

# International Insurance Act

## SAINT LUCIA

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### No. 38 of 1999

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I Assent

[L.S.]

PEARLETTELOUISY,  
*Governor-General.*

*4th January, 2000.*

**SAINT LUCIA**

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**No. 38 of 1999**

**An Act** to provide for the licensing and regulation of international insurance business and related matters.

[ ON PROCLAMATION ]

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:

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No. 38 ] *International Insurance Act* [1999.

## PART I

### Short Title and Interpretation

#### **Short title and commencement**

1.— (1) This Act may be cited as the International Insurance Act 1999.

2. This Act comes into force on a day to be prescribed by the Minister by Order published in the *Gazette*.

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#### **Interpretation**

2.— (1) In this Act —

"actuary" means a person who —

(a) is a member of the Institute of Actuaries in England, the Faculty of Actuaries in Scotland, the Society of Actuaries in the United States of America or Canada or other similar body approved by the Minister;

(b) is independent of the licensee and its parent company; and

(c) has at least five years of experience as an actuary for a financial institution;

"affiliate" means an entity forming part of a group;

"applicant" means an eligible company which applies for a licence under section 4;

"auditor" means a person who —

(a) is a member of the Institute of Chartered Accountants in Saint Lucia or any other person who is a member of another professional accounting association and who is approved as an auditor by the Minister;

(b) is independent of the licensee and its parent company; and

(c) has at least five years of experience in performing audits of a

financial institution;

"Court" means the High Court;

"Director" means the Director of Financial Services appointed as such by Public Service Commission pursuant to section 11 of the Registered Agent and Trustee Licencing Act, 1999.

"eligible company" means a body corporate —

(a) which is incorporated or continued under the International Business Companies Act, 1999, for the purpose of carrying on international insurance business.

(b) having at least one director who is a resident, and

(c) whose objects or business activities are restricted to international insurance business.

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

"group" means any two or more entities, whether corporate or unincorporated, that are in association, and two bodies shall be deemed for this purpose to be in association if any one of them has control of the other or both are under the control of the same person or persons.

"insurance business" includes —

(a) the business of effecting and carrying out contracts —

(i) protecting persons against loss or liability to loss in respect of risks to which such persons may be exposed; or

(ii) to pay a sum of money or render money's worth upon the happening of an event; and

(b) re-insurance business;

"international accounting standards" means the standards of accounting set by the International Accounting Standards Committee for use in the preparation of financial statements;

"international accounting standards committee" means the International Accounting Standards Committee established under the International

Accounting Standards Committee Agreement 1973;

"international insurance business" means insurance business by a licensee which does not involve —

(a) undertaking any insurance business with any resident, provided that another licensee, or a person registered or licensed under any other law in force relating to international financial services shall be presumed not to be a resident for purposes of this definition;

(b) investing in any asset which represents a claim on any resident, except a claim resulting from —

(i) a loan to a person registered or licensed under any law in force in Saint Lucia relating to international financial services;

(ii) a transaction with another licensee under this Act; or

(iii) the purchase of bonds or other securities issued by the Government, a statutory corporation, or a company in which the Government is the sole or majority beneficial owner.

"licence" means a licence granted under section 4;

"licensee" means an eligible company holding a licence under this Act to carry on international insurance business from within Saint Lucia;

"long term insurance business" means insurance business of any of the following kinds, namely, —

(a) effecting and carrying out contracts of insurance on human life or contracts to pay annuities on human life;

(b) effecting and carrying out contracts of insurance against risks of persons sustaining injury as the result of an accident or dying as the result of an accident or becoming incapacitated or dying in consequence of disease;

(c) effecting and carrying out contracts of insurance, whether effected by the issue of policies, bonds or endowment certificates or otherwise, whereby in return for one or more premiums paid to the company a sum or a series of sums is to become payable to the persons insured in the future, not being contracts such as fall within either (a) or (b);

"Minister" means Minister responsible for International Financial

Services;

"person" includes a body corporate or an unincorporated body;

"prescribe" means prescribed in the Regulations;

"Regulations" means Regulations made under section 28;

"registered agent" means a person licenced to carry on the business of international financial services representation under the Registered Agent and Trustee Licencing Act, 1999 and so designated by a licensee under paragraph (b) of section 5 (1);

"resident" means —

(a) a natural person who is ordinarily resident in Saint Lucia as under the Income Tax Act, 1989.

