.

Emoluments of directors

46. Subject to any limitations in the memorandum or articles, the directors may, by a resolution of directors, fix the emoluments of directors in respect of services to be rendered in any capacity to the international business company.

Committees of directors

47. (1) The directors may, by a resolution of directors, designate one or more committees, each consisting of one or more directors.
- (2) Subject to any limitations in the memorandum or articles, each committee has such powers and authority of the directors, including the power and authority to affix the common seal of the international business company, as are set forth in the resolution of directors establishing the committee, except that no committee has any power or authority with respect to the matters requiring a resolution of directors under sections 43 and 53.

Meetings of directors

48. (1) Subject to any limitations in the memorandum or articles, the directors of an international business company may meet at such times and in such manner and places within or outside Saint Lucia, as the directors may determine to be necessary or desirable.
- (2) A director shall be deemed to be present at a meeting of directors if
- (a) he or she participates by telephone or other electronic means; and
 - (b) all directors participating in the meeting are able to hear each other.

Notice of meetings of directors

49. (1) Subject to a requirement in the memorandum or articles to give longer notice, a director shall be given not less than three days notice of meetings of directors.
- (2) Notwithstanding subsection (1), subject to any limitations in the memorandum or articles, a meeting of directors of an international business company held in contravention of that subsection is valid if all of the directors, or such majority thereof as may be specified in the memorandum or articles entitled to vote at the meeting, have waived the notice of the meeting, and for this purpose, the presence of a director at the meeting shall be deemed to constitute a waiver on his or her part.
- (3) The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.

Quorum for meetings of directors

50. The quorum for a meeting of directors is that fixed by the memorandum or articles, but where no quorum is so fixed, a meeting of directors is properly constituted for all purposes if at the commencement of the meeting one half of the total number of directors are present in person or by alternate.

Consents of directors

51. Subject to any limitations in the memorandum or articles, an action that may be taken by the directors or a committee of directors at a meeting may also be taken by a resolution of directors or a committee of directors consented to in writing or by telex, telegram, cable or other electronic communication, without the need for any notice.

Alternates for directors

52. (1) Subject to any limitations in the memorandum or articles, a director may, by a written instrument, appoint an alternate who need not be a director.
- (2) An alternate for a director appointed under subsection (1) is entitled to attend meetings in the absence of the director who appointed him or her and to vote or consent in the place of the director.

Officers and agents

53. (1) The directors may, by a resolution of directors, appoint any person, including a person who is a director, to be an officer or agent of the international business company.
- (2) Subject to any limitations in the memorandum or articles, each officer or agent has such powers and authority of the directors, including the power and authority to affix the common seal of the international business company, as are set forth in the memorandum or articles or in the resolution of directors appointing the officer or agent, except that no officer or agent has any power or authority with respect to the matters requiring a resolution of directors under this Act.
- (3) The directors may remove an officer or agent, appointed under subsection (1) and may revoke or vary a power conferred on the officer or agent under subsection (2).

Standard of care

54. (1) A director, officer, agent or liquidator in performing his or her functions, shall act honestly and in good faith with a view to the best interests of the international business company and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.
- (2) A provision in the memorandum or articles of an international business company or in any agreement entered into by the international business company shall not relieve its director, officer, agent or liquidator from the duty to act in accordance with the memorandum or articles or from any personal liability arising from his or her management of the business and affairs of the international business company.

Reliance on records and reports

55. A director, officer, agent or liquidator, in performing his or her functions, is entitled to rely upon the share register kept under section 28, the books of accounts and records and the minutes and copies of consents to resolutions kept under section 66 and any report made to the international business company by any other director, officer, agent or liquidator or by any person selected by the international business company to make the report.

Conflicts of interest

56. (1) Subject to any limitations in the memorandum or articles, if the requirements of subsection (2) or (3) are satisfied, an agreement or transaction between :
- (a) the international business company; and
 - (b) one or more of its directors or liquidators, or any person in which a director or liquidator has a financial interest or to whom any director or liquidator is related, including as a director or liquidator of that other person, shall not be void or voidable for this reason only or by reason only that the director or liquidator is present at the meeting of directors or liquidators, or at the meeting of the committee of directors or liquidators, that approves the agreement or transaction or that the vote or consent of the director or liquidator is counted for that purpose.
- (2) An agreement or transaction referred to in subsection (1) is valid if
- (a) (i) the material facts of the interest of each director or liquidator in the agreement or transaction and his or her interest in or relationship to any other party to the agreement or transaction are disclosed in good faith or are known by the other directors or liquidators; and
 - (ii) the agreement or transaction is approved or ratified by a resolution of directors or liquidators that has been approved without counting the vote or consent of any interested director or liquidator; or by the unanimous vote or consent of all disinterested directors or liquidators if the votes or consents of all disinterested directors or liquidators is insufficient to approve a resolution of directors or liquidators; or
 - (b) the material facts of the interest of each director or liquidator in the agreement or transaction and his or her interest in or relationship to any other party to the agreement or transaction are disclosed in good faith or are known by the members entitled to vote at a meeting of members, and the agreement or transaction is approved or ratified by a resolution of members.
- (3) Subject to any limitations in the memorandum or articles, a director or liquidator who has an interest in any particular business to be considered at a meeting of directors, liquidators or members may be counted for purposes of determining whether the meeting is duly constituted in accordance with section 50 or otherwise.

Indemnification

57. (1) Subject to subsection (2) and any limitations in its memorandum or articles, an international business company may indemnify against all expenses, including legal fees, and against all judgements, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative, or investigative proceedings any person who -
- (a) is or was a party or is threatened to be made a party to any threatened, pending or completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was its director, officer or liquidator;
 - (b) is or was, at the request of the international business company, serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise.
- (2) Subsection (1) applies only to a person referred to in that subsection if the person acted honestly and in good faith with a view to the best interests of the international business company and, in the case of criminal proceedings, the person has no reasonable cause to believe that his or her conduct was unlawful.

- (3) The decision of the directors of an international business company as to whether the person acted honestly and in good faith and with a view to the best interests of the international business company and as to whether the person had no reasonable cause to believe that his or her conduct was unlawful is, in the absence of fraud, sufficient for the purposes of this section, unless a question of law is involved.
- (4) The termination of any proceedings by any judgement, order, settlement, conviction or the entering of a nolle prosequi does not, by itself, create a presumption that the person did not act honestly and in good faith, and with a view to the best interests of the international business company or that the person had reasonable cause to believe that his or her conduct was unlawful
- (5) If a person referred to in subsection (1) has been successful in defense of any proceedings referred to in subsection (1), the person is entitled to be indemnified against all expenses, including legal fees, and against all judgements, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.

Insurance

58. An international business company may purchase and maintain insurance in relation to any person who is or was its director, officer or liquidator, or who at the request of the international business company is or was serving as a director, an officer or a liquidator of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the international business company has or would have had the power to indemnify the person against the liability under subsection (1) of section 57.

PART VI

Protection of Members and Creditors

Meetings of members

59. (1) Subject to any limitations in the memorandum or articles, the directors of an international business company may convene meetings of the members of the international business company at such times and in such manner and places within or outside Saint Lucia as the directors consider necessary or desirable.
- (2) Subject to a provision in its memorandum or articles for a lesser percentage, upon the written request of members holding more than fifty percent of the votes of the outstanding voting shares in the international business company, the directors shall convene a meeting of members.
- (3) Subject to any limitations in the memorandum or articles, a member shall be deemed to be present at a meeting of members if -
- (a) the member participates by telephone or other electronic means; and
 - (b) all members participating in the meeting are able to hear each other.
- (4) A member may be represented at a meeting of members by a proxy who may speak and vote on behalf of the member.
- (5) The following apply in respect of a joint ownership of shares
- (a) if two or more persons hold shares jointly each of them may be present in person or by proxy at a meeting of members and may speak as a member;

- (b) if only one of them is present in person or by proxy he or she may vote on behalf of all of them;
or
- (c) if two or more are present in person or by proxy, they must vote as one.

Notice of meetings of members

60. (1) Subject to a requirement in the memorandum or articles to give longer notice, the directors shall give not less than seven days notice of meetings of members to those persons whose names on the date the notice is given appear as members in the share register referred to in section 28 and are entitled to vote at the meeting.
- (2) Notwithstanding subsection (1), and subject to any limitations in the memorandum or articles, a meeting of members held in contravention of the requirement to give notice is valid if members holding a ninety percent majority, or such lesser majority as may be specified in the memorandum or articles, of:
- (a) the total number of shares entitled to vote on all the matters to be considered at the meeting;
or
 - (b) the votes of each class or series of shares where members are entitled to vote thereon as a class or series together with an absolute majority of the remaining votes; have waived notice of the meeting, and, for this purpose, the presence of a member at the meeting shall be deemed to constitute a waiver on his or her part.
- (3) The inadvertent failure of the directors to give notice of a meeting to a member, or the fact that a member has not received notice, does not invalidate a meeting.