(b) a trust company, partnership, limited partnership or other body, incorporated, established, formed or organised in Saint Lucia under the law in force in Saint Lucia, the majority of shares or other ownership of which is legally or beneficially owned, directly or indirectly, by the Government or by persons who are resident under paragraph (a) or (c) hereof; and

(c) any other trust, corporation, partnership, limited partnership, or other entity who or which is a resident of, or ordinarily resident or domiciled in Saint Lucia as under the Income Tax Act, 1989;

but does not mean a person registered or licensed under any law in force in Saint Lucia relating to international financial services.

(2) In this Act, unless the context requires otherwise, any reference to "dollar" or "\$" shall, unless otherwise stated, be to the lawful currency of the United States of America.

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## PART II

### Licences

#### **Requirement for licence**

**3.** A person shall not carry on international insurance business from Saint Lucia unless that person is granted and holds a valid licence to do

so under section 4.

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### **Application for and grant of licence**

**4.**— (1) An eligible company desirous of carrying on international insurance business from Saint Lucia may apply to the Minister for the grant of a licence to do so.

(2) An application made under subsection (1) shall be in writing and shall contain such information and particulars and shall be accompanied by such details as may be prescribed together with the prescribed application fee, and the Minister may, if satisfied that the carrying on of such business will not be contrary to the public interest, grant a licence to the eligible company subject to such terms and conditions, if any, as the Minister may deem necessary.

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### **Registered office and registered agent**

**5.**— (1) A licence shall not be granted under section 4 unless the eligible company designates and notifies to the Minister by name, a registered agent, which is not a director or officer of the eligible company, to act as its registered agent and registered office in Saint Lucia.

(2) A licensee shall not —

(a) cease to have a registered office in Saint Lucia;

(b) change its registered office in Saint Lucia without the prior approval of the Minister;

(c) cease to have a registered agent under subsection (1);

(d) change its registered agent without the prior approval of the Minister.

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### **Notification of change of particulars**

**6.** Where a change occurs in the particulars of a licence as set out in the application for a licence, the licensee shall, as soon as practicable thereafter, inform the Minister in writing of the nature and

circumstances of the change.

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## **Categories of licences**

**7.**— (1) A licence granted under section 4(2) shall be granted either for carrying on of —

(a) international insurance business consisting of general insurance business being carried on from Saint Lucia but subject to such conditions as may be imposed by the Minister, known as a class "A" international insurance licence;

(b) international insurance business consisting of long term insurance business from Saint Lucia but subject to such conditions as may be imposed by the Minister, known as class "B" international insurance licence; or

(c) international insurance business consisting of general insurance business and long term insurance business being carried on from Saint Lucia but subject to such conditions as may be imposed by the Minister, known as class "C" international insurance licence.

(2) A condition imposed pursuant to subsection (1) may at any time be varied or revoked by the Minister.

(3) The Minister shall determine whether an eligible company seeking a class "A" or a class "C" licence, shall, in respect of its general business, be granted a subclass "1" or subclass "2" licence in accordance with subsections (4) and (5).

(4) A subclass "1" licence shall be granted where an eligible company —

(a) is wholly owned by one or more persons and intends to carry on an international insurance business consisting only of insuring the risks of those persons; or

(b) is an affiliate of a group and intends to carry on an international insurance business consisting only of insuring the risks of any other affiliates of that group or of its own shareholders.

(5) A subclass "2" licence shall be granted to an eligible company in all cases other than those provided for in subsection (4), in respect of its general insurance business where the eligible company intends to carry

on an international insurance business from within Saint Lucia.

(6) In determining for the purposes of subsections (4) and (5) whether an eligible company is wholly owned or controlled by one or more persons, the Minister may have regard to the beneficial as well as the legal ownership of the eligible company.

(7) An eligible company to which a licence is granted under subsection (1) shall not without the written approval of the Minister, carry on any business other than one for which the licence has been obtained.

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## **Fees**

**8.**— (1) An eligible company to which a licence is first granted shall, at the date of such grant, pay the prescribed fee.

(2) A licensee shall, on or before every 15<sup>th</sup> day of January after the first grant of the licence, pay the prescribed annual fee.

(3) Unless the Minister waives the fee payable under subsection (1) or (2), there shall be payable by a licensee who fails to pay the fee by the relevant date, a surcharge not exceeding one-twelfth of that fee for every month or part of a month that the fee is not paid.

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## **Refusal to grant licence**

**9.** Where the Minister considers it to be in the public interest, the Minister may refuse to grant a licence to an eligible company applying under section 4 and in making such a determination, the Minister shall have particular regard to —

(a) the business record and experience of the eligible company or its parent company;

(b) the nature and sufficiency of the financial resources of the eligible company or of its parent company;

(c) the soundness and feasibility of the plans of the eligible company for the conduct and development of the applicant's business; and

(d) whether the eligible company will be owned and operated responsibly by persons who are fit as to character, competence and

experience.

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## **Surrender of licence**

**10.**— (1) A licensee which has ceased to carry on the international insurance business in respect of which the licence was granted, may apply to the Minister to surrender its licence if it —

(a) has ceased to carry on such business and produces evidence that it has paid all amounts owing by it and that it has provided for amounts that may be owing by it in the future in a manner satisfactory to the Minister; or

(b) is being wound-up voluntarily and produces evidence that it is solvent and able forthwith to repay all amounts owing by it and that it has provided for amounts that may be owing by it in the future in a manner satisfactory to the Minister;

and the Minister may thereupon approve the surrender.

(2) Where an application is made under paragraph (b) of subsection (1), the Minister may apply to the Court for the licensee to be wound up either by that Court or subject to its supervision, and on the making of such an order, the provisions of the International Business Companies Act, 1999, relating to the winding-up of a company by or subject to the supervision of that Court shall apply with the necessary changes.

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## **Limitations on activities**

**11.** The holder of a class "A", class "B" or class "C" international insurance licence shall not, without the written approval of the Minister, carry on any insurance business with any resident except in connection with the carrying on of international insurance business from Saint Lucia or as expressly provided in this Act or in any other law in force in Saint Lucia governing the operations and activities of the licensee.

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## **Capital**

**12.**— (1) An international insurance licence shall not be granted or

maintained by a company unless it remains an eligible company and,

(a) in the case of a company seeking a subclass "1" licence, it —

(i) has a paid up capital of not less than fifty thousand dollars or its equivalent in another currency, or such greater sum as may be prescribed in respect of its general insurance business;

(ii) maintains total capital and surplus, and liquidity adequate to its ongoing needs and planned operations in respect of its general insurance business and in compliance with the Regulations; and

(iii) has deposited or invested the sum of fifty thousand dollars or its equivalent in another currency in such manner as the Minister may reasonably prescribe; or

(b) in the case of a company seeking a subclass "2" licence it —

(i) has paid up capital of not less than one hundred thousand dollars or its equivalent in another currency, or such greater sum as the Minister may reasonably determine, in respect of its general insurance business;

(ii) maintains total capital and surplus, and liquidity adequate to its ongoing needs and planned operations in respect of its general insurance business and in compliance with the Regulations; and

(iii) has deposited or invested in the sum of fifty thousand dollars or its equivalent in another currency in such manner as the Minister may reasonably prescribe; or

(c) in the case of a company seeking a class "B" or class "C" licence it —

(i) has paid up capital of not less than one hundred thousand dollars or its equivalent in another currency, or such greater sum as the Minister may reasonably prescribe, in respect of its long term insurance business;

(ii) maintains total capital and surplus, and liquidity adequate to its ongoing needs and planned operations in respect of its long term insurance business and in compliance with the Regulations; and

(iii) has deposited or invested the sum of fifty thousand dollars or its equivalent in another currency in such manner as the Minister may reasonably prescribe.

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## PART III

### Shares

#### **Prohibition on issue, transfer or disposal**

**13.**— (1) A share in a licensee shall not be issued, transferred or disposed of in any manner, without the prior approval of the Minister.

(2) In subsection (1), the reference to shares being transferred or disposed of includes not only the transfer or disposal of the legal interest in the shares, but also the transfer or disposal of any beneficial interest in the shares.