Quorum for meetings of members

61. The quorum for a meeting of members for purposes of a resolution of members, is that fixed by the memorandum or articles, but, where no quorum is so fixed, a meeting of members is properly constituted for all purposes if at the commencement of the meeting there are present in person or by proxy one half of the votes of the shares of each class or series thereon and the same proportion of the votes of the remaining shares entitled to vote thereon.

Voting by members

62. (1) Except as otherwise provided in the memorandum or articles, all shares vote as one class and each whole share has one vote.
- (2) The directors may fix the date notice is given of a meeting as the record date for determining those shares that are entitled to vote at the meeting.

Consents of members

63. Subject to any limitations in the memorandum or articles, an action that may be taken by members at a meeting of members may also be taken by a resolution of members consented to in writing or by telex, telegram, cable or other electronic communication, without the need for any notice.

Service of notice on members

64. Any notice, information or written statement required under this Act to be given by an international business company to members must be served -
- (a) in the manner prescribed in the memorandum or articles; or
 - (b) in the absence of a provision in the memorandum or articles, by personal service, by mail addressed to each member at the address shown in the share register, or by e mail or facsimile sent to each member at the facsimile, telephone number, or e mail address shown in the share register.

Service of process

65. (1) A summon, notice, order, document, process, information or written statement may be served on an international business company by leaving it, or by sending it by registered mail addressed to the international business company, at its registered office.
- (2) Service of any summons, notice, order, document, process, information or written statement on an international business company may be proved by showing that the summons, notice, order, document, process, information or written statement
- (a) was mailed in such time as to admit to its being delivered in the normal course of delivery, within the period prescribed for service; and
 - (b) was correctly addressed and the postage was prepaid.

Books, records and common seal

66. (1) An international business company shall keep such accounts and records as the directors consider necessary or desirable in order to reflect the financial position of the international business company.
- (2) An international business company shall keep
- (a) minutes of all meetings of
 - (i) directors;
 - (ii) members;
 - (iii) committees of directors;
 - (iv) committees of officers; and
 - (v) committees of members; and
 - (b) copies of all resolutions consented to by
 - (i) directors;
 - (ii) members;
 - (iii) committees of directors;
 - (iv) committees of officers; and
 - (v) committees of members.

- (3) The books, records and minutes required by this section shall be kept at the registered office of the company.
- (4) An international business company shall have a common seal and an imprint thereof shall be kept at the registered office of the international business company.
- (5) An international business company that wilfully contravenes this section is liable to a penalty of fifty dollars for each day or part thereof during which the contravention continues, and a director, who knowingly permits the contravention is liable to a like penalty.

Inspection of books and records

67. (1) Any member of a company may, in person or by attorney and in furtherance of a proper purpose, request in writing specifying the purpose to inspect during normal business hours the share register of the international business company or the books, records, minutes and consents kept by the international business company and to make copies or extracts therefrom.
- (2) For purposes of subsection (1), a proper purpose is a purpose reasonably related to the member's interest as a member.
 - (3) If a request under subsection (1) is submitted by an attorney for a member, the request must be accompanied by a power of attorney authorising the attorney to act for the member.
 - (4) If the international business company, by a resolution of directors, determines that it is not in the best interest of the company or of any other member of the international business company to comply with a request under subsection (1), the international business company may refuse the request.
 - (5) Upon refusal by the international business company of a request under subsection (1), the member may, before the expiration of a period of ninety days of the member receiving notice of the refusal, apply to the Court for an order to allow the inspection.

Contracts generally

68. (1) Contracts may be entered into on behalf of an international business company as follows
- (a) a contract that, if entered into between parties, is required by law to be in writing and under seal, may be entered into by or on behalf of the international business company in writing under the common seal of the international business company, and may, in the same manner, be varied or discharged;
 - (b) a contract that, if entered into between parties, is required by law to be in writing and signed by the parties, may be entered into by or on behalf of the international business company in writing and signed by a person acting under the express or implied authority of the international business company, and may, in the same manner, be varied or discharged; and
 - (c) a contract that, if entered into between parties, is valid although entered into orally, and not reduced to writing, may be entered into orally by or on behalf of the international business company by a person acting under the express or implied authority of the international business company, and may, in the same manner, be varied or discharged.
- (2) A contract entered into in accordance with this section is valid and is binding on the international business company and its successors and all other parties to the contract.

- (3) Without affecting paragraph (a) of subsection (1), a contract, agreement or other instrument executed by or on behalf of an international business company by a director or an authorised officer or agent of the international business company is not invalid by reason only of the fact that the common seal of the company is not affixed to the contract, agreement or instrument.

Contracts before incorporation

69. (1) A person who enters into a written contract in the name of or on behalf of an international business company before the international business company comes into existence, is personally bound by the contract and is entitled to the benefits of the contract, except where
- (a) the contract specifically provides otherwise; or
 - (b) subject to any provisions of the contract to the contrary, the international business company adopts the contract under subsection (2).
- (2) Within a reasonable time after an international business company comes into existence, the international business company may, by any action or conduct signifying its intention to be bound thereby, adopt a written contract entered into in its name or on its behalf before it came into existence.
- (3) When an international business company adopts a contract under subsection (2)
- (a) the international business company is bound by, and entitled to the benefits of the contract as if the international business company had been in existence at the date of the contract and had been a party to it; and
 - (b) subject to any provisions of the contract to the contrary, the person who acted in the name of or on behalf of the international business company ceases to be bound by or entitled to the benefits of the contract.

Contracts for payments or transfer

70. (1) If any contract, agreement, deed or other instrument relating to the payment of a claim or the delivering or transferring of property, whether real or personal, wherever situated, is entered into by an international business company and the contract, agreement, deed or other instrument designates a payee or beneficiary to receive the payment or property
- (a) upon the death of the person making the designation;
 - (b) upon the death of another person; or
 - (c) upon the happening of any other event specified in the contract, agreement, deed or other instrument; then, any such payment, delivery or transfer, the rights of any payee or beneficiary, and the ownership of any property received, are not impaired or defeated by any law or rule of law governing the transfer of property by will, gift or intestacy.
- (2) Subsection (1) applies to a contract, agreement, deed or other instrument referred to in that subsection notwithstanding anything to the contrary in the law of any other jurisdiction, including the law of any jurisdiction where the person making the designation referred to in subsection (1) resides or is domiciled, and notwithstanding that
- (a) the designation is revocable or subject to change; or

- (b) the claim or property
 - (i) is not yet payable or transferable at the time the designation is made; or
 - (ii) is subject to withdrawal, collection or assignment by the person making the designation.

Notes and bills of exchange

71. A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed by an international business company if it is made, accepted or endorsed in the name of the international business company
- (a) by or on behalf of or on account of the international business company; or
 - (b) by a person acting under the express or implied authority of the international business company; and if so endorsed, the person signing the endorsement is not liable thereon.

Power of attorney

72. (1) An international business company may, by an instrument in writing, whether or not under its common seal, authorise a person, either generally or in respect of any specified matters, as its agent to act on behalf of the international business company and to execute contracts, agreements, deeds and other instruments on behalf of the international business company.
- (2) A contract, agreement, deed or other instrument executed on behalf of an international business company by an agent appointed under subsection (1), whether or not under the agent's seal, is binding on the international business company and has the same effect as if it were under the common seal of the international business company.

Authentication or attestation

73. (1) A document requiring authentication or attestation by an international business company may be signed by a director, an authorised officer or agent of the international business company, and need not be under its common seal.
- (2) If the signature of any director, officer or agent authenticating or attesting any document is verified in writing by the registered agent of a company, the company is bound by the document.

Company without members

74. Where there is no member of an international business company, a person doing business in the name of or on behalf of the international business company is personally liable for the payment of all debts of the international business company contracted during the time and the person may be sued for the debts without joinder in the proceedings of any other person.

PART VII

Merger, Consolidation, Sale of Assets, Forced redemptions, Arrangements and Dissenters

Interpretation for purposes of Part VII

75. In this Part

"consolidated company" means a new company that results from the consolidation of two or more constituent companies;

"consolidation" means the uniting of two or more constituent companies into a new company;

"constituent company" means an existing company that is participating in a merger or consolidation with one or more other existing companies;

"merger" means the combining of two or more constituent companies into one of the constituent companies;

"parent company" means a company that owns at least ninety percent of the outstanding shares of each class and series of shares in another company;

"subsidiary company" means a company at least ninety per cent of whose outstanding shares of each class and series of shares are owned by another company;

"surviving company" means the constituent company into which one or more other constituent companies are merged.