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## PART IV

### Administration

#### **Use of words**

**14.**— (1) A person, other than a licensee shall not, unless with the approval of the Minister —

(a) use or continue to use in Saint Lucia or elsewhere the words "assurance", "financial institution", "insurance", "life", "property and casualty", "surety", or any of their derivatives either in English or in any other language, in the description of or title under which such person is carrying on business; or

(b) make or continue to make in Saint Lucia or elsewhere any representation in any bill head, letter, letterhead, circular, paper, notice, advertisement or in any other manner whatsoever that such person is carrying on international insurance business; or

(c) in any manner whatsoever solicit or engage in any international insurance business from Saint Lucia or elsewhere.

(2) An eligible company shall not, unless with the approval of the Minister, be registered, or continue to be registered, in Saint Lucia by a name which contains the words "assurance", "financial institution", "insurance", "life", "property and casualty", "surety", or any of their derivatives, either in English or in any other language.

(3) Before giving his or her approval under subsection (1) or (2), the Minister may require of any person such references and such information and particulars as may be prescribed.

(4) The Minister may withdraw an approval given under subsection (1) if the Minister is satisfied it is in the public interest to do so.

(5) The Minister may refuse to grant a licence to an eligible company or, if the eligible company is already in possession of a licence, the Minister may revoke the licence if, in the Minister's opinion, the eligible company is carrying on or intending to carry on international insurance business under a name which —

(a) is identical with that of any company, firm or business, whether in Saint Lucia or not, or which so nearly resembles that name as to be calculated to deceive;

(b) is calculated to suggest, falsely, the patronage of or connection with some person or authority, whether in Saint Lucia or not; or

(c) is calculated to suggest falsely, that such company has a special status in relation to or derived from the Government, has the official backing of or acts on behalf of the Government, of any department, branch, agency or organ of Government, or any officer of government.

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### **Audited accounts**

**15.**— (1) A licensee shall have its accounts audited annually or at such other times as the Minister may require by an auditor who shall conduct the audit in accordance with the international accounting standards.

(2) The audited accounts shall be forwarded to the Minister within three months of the end of the financial year of the licensee, unless prior written approval for an extension has been granted by the Minister.

(3) The audited accounts shall include an opinion, based on standards that are acceptable to the Minister, prepared by an actuary, in respect of the licensee's liabilities outstanding on account of its long term insurance business and in respect of the licensee's loss and loss reserve provisions on account of its general insurance business, in such form as may be specified by the Minister.

(4) A licensee shall provide a copy of the audited annual accounts of its

parent company to the Minister within three months of the end of the financial year of such parent company, unless prior approval for an extension has been granted by the Minister.

(5) Where a licensee changes its auditor or actuary, it shall immediately inform the Director, and the Director shall record the change accordingly.

(6) A licensee and the auditor of a licensee shall report in writing to the Minister within thirty days of becoming aware of —

(a) any transactions or conditions affecting the well-being of the licensee that require rectification; or

(b) failure of the licensee to comply substantially with any requirement imposed by this Act, or any conditions contained in the licensee's licence.

(7) A licensee which carries on general insurance business in addition to long term insurance business shall keep separate accounts in respect of its long term insurance business.

(8) A licensee which carries on any business other than international insurance business shall keep segregated accounts in respect of its international insurance business and the other business.

(9) A claim against a licensee in respect of its international insurance business has priority over any other claim against the assets held on behalf of the licensee relating to its international insurance business in the case of the liquidation or winding-up of the licensee.

(10) A claim in respect of its international insurance business that is not fully satisfied from the assets of the licensee relating to its international insurance business ranks rateably with other claims against the assets held on behalf of the licensee relating to any other business it has.

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### **Prohibitions on licensee**

16.—(1) A licensee may with the prior approval of the

Minister —

(a) open outside Saint Lucia a subsidiary, branch, agency or

representative office; or

(b) change its name.

(2) An approval granted under paragraph (b ) subsection (1) may be revoked by the Minister.

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### **Number of directors**

**17.**— (1) A licensee shall have at least two directors, all of whom are natural persons and one of whom shall be a resident.

(2) A person shall not act as a director or other senior officer of a licensee without prior written notification being given to the Minister unless the licensee is exempt from this requirement by the Minister.

(3) A director or senior officer of a licensee shall not continue to act as such if—

(a) he or she becomes bankrupt or is convicted of an offence involving dishonesty; or

(b) the Minister requires the revocation of the appointment of the director or senior officer.

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### **Transfer of business**

**18.**— (1) A scheme under which the whole or any part of the international insurance business of any licensee (in this section referred to as the "transferor") is to be transferred to another licensee or insurer (in this section referred to as the "transferee") shall be void unless the Minister has sanctioned the scheme.

(2) Either the transferor or the transferee may apply to the Minister, for the sanctioning of the scheme, and the Minister may if satisfied sanction the scheme.

(3) The Minister shall not entertain an application made under subsection (2) unless the application is accompanied by a report on the scheme prepared by an actuary and the Minister is satisfied that sufficient notice of the scheme and of the application for its approval has been given and has been published in the *Gazette*, and also that copies of the application and the report have been served on the

Minister.

(4) On any application under this section person who alleges that he or she would be adversely affected by the carrying out of the scheme is entitled to be heard by the Minister.

(5) Subsections (1) to (4) shall not have effect in relation to the transfer of business to effect normal re-insurance.

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### **Powers and duties of Director**

**19.**— (1) In the performance of his or her duty under this Act the Director shall be guided by the policy directives of the Minister.

(2) The Director shall —

(a) maintain a general review of international insurance practice in Saint Lucia;

(b) examine, in such manner as the Director thinks necessary, the affairs or business of any licensee for the purpose of satisfying the Director that this Act is being complied with and that the licensee is in a sound financial position and report to the Minister the results of every such examination;

(c) assist in the investigation of an offence against the law in force in Saint Lucia which the Director has reasonable grounds to believe has or may have been committed by a licensee or by any of its directors or officers in their capacity as such;

(d) examine returns, certificates and audited annual accounts and to report on them to the Minister; and

(e) examine and make recommendations to the Minister with respect to applications for licences.

(3) In the performance of the Director's duties under this Act and to verify compliance with the provision of this Act by a licensee, subject to section 20, the Director is entitled at all reasonable times —

(a) to have access at the licensee's registered office to such books, records, vouchers, documents, cash, securities and other information of a licensee as may be specified by the Director;

(b) to require the director, officer, auditor or actuary of a licensee to

provide information and explanations of the condition and affairs of the licensee;

(c) to request any relevant information, matter or thing from any person whom the Director has reasonable grounds to believe is carrying on international insurance business in Saint Lucia in contravention of section 3 (1);

(d) to request any relevant information, return or certificate from a licensee; either from time to time or on a regular basis;

(e) to request from any person information or expert advice relevant to the duties of the Director and to provide to such person such assurances regarding the confidential treatment of the information or any other assurances as the Director may reasonably provide.

(4) Where the Director requires a person to provide information or explanations pursuant to paragraph (b) of subsection (3) and the Director is not satisfied with the information or explanations, the powers of the Minister under section 21 may be invoked.

(5) The Director, with the approval of the Minister, may, in writing, authorize any other person to assist the Director in the performance of the Director's functions under this Act.

(6) If it appears to the Director that there is reasonable grounds for suspecting that an offence against this Act has been or is being committed by any person, the Director may take such action as the Director considers necessary, in the interests of the policyholders or other creditors of that person, to preserve any assets held by that person.

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## **Secrecy**

**20.**— (1) Subject to the subsections (2) and (3), no information shall be disclosed relating to —

(a) an application made to the Minister for a licence under this Act;

(b) the affairs of a licensee; or

(c) the affairs of a customer of a licensee;

that the Minister or a person acting under the authority of the Minister

has acquired in the course of their duties under this Act.

(2) Subsection (1) does not apply to a disclosure by the Minister or Director —

(a) necessary for the effective regulation within Saint Lucia of a licensee;

(b) lawfully required or permitted by any court of competent jurisdiction within Saint Lucia;

(c) permitted under this Act or under any other law in force in Saint Lucia; or

(d) in respect of the affairs of the licensee or a customer of a licensee with the authority of the licensee or the customer of the licensee which has been voluntarily given.

(3) Subject to subsection (4), the Minister may disclose to another regulatory authority outside Saint Lucia information concerning the affairs of a licensee where —

(a) the other regulatory authority permits reciprocal disclosure;

(b) the disclosure is in the interest of prudential regulation of a licensee;

(c) the disclosure pertains to actions of a licensee in violation of any law or with respect to the failure of a licensee to comply with generally accepted principles relating to the international insurance business.