Merger or Consolidation

76. (1) Two or more international business companies may merge or consolidate in accordance with subsections (3) to (5).
- (2) One or more international business companies may merge or consolidate with one or more companies incorporated under the Companies Act in accordance with subsections (3) to (5) to form a surviving company or a consolidated company which is an international business company.
- (3) The directors of each constituent company that proposes to participate in a merger or consolidation must approve a written plan of merger or consolidation containing, as the case requires
- (a) the name of each constituent company and the name of the surviving company or the consolidated company;
 - (b) with respect to each constituent company
 - (i) the designation and number of outstanding shares of each class and series of shares, specifying each such class and series entitled to vote on the merger or consolidation, and
 - (ii) a specification of each such class and series, if any, entitled to vote as a class or series;
 - (c) the terms and conditions of the proposed merger or consolidation, including the manner and basis of converting shares in each constituent company into shares, debt obligations or other securities in the surviving company or consolidated company, or money or other property, or a combination thereof;

- (d) in respect of a merger, a statement of any amendment to the memorandum or articles of the surviving company to be brought about by the merger; and
 - (e) in respect of a consolidation, everything required to be included in the memorandum and articles for an international business company, except statements as to facts not available at the time the plan of consolidation is approved by the directors.
- (4) Some or all shares of the same class or series of shares in each constituent company may be converted into a particular or mixed kind of property and other shares of the class or series, or all shares of other classes or series of shares, may be converted into other property.
- (5) The following apply in respect of a merger or consolidation under this section
- (a) the plan of merger or consolidation must be authorised by a resolution of members, and the outstanding shares of a class or series of shares are entitled to vote on the merger or consolidation as a class or series, if the memorandum or articles so provide or if the plan of merger or consolidation contains any provision that, if contained in a proposed amendment to the memorandum or articles, would entitle the class or series to vote on the proposed amendment as a class or series;
 - (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of merger or consolidation, must be given to each member, whether or not entitled to vote on the merger or consolidation;
 - (c) if it is proposed to obtain the written consent of members, a copy of the plan of merger or consolidation must be given to each member, whether or not entitled to consent to the plan of merger or consolidation;
 - (d) after approval of the plan or merger or consolidation by the directors and members of each constituent company, articles of merger or consolidation must be executed by each consolidated company and must contain
 - (i) the plan of merger or consolidation and, in the case of a consolidation, any statement required to be included in the memorandum and articles for an international business company;
 - (ii) the date on which the memorandum and articles of each constituent company were registered by the Registrar;
 - (iii) the manner in which the merger or consolidation was authorised with respect to each constituent company;
 - (e) the articles of merger or consolidation must be submitted to the Registrar who must retain and register them in the Register; and
 - (f) upon the registration of the articles of merger or consolidation, the Registrar shall issue a certificate under his or her hand and seal certifying that the articles of merger or consolidation have been registered.
- (6) A certificate of merger or consolidation issued by the Registrar is prima facie evidence of compliance with all requirements of this Act in respect of the merger or consolidation.

Merger with subsidiary

77. (1) A parent company that is an international business company may merge with one or more subsidiary companies that is an international business company or company incorporated under the Companies Act, without the authorisation of the members of any company, in accordance with subsections (2) to (6), if the surviving company is an international business company.
- (2) The directors of the parent company merging under subsection (1) shall approve a written plan of merger containing:
- (a) the name of each constituent company and the name of the surviving company;
 - (b) in respect of each constituent company
 - (i) the designation and number of outstanding shares of each class and series of shares; and
 - (ii) the number of shares of each class and series of shares in each subsidiary company owned by the parent company; and
 - (c) the terms and conditions of the proposed merger, including the manner and basis of converting shares in each company to be merged into shares, debt obligations or other securities in the surviving company, or money or other property, or a combination thereof.
- (3) Some or all shares of the same class or series of shares in each company to be merged under subsection (1) may be converted into property of a particular or mixed kind and other shares of the class or series, or all shares of other classes or series of shares, may be converted into other property; but, if the parent company is not the surviving company, shares of each class and series of shares in the parent company may only be converted into similar shares of the surviving company.
- (4) A copy of the plan of merger or an outline thereof must be given to every member of each subsidiary company to be merged, under subsection (1) unless the giving of that copy or outline has been waived by that member.
- (5) Where a merger is done under subsection (1) articles of merger shall be executed by the parent company and shall contain
- (a) the plan of merger;
 - (b) the date on which the memorandum and articles of each constituent company were registered by the Registrar; and
 - (c) if the parent company does not own all shares in each subsidiary company to be merged, the date on which a copy of the plan of merger or an outline thereof was made available to the members of each subsidiary company.
- (6) The articles of merger referred to in subsection (5) shall be submitted to the Registrar who must retain and register them in the Register.
- (7) Upon the registration of the articles of merger, the Registrar shall issue a certificate under his or her hand and seal certifying that the articles of merger have been registered.
- (8) A certificate of merger issued by the Registrar is prima facie evidence of compliance with all the requirements of this Act in respect of the merger.

Effect of merger or consolidation

78. (1) A merger or consolidation is effective on the date the articles of merger or consolidation are registered by the Registrar or on a date subsequent thereto, not exceeding thirty days, as is stated in the articles of merger or consolidation.
- (2) As soon as a merger or consolidation becomes effective
- (a) the surviving company or the consolidated company in so far as is consistent with its memorandum and articles, as amended or established by the articles of merger or consolidation, has all rights, privileges, immunities, powers, and purposes of each of the constituent companies;
 - (b) in the case of a merger, the memorandum and articles of the surviving company are automatically amended to the extent, if any, that changes in its memorandum and articles are contained in the articles of merger;
 - (c) in the case of a consolidation, the statements contained in the articles of consolidation that are required or authorised to be contained in the memorandum and articles of an international business company, are the memorandum and articles of the consolidated company;
 - (d) property of every description, including choses in action and the business of each of the constituent companies, immediately vests in the surviving company or the consolidated company; and
 - (e) the surviving company or the consolidated company is liable for all claims, debt, liabilities and obligations of each of the constituent companies.
- (3) Where a merger or consolidation occurs
- (a) a conviction, judgement, order, claim, debt, liability or obligation due or to become due, or a cause existing, against a constituent company or against any member, director, officer or agent thereof, is not released or impaired by the merger or consolidation; or
 - (b) a proceedings, whether civil or criminal, pending at the time of a merger or consolidation by or against a constituent company, or against any member, director, officer or agent thereof, is not discontinued by the merger or consolidation, but
 - (i) the proceedings may be enforced, prosecuted, settled or compromised by or against the surviving company, or the consolidated company, or against the member, director, officer or agent thereof; or
 - (ii) the surviving company or the consolidated company may be substituted in the proceedings for a constituent company.
- (4) The Registrar shall strike off the Register:
- (a) a constituent company that is not the surviving company in a merger; or
 - (b) a constituent company that participates in a consolidation.

Merger or consolidation with foreign company

79. (1) One or more international business companies may merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside Saint Lucia in accordance with subsections (2) to (4), including where one of the constituent companies is a parent company and the other constituent companies are subsidiary companies, if the merger or consolidation is permitted by the laws of the jurisdictions in which the companies incorporated outside Saint Lucia are incorporated.
- (2) The following apply in respect of a merger or consolidation under this section
- (a) an international business company shall comply with the provisions of this Act with respect to the merger or consolidation, of such companies and companies incorporated under the laws of a jurisdiction outside Saint Lucia and shall comply with the laws of that jurisdiction; and
 - (b) if the surviving company or the consolidated company is to be incorporated under the laws of a jurisdiction outside Saint Lucia, it must submit to the Registrar
 - (i) an agreement that a service of process may be effected on it in Saint Lucia in respect of proceedings for the enforcement of any claim, debt, liability or obligation of a constituent company that is an international business company or in respect of proceedings for the enforcement of the rights of a dissenting member of a constituent company that is an international business company against the surviving company or the consolidated company;
 - (ii) an irrevocable appointment of the Registrar as its agent to accept service of process in proceedings referred to in sub paragraph (i);
 - (iii) an agreement that it will promptly pay to the dissenting members of a constituent company that is an international business company, the amount if any, to which they are entitled under this Act with respect to the rights of dissenting members; and
 - (iv) a certificate of merger or consolidation issued by the appropriate authority of the foreign jurisdiction where it is incorporated; or, if no certificate of merger is issued by the appropriate authority of the foreign jurisdiction, then, such evidence of the merger or consolidation as the Registrar considers acceptable.
- (3) The effect under this section of a merger or consolidation, is the same as in the case of a merger or consolidation under section 76, if the surviving company or the consolidated company is incorporated under this Act, but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside Saint Lucia, the effect of the merger or consolidation is the same as in the case of a merger or consolidation under section 76 except in so far as the laws of the other jurisdiction otherwise provide.
- (4) If the surviving company or the consolidated company is incorporated under this Act, the merger or consolidation is effective on the date the articles of merger or consolidation are registered by the Registrar, or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of merger or consolidation; but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside Saint Lucia, the merger or consolidation is effective as provided by the laws of that other jurisdiction.