(4) Nothing in subsection (3) authorises the Director to make a disclosure referred to in that subsection unless —

(a) the Director is satisfied that the intended recipient authority is subject to adequate legal restrictions on further disclosures which may include the provision of an undertaking on confidentiality; and

(b) the disclosure does not relate to customers of a licensee other than information relating to large credit exposure of the licensee.

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## **Powers of Minister**

**21.**— (1) Where the Minister is of the opinion that a licensee is or appears likely to become unable to meet its obligations as they fall due,

or is carrying on business in a manner detrimental to the public interest, the interest of its policyholders, or other creditors, or has contravened this Act, or has failed to comply with a condition of its licence, or that a condition exists that would have caused the Minister to refuse to grant a licence upon application therefore, the Minister may forthwith —

(a) revoke the licence;

(b) impose conditions, or further conditions as upon the licence and may amend or revoke any such condition;

(c) require the substitution of any director or officer of the licensee;

(d) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of its affairs and to report to the Minister thereon within three months of the date of that person's appointment;

(e) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall, with the necessary changes, have all the powers of a person appointed as a receiver or manager of a company registered under the International Business Companies Act, 1999; and

(f) require such action to be taken by the licensee as the Minister considers necessary.

(2) A licensee may, within seven days of the decision, apply to the Minister for a reconsideration of the Minister's decision to revoke a licence under paragraph (a) of subsection (1).

(3) A person appointed under paragraph (d) or (e) of subsection (1) or whose appointment has been extended under paragraph (b) of subsection (4), shall from time to time at the person's discretion and in any case within three months of the date of that person's appointment or of the extension of that person's appointment prepare and furnish a report to the Minister of the affairs of the licensee and of the Minister's recommendations thereon.

(4) On receipt of a report under subsection (3), the Minister may—

(a) revoke the appointment of the person appointed under paragraph (d) or (e) of subsection (1);

(b) extend the period of the person's appointment;

(c) subject to such conditions as the Minister may impose, allow the licensee to reorganize its affairs in a manner approved by the Minister; or

(d) revoke the licence and apply to the Court for an order that the licensee be forthwith wound-up by that Court in which case the provisions of the International Business Companies Act, 1999, relating to the winding-up of a company by that Court shall apply.

(5) Notwithstanding any provisions of this Act, the Minister may revoke a licence if a licensee —

(a) has ceased to carry on international insurance business; or

(b) goes into liquidation or is wound-up or otherwise dissolved.

(6) Where the Minister revokes a licence under paragraph (a) of subsection (1), paragraph (d) of subsection (4), or subsection (5), the Minister shall cause notice of such revocation to be published in the *Gazette*, and may cause such notice to be published (whether within Saint Lucia or elsewhere), in such newspaper or other publication as the Minister may consider necessary in the circumstances.

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## **Order for winding-up**

**22.** The Minister may, in any case in which a licensee is being wound-up voluntarily, apply to the Court if the Minister considers that the winding-up is not being conducted in the best interests of its policyholders or other creditors, and the Court shall make such order as it considers appropriate.

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## **PART V**

### **Miscellaneous**

## **Offences and penalties**

**23.** — (1) A person shall not —

(a) fail to comply with a request made, under this Act, to that person by the Minister or the Director or any other person authorised under this Act;

(b) assault or wilfully obstruct the Director in the performance of the Director's duties under this Act; or

(c) by the offer of any gratuity, bribe or any other inducement prevent or attempt to prevent the Minister, the Director or any officer in the department of Government responsible for international financial services, from performing any duty under this Act.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine of not less than one hundred thousand dollars or to imprisonment for five years.

(3) A person who contravene section 3 (1) commits an offence and is liable on conviction to a fine of one hundred thousand dollars or to imprisonment for a term not exceeding five years.

(4) A person who contravenes subsection 14 commits an offence and is liable on conviction to a fine of twenty thousand dollars or to imprisonment for three years and in the case of a continuing offence to a fine of five hundred dollars for each day during which the offence continues.

(5) A person who contravenes a provision of this Act for which no punishment is specifically provided commits an offence is liable on conviction to a fine of twenty thousand dollars or to imprisonment for three years.

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## **Appeals**

**24.**— (1) An appeal lies to the Court from any decision of the

Minister —

(a) revoking a licence under section 14 (5), paragraph (a) of section 21 (1), or section 21 (4) or (5);

(b) withdrawing any approval under section 14 (4); or

(c) requiring a licensee to take steps which the Minister may specify under section 21.

(2) An appeal against a decision of the Minister shall be on motion and the appellant shall within twenty-one days after the day on which the Minister has given his or her decision shall serve a notice, in writing signed by the appellant or the appellant's attorney-at-law, on the

Minister stating the appellant's intention to appeal and the general ground of appeal.

(3) A person aggrieved by a decision of the Minister may, upon notice to the Minister, apply to the Court for leave to extend the time within which the notice of appeal prescribed by this section may be served and the Court upon hearing of such application may extend the time presented by this section as it deems fit.

(4) The Minister shall, upon receiving the notice of appeal, transmit to the Registrar of the Court without delay, a copy of the decision and all papers relating to the appeal and the Minister is not compelled to disclose any information if it is considered that the public interest would suffer by such disclosure.

(5) The Registrar of the Court shall set the appeal down for argument on such day, and shall cause notice of the same to be published in such manner, as the Court may direct.

(6) At the hearing of the appeal the appellant shall, before going into the case, state all the grounds of appeal on which the appellant intends to rely and shall not, unless by leave of the Court, go into any matters not raised by such statements.

(7) The Court may adjourn the hearing of an appeal and may, upon the hearing thereof confirm, reverse, or modify the decision of the Minister or remit the matter with the opinion of the Court thereon to the Minister.

(8) An appeal against a decision of the Minister shall not have the effect of suspending the execution of the decision.

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## **Insurance**

**25.** The Minister may require a licensee to effect a policy of insurance with a reputable insurance company against —

(a) losses arising out of claims of negligence or breach of duty by the licensee or any of its directors or employees;

(b) the dishonesty of employees of the licensees;

(c) loss of documents; and

(d) such other risks as the Minister may from time to time stipulate.

in such amount and of such nature as the Minister may determine to be fit and proper, having due regard for the nature and type of business carried on by the licensee; and, in the event that the insurance is withdrawn, cancelled or not renewed, the licensee shall immediately notify the Director and shall cease to carry on its international insurance business until the insurance has been reinstated or replaced.

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## **Immunity**

**26.** The Minister, the Director or a person under the authority of the Minister or the Director shall not be liable to damages for anything done or omitted in the discharge or purported discharge of their respective functions under this Act, unless it is shown that the act or omission was in bad faith.

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## **Non-application of Insurance Act and Exchange Control Ordinance**

**27.—** (1) The Insurance Act 1995 shall not apply to a licensee.

(2) This Act shall not apply to companies licenced to carry on an insurance business under the Insurance Act, 1995.

(3) A licensee or the dividends, royalties, interest, foreign securities, funds, gains or assets generated or managed by a licensee in the course of its international insurance business, shall not be subject to the provisions of the Exchange Control Ordinance Cap. 180.

(4) A law in force in Saint Lucia regulating the charging of interest on loans by financial institutions shall not apply to a licensee on its international insurance business.

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## **Regulations**

**28.** The Minister may make Regulations —

(a) to prescribe the information, particulars and references which may be prescribed under section 4 (2) or section 14 (3);

- (b) to control the form of advertising by licensees;
- (c) to prevent the use of licensees to obliterate the tracing of the proceeds of crime and to deal with any such proceeds held by licensees;
- (d) to prescribe fees payable under section 8;
- (e) to waive or vary the statutory deposit requirements in section 12; and
- (f) generally for carrying this Act into effect.

Passed in the House of Assembly this 2nd day of November, 1999.

MATTHEW ROBERTS,

*Speaker of the House of Assembly.*

Passed in the Senate this 12th day of November, 1999.