Disposition of assets

80. Any sale, transfer, lease, exchange or other disposition of more than fifty percent of the assets of an international business company, other than a transfer pursuant to the power described in subsection (2) of section 14, if not made in the usual or regular course of business carried on by the international business company, shall be made as follows
- (a) the proposed sale, transfer, lease, exchange or other disposition must be approved by the directors;
 - (b) upon approval of the proposed sale, transfer, lease, exchange or other disposition, the directors must submit the proposal to the members for it to be authorised by a resolution of members;
 - (c) if a meeting of members is to be held, notice of the meeting, accompanied by an outline of the proposal, must be given to each member, whether or not the member is entitled to vote on the sale, transfer, lease, exchange or other disposition; and
 - (d) if it is proposed to obtain the written consent of members, an outline of the proposal must be given to each member, whether or not the member is entitled to consent to the sale, transfer, lease, exchange or other disposition.

Redemption of minority shares

81. (1) Subject to any limitations in the memorandum or articles
- (a) members holding ninety percent of the votes of the outstanding shares entitled to vote; and
 - (b) members holding ninety percent of the votes of the outstanding shares of each class and series of shares entitled to vote as a class or series; on merger or consolidation under section 76, may give a written instruction to an international business company directing the company to redeem the shares held by the remaining members.
- (2) Upon receipt of the written instruction referred to in subsection (1), the international business company shall redeem the shares specified in the written instruction irrespective of whether or not the shares are by their terms redeemable.
- (3) The international business company must give written notice to each member whose shares are to be redeemed stating the redemption price and the manner in which the redemption is to be effected.

Arrangements

82. (1) In this section, "arrangement" means
- (a) an amendment to the memorandum or articles;
 - (b) a reorganisation or reconstruction of an international business company;
 - (c) a merger or consolidation of one or more international business companies with one or more other companies, if the surviving company or the consolidated company is a company incorporated under this Act;
 - (d) a separation of two or more businesses carried on by an international business company;

- (e) any sale, transfer, exchange or other disposition of any part of the property, assets or business of an international business company to any person in exchange for shares, debt obligations or other securities of that other person or money or other property, or a combination thereof;
 - (f) any sale, transfer, exchange or other disposition of shares, debt obligations or other securities in an international business company held by the holders thereof for shares, debt obligations or other securities in the international business company or money or other property, or a combination thereof;
 - (g) a winding up and dissolution of an international business company; or
 - (h) any combination of any of the things specified in paragraphs (a) to (g).
- (2) Where it is not practicable for an international business company that is solvent to effect an arrangement under any provisions of this Act, the international business company may apply to the Court for an approval of a plan of arrangement proposed by the directors.
- (3) The Court may, upon an application made to it under subsection (2), make an interim or a final order that is not subject to an appeal unless a question of law is involved and in which case notice of appeal must be given within the period of twenty days immediately following the date of the order, and in making the order the Court may
- (a) determine what notice, if any, of the proposed arrangement is to be given to any person;
 - (b) determine whether approval of the proposed arrangement by any person should be obtained and the manner of obtaining the approval;
 - (c) determine whether any holder of shares, debt obligations or other securities in the international business company may dissent from the proposed arrangement and receive payment of the fair value of the holders shares, debt obligations or other securities under section 83;
 - (d) conduct a hearing and permit any interested person to appear; or
 - (e) approve or reject the plan of arrangement as proposed or with such amendments as it may direct.
- (5) Where the Court makes an order approving a plan of arrangement, the directors, if they are still desirous of executing the plan, shall confirm the plan of arrangement as approved by the Court whether or not the Court has directed any amendments to be made thereto.
- (6) The directors, upon confirming the plan of arrangement shall
- (a) give notice to the persons to whom the order of the Court requires notice to be given; and
 - (b) submit the plan of arrangement to those persons for such approval, if any, as the order of the Court requires.
- (7) After the plan of arrangement has been approved by the persons by whom the order of the Court requires approval, articles of arrangement shall be executed by the international business company and shall contain -
- (a) the plan of arrangement;
 - (b) the reference number and the summary of order of the court approving the plan of arrangement; and

- (c) the manner in which the plan of arrangement was approved, if approval was required by the order of the Court.
- (8) The articles of arrangement shall be submitted by the international business company to the Registrar, who shall retain and register them in the Register.
- (9) Upon the registration of the articles of arrangement, the Registrar shall issue a certificate under his or her hand and seal certifying that the articles of arrangement have been registered.
- (10) A certificate of arrangement issued by the Registrar is prima facie evidence of compliance with all requirements of this Act in respect of the arrangement.
- (11) An arrangement is effective on the date the articles of arrangement are registered by the Registrar or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of arrangement.

Rights of dissenters

83. (1) A member is entitled to payment of the fair value of his or her shares upon dissenting from
- (a) a merger, if the international business company is a constituent company, unless the international business company is the surviving company and the member continues to hold the same or similar shares;
 - (b) a consolidation, if the international business company is a constituent company;
 - (c) any sale, transfer, lease, exchange or other disposition of more than fifty percent of the assets or business of the international business company, if not made in the usual or regular course of the business carried on by the company, but not including
 - (i) a disposition pursuant to an order of the Court having jurisdiction in the matter;
 - (ii) a disposition for money on terms requiring all or substantially all net proceeds to be distributed to the members in accordance with their respective interests within one year after the date of disposition; or
 - (iii) a transfer pursuant to the power described in subsection (2) of section 14;
 - (d) a redemption of his or her shares by the international business company pursuant to section 81; and
 - (e) an arrangement, if permitted by the Court.
- (2) A member who desires to exercise his or her entitlement under subsection (1) shall give to the international business company, before the meeting of members at which the action is submitted to a vote, or at the meeting but before the vote, written objection to the action, but an objection is not required from a member to whom the international business company did not give notice of the meeting in accordance with this Act or where the proposed action is authorised by written consent of members without a meeting.
- (3) An objection under subsection (2) shall include a statement that the member proposes to demand payment for his or her shares if the action is taken.

- (4) Within twenty days immediately following the date on which the vote of members authorising the action is taken, or the date on which written consent of members without a meeting is obtained, the international business company shall give written notice of the authorisation or consent to each member who gave written objection or from whom written objection was not required, except those members who voted for, or consented to in writing, to the proposed action.
- (5) A member to whom the international business company was required to give notice who elects to dissent shall, within twenty days immediately following the date on which the notice referred to in subsection (4) is given, give to the international business company a written notice of his or her decision to elect to dissent, stating
 - (a) that members name and address;
 - (b) the number and classes or series of shares which the member holds; and
 - (c) a demand for payment of the fair value of that member's shares; and a member who elects to dissent from a merger under section 77 shall give to the international business company a written notice of his or her decision to elect to dissent within twenty days immediately following the date on which the copy of the plan of merger or an outline thereof is given to him or her in accordance with section 77.
- (6) A member who dissents shall do so in respect of all shares that he or she holds in the international business company.
- (7) Upon the giving of a notice of election to dissent, the member to whom the notice relates ceases to have any of the rights of a member except the right to be paid the fair value of his or her shares.
- (8) Within seven days immediately following the date of the expiration of the period within which members are allowed to give their notices of election to dissent, or within seven days immediately following the date on which the proposed action is put into effect, whichever is later, the international business company shall make a written offer to each dissenting member, to purchase his or her shares at a specified price that the international business company determines to be their fair value, and if, within thirty days immediately following the date on which the offer is made, the international business company making the offer and the dissenting member agree upon the price to be paid for his or her shares, the international business company shall pay to the member the amount in money upon the surrender of the certificates representing his or her shares.
- (9) If the international business company and a dissenting member fail, within the period of thirty days referred to in subsection (8), to agree on the price to be paid for the shares owned by the member, within twenty days immediately following the date on which the period of thirty days expires, the following shall apply
 - (a) the international business company and the dissenting member shall each designate an appraiser;
 - (b) the two designated appraisers together shall designate a third appraiser;
 - (c) the three appraisers shall fix the fair value of the shares owned by the dissenting member as of the close of business on the day prior to the date on which the vote of members authorising the action was taken or the date on which written consent of members without a meeting was obtained, excluding any appreciation or depreciation, directly or indirectly induced by the action or its proposal, and that value is binding on the international business company and the dissenting member for all purposes; and
 - (d) the international business company shall pay to the member the amount in money upon the surrender by the member of the certificates representing the member's shares.