HILFORD DETERVILLE,

*President of the Senate.*

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## **SCHEDULE**

### **PARTICULARS TO BE SPECIFIED IN APPLICATIONS**

1. The name of the applicant (hereinafter referred to as "the applicant"), in respect of which the licence is sought.
2. Evidence of the granting and currency of any approval required under section 14 to the use of any word in the title or description of the applicant.
3. The address in Saint Lucia of the applicant's registered office, and the name and address of its registered agent, under section 5 (1) (b).
4. The names, addresses, citizenship and residency of all directors of the applicant's registered agent.
5. The names and addresses of all shareholders of the applicant's registered agent.
6. The names, addresses and qualifications of all officers and managers of the applicant's registered agent.
7. Evidence of the applicant's incorporation or continuation in Saint Lucia.
8. A copy of the memorandum and articles of incorporation or continuation defining the constitution of the applicant verified by a statutory declaration made by one of its directors, or its secretary and certified by the Registrar under the International Business Companies Act, 1999.
9. Where appropriate, a statement in writing in a form acceptable to the Director from the authority responsible for the administration of the laws in force relating to insurance business, and the supervision of such business, in the jurisdiction in which the parent company of the applicant is incorporated that such authority is aware of the application.
10. In respect of the applicant —
  - (a) the full names, addresses and nationalities of each shareholder;
  - (b) the annual accounts for the two years immediately preceding the year of application of each shareholder which is body corporate to

which paragraph (a) applies, together with similar accounts for the parent body, if any, of each such body corporate;

(c) two or more references verifying the good financial standing of each shareholder who is a natural person whom paragraph (a) applies;

(d) the full names, addresses and nationalities of all directors, managers and officers of the applicant;

(e) two character references for each of the persons referred to in paragraph (d) and, for each such person, a police or other certificate satisfactory to the Director that the person has not been convicted of a serious crime or any offence involving dishonesty;

(f) evidence acceptable to the Director of the availability to the applicant at all times of adequate professional knowledge and experience in the insurance business, and the names of at least two of its directors actively engaged in the business of the applicant, one of whom shall possess a sound professional knowledge of and experience in insurance business;

(g) the names and addresses of the registered offices of all subsidiary companies of the applicant together with a statement as to how much of the capital of each such company constitutes an asset of the applicant;

(h) the name and addresses of the firm of auditors and actuaries practising in Saint Lucia appointed to audit the accounts of the applicant and to provide the actuarial opinions;

(i) the name and address of the auditor and the actuary who will perform the audit and provide the actuarial opinions;

(j) a statement giving the date for the drawing up of the annual accounts of the applicant;

(k) business references from two banks;

(l) details of the current business activities, if any, of the applicant and its proposed activities if the licence applied for is granted including —

(i) its business aims;

(ii) a detailed statement setting out its proposed initial assets and its proposed assets and expected liabilities at the end of each of the two years next succeeding the date of such grant together with an estimate

of expected income;

(iii) particulars of its management structure and personnel;

(iv) a statement as to its customer base, including, in the case of an application for a subclass "1" licence, the names and addresses of its general business customers; and

(v) a copy of its most recent audited annual accounts and details of its earnings, if any; and

(vi) requests for any exemption from the requirements of the law sought by the applicant.

11. In respect of the parent company of the applicant —

(a) a list certified by its Secretary containing the names, addresses, and nationalities of its directors and corporate officers;

(b) a chart showing the relationship to its subsidiaries and affiliates and any holding company, if any;

(c) the name and addresses of its auditor;

(d) a statement giving the date for the drawing up of its annual accounts;

(e) a copy of its latest annual accounts and those of its holding company, if any;

(f) business references from two banks of international repute, as is appropriate; and

(g) a statement in writing in a form acceptable to the Director accepting legal responsibility for the obligations and liabilities of the applicant executed by and binding on the parent company, if any, of the applicant.

12. Each application for a subclass "1" licence shall be accompanied by an undertaking in a form acceptable to the Director that the applicant shall not receive or solicit general business from persons other than whose names and addresses are listed in the undertaking.

13. (a) An undertaking in writing to provide and set apart a fully paid up capital fund before or at the time it commences business, such as the Minister may in his capacity determine based upon the class or

subclass of licence for which application is being made, or by a guarantee under seal of such sum given by a holding or parent company or other company approved by the Minister; and

(b) the guarantee referred to in paragraph (a) shall expressly provide that its formal validity, its essential validity, its interpretation and effect and the rights and obligations of the parties to it are governed exclusively by the laws in force in Saint Lucia and that the High Court of Saint Lucia only shall be the forum for these purposes.

14. An application fee of one thousand dollars.

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