- (10) Shares acquired by the international business company pursuant to subsection (8) and (9) shall be cancelled but if the shares are shares of a surviving company, they shall be available for re issue.
- (11) The enforcement by a member of his or her entitlement under this section excludes the enforcement by the member of a right to which the member might otherwise be entitled by virtue of his or her holding shares, except that this section does not exclude the right of the member to institute proceedings to obtain relief on the ground that the action is illegal.

PART VIII

Continuation

Continuation

84. (1) A company incorporated under the Companies Act or incorporated under the laws of a jurisdiction outside Saint Lucia may, continue as an international business company if
- (a) articles of continuation, (written in the English language or if written in a language other than the English language, accompanied by a certified translation), is approved
 - (i) by a majority of the directors or the other persons who are charged with exercising the powers of the company; or
 - (ii) in such other manner as may be established by the company for exercising the powers of the company;
 - (b) the articles of continuation contains
 - (i) the name of the company and the name under which it is being continued;
 - (ii) the jurisdiction under which it is incorporated;
 - (iii) the date on which it was incorporated;
 - (iv) the information required to be included in a memorandum under subsection (1) of section 7; and
 - (v) the amendments to its memorandum and articles, or their equivalent that are to be effective upon the registration of the articles of continuation;
 - (c) the articles of continuation, accompanied by a copy of the memorandum and articles of the company, or their equivalent, written in the English language or if written in a language other than the English language, accompanied by a certified translation, and in the case of a foreign company, evidence satisfactory to the Registrar that the company is in good standing, is submitted to the Registrar; and
 - (d) the Registrar, if satisfied that the company meets the requirements of an international business company under Part II registers the company as an international business company by registering the articles, memorandum and articles of continuation in the register.
- (2) Upon the registration of the articles of continuation, the Registrar shall issue a certificate of continuation under his or her hand and seal certifying that the company is incorporated under this Act.

- (3) An international business company incorporated under the laws of a jurisdiction outside Saint Lucia is entitled to continue as an international business company, notwithstanding any provision to the contrary in the laws of the jurisdiction under which it is incorporated.
- (4) Notwithstanding any provisions of the Companies Act, a company incorporated under that Act may, by resolution of the directors, continue the incorporation of the company under this Act.
- (5) Where a company incorporated under the Companies Act has continued its incorporation under this Act, the Registrar shall strike the name of the company off the Register of Companies maintained under that Act and publish notice of the striking off in the Gazette.

Provisional registration

85. (1) A company incorporated under the laws of a jurisdiction outside Saint Lucia that is entitled to continue as an international business company under section 84 may, after complying with paragraphs (a) and (b) of subsection (1) of section 84, submit to the Registrar the following documents
- (a) articles of continuation accompanied by a copy of its memorandum and articles, or their equivalent, written in the English language, or if written in a language other than the English language, accompanied by a certified translation; and
 - (b) a written authorisation designating one or more persons who may give notice to the Registrar, by telex, telegram, cable or by registered mail, that the articles of continuation should become effective.
- (2) The Registrar shall not, prior to the receipt of the notice referred to in subsection (1), permit any person to inspect the documents referred to in subsection (1) and shall not divulge any information in respect thereof.
 - (3) Upon receipt of the notice referred to in subsection (1) the Registrar shall if satisfied that the company meets the requirements for an international business company under Part II
 - (a) register the documents referred to in subsection (1) in the Register; and
 - (b) issue a certificate of continuation under his or her hand and seal certifying that the company is incorporated under this Act.
 - (4) For purposes of subsection (3), the Registrar may rely on a notice referred to in subsection (1) sent, or purported to be sent, by a person named in the written authorisation.
 - (5) Prior to the registration of the documents referred to in subsection (1), a company may rescind the written authorisation referred to in subsection (1) by delivering to the Registrar a written notice of rescission.
 - (6) If the Registrar does not receive a notice referred to in subsection (1) from a person named in the written authorisation within one year immediately following the date on which the documents referred to in subsection (1) were submitted to the Registrar, the articles of continuation are rescinded.
 - (7) A company entitled to submit to the Registrar the documents referred to in subsection (1) may authorise the Registrar to accept as resubmitted the documents referred to in that subsection, before or after the documents previously submitted referred to in subsection (1) have been rescinded.

Certificate of continuation

86. A certificate of continuation issued by the Registrar is prima facie evidence of compliance with all requirements of this Act in respect of continuation.

Effect of continuation

87. (1) From the time of the issue by the Registrar of a certificate of continuation
- (a) the company to which the certificate of continuation relates
 - (i) continues to be a body corporate, incorporated under this Act, under the name designated in the articles of continuation;
 - (ii) is capable of exercising all powers of a company incorporated under this Act; and
 - (iii) is no longer to be treated as a company incorporated under the Companies Act or a company incorporated under the laws of a jurisdiction outside Saint Lucia;
 - (b) the memorandum and articles of the company, or their equivalent, as amended by the articles of continuation, are the memorandum and articles of the company;
 - (c) property of every description, including choses in action and the business of the company, continue to be vested in the company; and
 - (d) the company continues to be liable for all of its claims, debts, liabilities and obligations.
- (2) Where a company is continued under this Act
- (a) a conviction, judgment, order, claim, debt, liability or obligation due or to become due, or a cause existing, against the company or against any member, director, officer or agent thereof, is not released or impaired by its continuation as a company incorporated under this Act; and
 - (b) a proceeding, whether civil or criminal, pending at the time of the issue by the Registrar of a certificate of continuation by or against the company, or against any member, director, officer or agent thereof, is not abated or discontinued by its continuation as a company incorporated under this Act, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent thereof.
- (3) All shares in a company that were outstanding prior to the issue by the Registrar of a certificate of continuation, shall be deemed to have been issued in conformity with this Act, but a share that at the time of the issue of the certificate of continuation was not fully paid shall be paid up no later than one year immediately following the date of the issue of the certificate of continuation and until the share is paid up, the member holding the share remains liable for the amount unpaid on the share.
- (4) If at the time of the issue by the Registrar of a certificate of continuation in respect of the company any provisions of the memorandum and articles of the company do not in any respect accord with this Act
- (a) the provisions of the memorandum and articles continue to govern the company until the provisions are amended to accord with this Act or for a period of two years immediately following the date of the issue of the certificate of continuation, whichever is the sooner;
 - (b) any provisions of the memorandum and articles of the company that are in any respect in conflict with this Act cease to govern the company when the provisions are amended to accord with this Act or after the expiration of a period of two years after the date of issue of the certificate of continuation, whichever is the sooner; and

- (c) the company shall make such amendments to its memorandum and articles as may be necessary to accord with this Act within a period that is not later than two years immediately following the date of the issue of the certificate of continuation.

Continuation under foreign law

88. (1) Subject to any limitations in its memorandum or articles, a company incorporated or continued as a company under this Act may, by a resolution of directors or by a resolution of members, continue as a company incorporated under the laws of a jurisdiction outside Saint Lucia in the manner provided under those laws.
- (2) An international business company that continues as a company incorporated under the laws of a jurisdiction outside Saint Lucia, does not cease to be an international business company, unless the laws of the jurisdiction outside Saint Lucia permit the continuation, and the international business company has complied with those laws.
- (3) Where an international business company is continued under the laws of a jurisdiction outside Saint Lucia
- (a) the international business company continues to be liable for all its claims, debts, liabilities and obligations that existed prior to its continuation as a company under the laws of the jurisdiction outside Saint Lucia;
 - (b) a conviction, judgement, order, claim, debt, liability or obligation due or to become due, or a cause existing, against the international business company or against any member, director, officer or agent thereof, is not released or impaired by its continuation as an international business company under the laws of the jurisdiction outside Saint Lucia; and
 - (c) a proceeding, whether civil or criminal, pending by or against the international business company or against any member, director, officer or agent thereof, is not abated or discontinued by its continuation as an international business company under the laws of the jurisdiction outside Saint Lucia, but the proceedings may be enforced, prosecuted, settled or compromised by or against the international business company or against the member, director, officer or agent thereof.

PART IX

Winding Up, Dissolution and Striking Off

Compulsory winding up and dissolution

89. An international business company shall begin to wind up and dissolve by a resolution of directors
- (a) upon expiration of such time as may be prescribed by its memorandum or articles for its existence;
 - (b) upon the happening of such an event as specified in the articles as an event that shall terminate the existence of the international business company.

Voluntary winding up, and dissolution

90. (1) An international business company that has never issued shares may voluntarily begin to wind up and dissolve by a resolution of directors.
- (2) Subject to any limitations in its memorandum or articles, an international business company that has previously issued shares may voluntarily begin to wind up and dissolve by a resolution of members or by a resolution of directors.

Powers of directors.

91. Upon the commencement of a winding up and dissolution under section 89 or permitted under section 90 the powers of the directors are limited to
- (a) authorizing a liquidator, by a resolution of directors, to carry on the business of the company if the liquidator determines that to do so would be necessary or in the best interests of the creditors or members of the international business company; and
 - (b) determining to rescind the articles of dissolution as permitted under section 95.

Appointment and duties of liquidator

92. (1) If for any reason there is no liquidator acting in the case of a winding up the Court may on the application of a share holder creditor or other interested party appoint a liquidator or liquidators, and the Court may on due cause shown remove any liquidator and appoint another liquidator to act in a matter of a winding up.
- (2) A liquidator shall, upon his or her appointment in accordance with this Part and upon the commencement of a winding up and dissolution, proceed
- (a) to identify all assets of the international business company;
 - (b) to identify all creditors of and claimants against the international business company;
 - (c) to pay or provide for the payment of, or to discharge, all claims, debts, liabilities and obligations of the international business company;
 - (d) to distribute any surplus assets of the international business company to the members in accordance of the actions and transactions of the liquidator;
 - (e) to prepare or cause to be prepared a statement of account in respect of the actions and transactions of the liquidator; and
 - (f) to send a copy of the statement of account to all members if so required by the plan of dissolution required by section 94.
- (3) A transfer, including a prior transfer, described in subsection (2) of section 14 of all or substantially all of the assets of an international business company incorporated under this Act for the benefit of the creditors and members of the international business company, is sufficient to satisfy the requirements of paragraphs (c) and (d) of subsection (1).

Powers of liquidator

93. (1) In order to perform the duties imposed on him or her under section 92, a liquidator has all powers of the international business company that are not reserved to the members under this Act or in the memorandum or articles, including, but not limited to, the power:
- (a) to take custody of the assets of the international business company and, in connection therewith, to register any property of the international business company in the name of the liquidator or that of his or her nominee;
 - (b) to sell any assets of the international business company at public auction or by private sale without any notice;
 - (c) to collect the debts and assets due or belonging to the international business company;
 - (d) to borrow money from any person for any purpose that will facilitate the winding up and dissolution of the international business company and to pledge or mortgage any property of the international business company as security for any such borrowing;
 - (e) to negotiate, compromise and settle any claim, debt, liability or obligation of the international business company;
 - (f) to prosecute and defend, in the name of the international business company or in the name of the liquidator or otherwise, any action or other legal proceedings;
 - (g) to retain solicitors, accountants and other advisers and appoint agents;
 - (h) to carry on the business of the international business company, if the liquidator has received authorisation to do so in the plan of dissolution pursuant to section 94, or by a resolution of directors permitted under section 91, as the liquidator may determine to be necessary or to be in the best interests of the creditors or members of the international business company;
 - (i) to execute any contract, agreement or other instrument in the name of the international business company or in the name of the liquidator; or
 - (j) to make any distribution in money or in other property or partly in each, and if in other property, to allot the property, or an undivided interest therein, in equal or unequal proportions.
- (2) Notwithstanding paragraph (h) of subsection (1), a liquidator shall not, without the permission of the Court, carry on for a period in excess of two years the business of the international business company that is being wound up and dissolved under this Act.

Procedure

94. (1) The directors of an international business company required under section 89 or proposing under section 90 to wind up and dissolve the international business company, must approve a plan of dissolution containing
- (a) a statement of the reason for the winding up and dissolving;
 - (b) a statement that the international business company is, and will continue to be, able to discharge or pay or provide for the payment of all claims, debts, liabilities and obligations in full;
 - (c) a statement that the winding up will commence on the date when articles of dissolution are submitted to the Registrar or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of dissolution;

- (d) a statement of the estimated time required to wind up and dissolve the international business company;
 - (e) a statement as to whether the liquidator is authorised to carry on the business of the international business company if the liquidator determines that to do so would be necessary or in the best interests of the creditors or members of the international business company;
 - (f) a statement of the name and address of each person to be appointed a liquidator and the remuneration proposed to be paid to each liquidator; and
 - (g) a statement as to whether the liquidator is required to send to all members a statement of account prepared or caused to be prepared by the liquidator in respect of his or her actions or transactions.
- (2) If a winding up and dissolution is being effected in a case where subsection (2) of section 90 is applicable
- (a) the plan of dissolution must be authorised by a resolution of members, and the holders of the outstanding shares of a class or series of shares are entitled to vote on the plan of dissolution as a class or series only if the memorandum or articles so provide;
 - (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of dissolution, must be given to each member, whether or not entitled to vote on the plan of dissolution; and
 - (c) if it is proposed to obtain the written consent of members, a copy of the plan of dissolution must be given to each member, whether or not entitled to consent to the plan of dissolution.
- (3) After approval of the plan of dissolution by the directors, and if required, by the members in accordance with subsection (2), articles of dissolution must be executed by the international business company and must contain
- (a) the plan of dissolution; and
 - (b) the manner in which the plan of dissolution was authorised.
- (4) Articles of dissolution shall be submitted by the international business company to the Registrar who shall retain and register them in the Register and within thirty days immediately following the date on which the articles of dissolution are submitted to the Registrar, the international business company shall cause to be published, in the Gazette, in a publication of general circulation in Saint Lucia, a notice stating
- (a) that the international business company is in dissolution;
 - (b) the date of commencement of the dissolution; and
 - (c) the names and addresses of the liquidators.
- (5) A winding up and dissolution commences on the date the articles of dissolution are registered by the Registrar or on such date subsequent thereto, not exceeding thirty days, as is stated in the articles of dissolution.

- (6) A liquidator shall, upon completion of a winding up and dissolution, submit to the Registrar a statement that the winding up and dissolution has been completed and upon receiving the notice, the Registrar shall
- (a) strike the international business company off the Register; and
 - (b) issue a certificate of dissolution under his or her hand and seal certifying that the international business company has been dissolved.
- (7) Where the Registrar issues a certificate of dissolution under his or her hand and seal certifying that the international business company has been dissolved
- (a) the certificate is prima facie evidence of compliance with all requirements of this Act in respect of dissolution; and
 - (b) the dissolution of the international business company is effective from the date of the issue of the certificate.
- (8) Immediately following the issue by the Registrar of a certificate of dissolution under subsection (6), the liquidator shall cause to be published, in the Gazette, in a publication of general circulation in Saint Lucia, a notice that the international business company has been dissolved and has been struck off the Register.
- (9) An international business company that wilfully contravenes subsection (4) is liable to a penalty of one hundred dollars for every day or part thereof during which the contravention continues, and a director or liquidator who knowingly permits the contravention is liable to a like penalty.

Rescission

95. (1) In the case of a winding up and dissolution permitted under section 90, an international business company may, prior to submitting to the Registrar a notice specified in subsection (4) of section 94, rescind the articles of dissolution by
- (a) a resolution of directors in the case of a winding up and dissolution under subsection (1) of section 90; or
 - (b) a resolution of members in the case of a winding up and dissolution under subsection (2) of section 90.
- (2) A copy of a resolution referred to in subsection (1) shall be submitted to the Registrar who shall retain and register it in the Register.
- (3) Within thirty days immediately following the date on which the resolution referred to in subsection (1) has been submitted to the Registrar, the international business company must cause a notice stating that the international business company has rescinded its intention to wind up and dissolve to be published in the Gazette, in a publication of general circulation in Saint Lucia.

Winding up and dissolution for unpaid claims

96. (1) Where

- (a) the directors or the members of an international business company that is required under section 89 or permitted under section 90 to wind up and dissolve, at the time of the passing of the resolution to wind up and dissolve the international business company; or
 - (b) the liquidator of an international business company after his or her appointment; have reason to believe that the international business company will not be able to pay or provide for the payment of or discharge of all claims, debts, liabilities and obligations of the international business company in full, the directors, the members or the liquidator, shall immediately give notice of the fact to the Registrar.
- (2) Where notice has been given to the Registrar under subsection (1), all winding up and dissolution proceedings after the notice has been given shall be in accordance with the provisions of the Companies Act relating to winding up and dissolution and those provisions shall apply, with the necessary changes, to the winding up and dissolution of the international business company.

Winding up and dissolution by Court

97. (1) An order for the liquidation and dissolution of an international business company may be made by the Court if

- (a) the company carries on business in breach of section 12;
 - (b) the company carries on business without a share holder;
 - (c) the company has seriously or persistently failed to comply with this Act;
 - (d) the company is unable to pay its debts;
 - (e) the company is carrying on business in a manner detrimental to the public interest;
 - (f) the Court considers that it would be just and equitable for the company to be liquidated and dissolved.
- (2) An application to the Court for an order under subsection (1) may be made by the Registrar or, if the application is made under paragraphs (c) or (d) of subsection (1), by any interested person.
- (3) Where the Court makes an Order under this section, the provisions of the Companies Act shall apply with the necessary changes as if the international business company was a company being liquidated and dissolved by the Court under that Act.

Receivers and managers

98. The provisions of the Companies Act regarding receivers and managers govern, with the necessary changes, the appointment, duties, powers and liabilities of receivers and managers of the assets of any international business company.

Striking off

99. (1) Where the Registrar has reasonable cause to believe that an international business company is contravening section 12 the Registrar shall serve on the company a notice that the name of the international business company may be struck off the Register if the international business company continues to contravene section 12.

- (2) If the Registrar does not receive a reply within thirty days immediately following the date of the service of the notice referred to in subsection (1), the Registrar must serve on the international business company another notice stating that the name of the company may be struck off the register if a reply to the notice is not received within thirty days immediately following the date thereof and that a notice of the contemplated striking off will be published in the Gazette.
- (3) If the Registrar
 - (a) receives from the international business company a notice stating that the company is in contravention of section 12, in reply to a notice served on the international business company under subsection (1) or (2); or
 - (b) does not receive a reply to a notice served on the international business company under subsection (2) as required by that subsection; the Registrar shall publish a notice in the Gazette that the name of the international business company will be struck off the Register unless the international business company or another person satisfies the Registrar that the name of the international business company should not be struck off.
- (4) At the expiration of a period of ninety days immediately following the date of the publication of the notice under subsection (3), the Registrar shall strike the name of the international business company off the Register, unless the international business company or any other person satisfies the Registrar that the name of the international business company should not be struck off, and the Registrar must publish notice of striking off in the Gazette.
- (5) If an international business company has failed to pay the increased licence fee due under subsection (2) of section 104, the Registrar shall, within thirty days immediately following the date specified in that subsection, publish in the Gazette and serve on the international business company, a notice stating the amount of the licence fee due, under subsection (3) of section 104 and stating that the name of the international business company will be struck off the Register if the international business company fails to pay the licence fee on or before the 31st December next ensuing.
- (6) If an international business company fails to pay the increased licence fee stated in the notice referred to in subsection (5) by the 31st December referred to in that subsection, the Registrar shall strike the name of the international business company off the Register from 1st January next ensuing.
- (7) An international business company that has been struck off the Register under this section remains liable for all claims, debts, liabilities and obligations of the international business company, and the striking off does not affect the liability of any of its members, directors, officers or agents.

Restoration to Register

100. (1) If the name of an international business company has been struck off the Register under subsection (4) of section 99, the international business company, or a creditor, member or liquidator thereof, may apply to the Court to have the name of the international business company restored to the Register.
- (2) If upon an application under subsection (1) the Court is satisfied that
 - (a) at the time the name of the international business company was struck off the Register, the international business company was not in contravention of section 12; and
 - (b) it would be fair and reasonable for the name of the international business company to be restored to the Register; the Court may order the name of the international business company to be restored to the Register upon payment to the Registrar of all fees due under section 104 and all penalties due under section 105 without any increase for late payment, and upon restoration of the name of the international business company to the Register, the name of the international business company is deemed never to have been struck off the Register.

- (3) If the name of an international business company has been struck off the Register under subsection (6) of section 99, the international business company, or a creditor, member or liquidator thereof, may, within three years immediately following the date of the striking off, apply to the Registrar to have the name of the international business company restored to the Register, and upon payment to the Registrar of
- (a) all the fees due under section 104;
 - (b) the licence fee stated in the notice referred to in subsection (5) of section 99; and
 - (c) a licence fee in the amount stated in the notice referred to in paragraph (b) for each year or part thereof during which the name of the international business company remained struck off the Register;
- the Registrar shall restore the name of the international business company to the Register and upon restoration of the name of the international business company to the Register, the name of the international business company shall be deemed never to have been struck off the Register.
- (4) For purposes of this Part, the appointment of an official liquidator under section 102 operates as an order to restore the name of the international business company to the Register.

Effect of striking off

101. (1) Where the name of an international business company has been struck off the Register, the international business company, and the directors, members, liquidators and receivers thereof, may not legally
- (a) commence legal proceedings, carry on any business or in anyway deal with the assets of the company;
 - (b) defend any legal proceedings, make any claim or claim any right for, or in the name of, the international business company; or
 - (c) act in any way with respect to the affairs of the international business company.
- (2) Notwithstanding subsection (1), where the name of the international business company has been struck off the Register, the company, or a director, member, liquidator or receiver thereof, may
- (a) make application for restoration of the name of the international business company to the Register;
 - (b) continue to defend proceedings that were commenced against the international business company prior to the date of the striking off; and
 - (c) continue to carry on legal proceedings that were instituted on behalf of the international business company prior to the date of the striking off.
- (3) The fact that the name of the international business company is struck off the Register does not prevent:
- (a) the international business company from incurring liabilities,;
 - (b) any creditor from making a claim against the international business company and pursuing the claim through to judgement or execution; or
 - (c) the appointment by the court of an official liquidator for the international business company under section 102.

Appointment of official liquidator

102. The Court may appoint a person to be the official liquidator in respect of an international business company the name of which has been struck off the Register.

Dissolution of company struck off

103. (1) The duties of an official liquidator appointed under section 102 are limited to

- (a) identifying and taking possession of all assets of the international business company;
 - (b) calling for claims by advertisement in the Gazette and in such other manner as the official liquidator deems appropriate, requiring all claims to be submitted to him or her within a period of not less than ninety days immediately following the date of the advertisement; and
 - (c) applying those assets that he or she recovers in the following order of priority
 - (i) in satisfaction of all outstanding fees, licence fees and penalties due to the Registrar; and
 - (ii) in satisfaction *pari passu* of all other claims admitted by the official liquidator.
- (2) In order to perform the duties with which the official liquidator is charged under subsection (1), the official liquidator may exercise such powers as the Court may as it considers reasonable confer on the official liquidator.
- (3) The official liquidator may require such proof as the official liquidator considers necessary to substantiate any claim submitted to him or her and the official liquidator may admit, reject or settle claims on the basis of the evidence submitted to him or her.
- (4) When the official liquidator has completed his or her duties, the liquidator shall submit a written report of his or her conduct of the liquidation proceedings to the Registrar and, upon receipt of the report by the Registrar, all assets of the international business company, wherever situated, that are not disposed of, vest in the Government and the international business company is dissolved.
- (5) The official liquidator is entitled to such remuneration out of the assets of the international business company for his or her services as the Court approves, but if the international business company is unable to discharge all of its claims, debts, liabilities and obligations, payment of the official liquidator's remuneration shall be a charge on the Consolidated Fund.
- (7) No liability attaches to an official liquidator
- (a) to account to creditors of the international business company who have not submitted claims within the time allowed by him or her; or
 - (b) for any failure to locate any assets of the international business company.

PART X

Fees and Penalties

Fees to be prescribed

104. (1) There shall be paid to the Registrar such fees in connection with the requirements of this Act, as are prescribed in the Regulations.
- (2) If an international business company fails to pay any amount due as a fee under subsection (1) by the prescribed date, the fee increases by ten percent of that amount for every thirty days that the international business company is in default.
- (3) If an international business company fails to pay the amount due as an increased licence fee under subsection (2) within two months of the due date, prescribed under subsection (2) then, the licence fee increases by fifty percent of the licence fee prescribed in the Regulations.
- (4) This section does not apply to an international business company that is in the process of being wound up or dissolved.

Penalties

105. A penalty incurred under this Act shall be paid to the Registrar and shall be deposited in the manner prescribed.

Recovery of fees

106. A fee, licence fee or penalty payable to the Registrar under this Act that remains unpaid for thirty days immediately following the date on which demand for payment is made by the Registrar is recoverable at the instance of the Attorney General before a Magistrate in civil proceedings as a debt due to the Government, notwithstanding the amount sought to be recovered.

Liability of fees

107. An international business company incorporated under this Act continues to be liable for all fees, licence fees and penalties payable under this Act, notwithstanding that the name of the international business company has been struck off the Register and all those fees, licence fees and penalties have priority to all other claims against the assets of the international business company.

No action pending payment

108. (1) The Registrar may refuse to take any action required of the Registrar under this Act for which a fee is prescribed, until all fees and penalties have been paid whether in relation to that proposed action or otherwise.
- (2) The Registrar may refuse to continue under this Act a company incorporated under the Companies Act or incorporated under the laws of another jurisdiction until all fees and penalties prescribed as payable by the company under the Companies Act have been paid.

PART XI**Income Tax and Other Taxes,****Duties and Exchange Control Restrictions**

Income tax and other taxes

109. (1) An international business company which complies with this Act and does no business in Saint Lucia may elect
- (a) to be exempted from income tax; or
 - (b) to be liable to income tax on the profits and gains of the international business company at a rate of 1%.
- (2) Notwithstanding any provisions of the Income Tax Act, 1989 an international business company that elects to be exempt from tax under subsection (1) (a) shall not be required to file any tax returns, but an international business company that elects to pay tax under subsection (1) (b) shall file an annual tax return based on annual audited financial statements.
- (3) An international business company shall not be subject to withholding, capital gains or other like taxes except for income tax for an international business company making an election as provided for in subsection (1) (b).
- (4) For purposes of this section, an international business company shall not be considered to be doing business in Saint Lucia solely because it engages in one or more of the following activities
- (a) maintaining one or more bank, trust or securities accounts in Saint Lucia;
 - (b) holding meetings of directors or members in Saint Lucia;
 - (c) maintaining corporate or financial records in Saint Lucia;
 - (d) maintaining an administrative or managerial office in Saint Lucia with respect to assets or activities outside Saint Lucia;
 - (e) maintaining a registered agent or registered office in Saint Lucia; or
 - (f) investing in stocks or entities doing business in Saint Lucia or being a partner in a partnership existing under the laws of Saint Lucia or a beneficiary of a trust or estate which has Saint Lucia as its situs.
- (5) Notwithstanding any provision of the Stamp Duty Ordinance, Cap. 219 to the contrary
- (a) an instrument relating to transfers of any property to or by an international business company;
 - (b) an instrument relating to transactions in respect of the shares, debt obligations or other securities of an international business company; or
 - (c) an instrument relating in any way to the assets or activities of an international business company; is exempt from the payment of stamp duty.

Exemption for dividends and distributions

110. Any dividend paid or distribution by an international business company, which does no business in Saint Lucia, to another international business company, or to persons, trusts or other entities which are not residents, shall be exempt from any tax or withholding provisions of the law in force Saint Lucia which would otherwise be applicable to the international business company or to the recipient of the dividend or distribution.

Books and records

111. Notwithstanding any enactment to the contrary, an international business company may keep such books, records, and financial statements as it thinks fit.

Exemption from exchange controls

112. A company incorporated under this Act shall not be subject to the provisions of the Exchange Control Ordinance, Cap. 180, or to any other law in force in Saint Lucia relating to exchange or currency control.

Tax concessions

113. (1) Where an international business company, or a registered agent or trustee licensed under the Registered Agent and Trustee Licensing Act, 1999 requires the services of specially qualified persons in order to carry out its business effectively from within Saint Lucia and
- (a) it is unable to acquire those services in Saint Lucia; and
 - (b) it is unable to retain those services from outside Saint Lucia without special tax concessions; Cabinet may by Order published in the Gazette grant a special tax concession in respect of those specially qualified persons.
- (2) The special tax concession referred to in subsection (1) is one that allows a prescribed percentage of an employee's or contractor's salary or fees
- (a) to be exempt from income tax in Saint Lucia;
 - (b) to be paid in a foreign currency in a trust account without being liable to income tax in Saint Lucia as to the amount paid or any interest earned thereon; or
 - (c) to be paid in some other prescribed manner in another currency or otherwise without being liable to income tax in Saint Lucia; notwithstanding any provision of the Income Tax Act, 1989, or the Exchange Control Ordinance, Cap. 180.

PART XII

Miscellaneous

Employment of Registrar

114. (1) There shall be a Registrar of International Business Companies who shall be responsible for ensuring the proper administration of this Act and who shall be a person employed by IFWIC with the approval of the Minister.
- (2) The Minister may recommend to IFWIC the dismissal of a person appointed under subsection (1).
- (3) Where the Registrar is absent due to illness or absence from the jurisdiction, or is otherwise unable to perform the functions of that office, IFWIC may in consultation with the Minister, appoint a suitable person to perform the duties of Registrar during such absence or inability.

Form of certificate

115. A certificate or other document required to be issued by Registrar under this Act shall be in such form as the Minister may approve.

Certificate of good standing

116. (1) The Registrar shall, upon request by any person, issue a certificate of good standing under his or her hand and seal certifying that an international business company is of good standing if the Registrar is satisfied that
- (a) the name of the international business company is on the Register; and
 - (b) the international business company has paid all fees, licence fees and penalties due and payable.
- (2) The certificate of good standing issued under subsection (1) must contain a statement as to whether
- (a) the international business company has submitted to the Registrar articles of merger or consolidation that have not yet become effective;
 - (b) the international business company has submitted to the Registrar articles of arrangement that have not yet become effective;
 - (c) the international business company is in the process of being wound up and dissolved; or
 - (d) any proceedings to strike the name of the international business company off the Register have been instituted.

Inspection

117. (1) Except as provided in subsection (2) of section 85 the Registrar, shall upon the person's request upon payment of the prescribed fee
- (a) permit the person to inspect the Register kept by the Registrar pursuant to this Act;
 - (b) provide the person with the whole or part of any of the following documents:
 - (i) an original, or certified copy or extract of the certificate of incorporation, merger, consolidated, arrangement, continuation, dissolution, or good standing of an international business company;
 - (ii) an original or certified copy or extract of any document showing the current information available to the Registrar relating to the international business company if the Minister and the Registrar think it fit to so provide.
- (2) A document provided by the Registrar under subsection (1) is prima facie evidence of the matters contained in it and is admissible as evidence in any proceedings as if it were the original document.

Filed memorandum and articles

118. Where this Act requires that memorandum and articles relating to an international business company be sent to the Registrar, unless otherwise specifically provided, the documents may be delivered in such manner as the Registrar approves.

Optional registration of registers

119. (1) An international business company may submit for registration by the Registrar any of the following registers
- (a) its share register;
 - (b) its register of directors;
 - (c) its register of mortgages and charges.
- (2) An international business company that has elected to submit for registration a copy of a register shall, until it otherwise notifies the Registrar pursuant to subsection (3), submit for registration any changes in its register by submitting for registration a copy of the register containing the changes.
- (3) An international business company that submits for registration a copy of a register with the Registrar may elect to cease registration of changes in the register by informing the Registrar in writing.
- (4) If an international business company elects to submit for registration any register pursuant to subsection (1), then, until such time as the international business company informs the Registrar pursuant to subsection (3) that it elects to cease to register changes in any register, the international business company is bound by the contents of the copy of the Register submitted to the Registrar.

Registration of mortgages and charges

120. An international business company may submit to the Registrar for registration
- (a) any document or copy of a document creating a mortgage, charge or other encumbrances over some or all of its assets;
 - (b) any document or copy of a document amending any document referred to in subsection (2) of 119; and
 - (c) any document releasing or discharging a mortgage, charge or other encumbrance over any or all its assets; and the Registrar must retain and register the document or, as the case may be, the copy thereof.

Jurisdiction

121. For purposes of determining matters relating to title and jurisdiction but not for purposes of taxation, the situs of the ownership of shares, debt obligations or other securities of an international business company is Saint Lucia.

Declaration by Court

122. (1) An international business company, may, without the necessity of joining any other party, apply to the Court, by summons supported by an affidavit, for a declaration on any question of interpretation of this Act, or of the memorandum or articles of the international business company.
- (2) A person acting on a declaration made by the Court as a result of an application under subsection (1) shall be deemed, in so far as regards the discharge of any fiduciary or professional duty, to have properly discharged that person's duties in the subject matter of the application.

Judge in Chambers

123. A Judge of the Court may exercise in Chambers any jurisdiction that is vested in the Court by this Act and in exercise of that jurisdiction, the Judge may award costs as may be just.

Regulations

124. The Minister may make Regulations
- (a) with respect to the duties to be performed by the Registrar under this Act and in so doing may prescribe the place where the office for the registration of international business companies is located;
 - (b) to provide information to be furnished for the purpose of applying for a licence to carry on business as an international business company;
 - (c) to prescribe securities for the purposes of this Act;
 - (d) with respect to duties of the Registrar;
 - (e) prescribing fees payable under this Act and in doing so may prescribe different fees to be applicable to different categories of international business companies including those carrying on an international banking business, an international insurance business, a shipping business or the business of an international trust company;
 - (f) to prescribe any other matter or thing required by this Act to be prescribed; or
 - (g) generally for the better carrying out of the provisions of this Act.