



CHAPTER 12.15

INTERNATIONAL INSURANCE ACT

Revised Edition

Showing the law as at 31 December 2001

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INTERNATIONAL INSURANCE ACT

Act 38 of 1999.. in force 26 January 2000 (S.I.3/2000)

INTERNATIONAL INSURANCE REGULATIONS – Section 28

Statutory Instrument 82/2000 in force 1 April 2000

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CHAPTER 12.15

INTERNATIONAL INSURANCE ACT

ARRANGEMENT OF SECTIONS

Section

PART 1	5
SHORT TITLE AND INTERPRETATION	5
1. Short title.....	5
2. Interpretation.....	5
PART 2	9
LICENCES	9
3. Requirement for licence	9
4. Application for and grant of licence	9
5. Registered office and registered agent	9
6. Notification of change of particulars	10
7. Categories of licences.....	10
8. Fees.....	11
9. Refusal to grant licence	11
10. Surrender of licence.....	12
11. Limitations on activities	12
12. Capital.....	13
PART 3	14
SHARES	14
13. Prohibition on issue, transfer or disposal	14
PART 4	14
ADMINISTRATION	14
14. Use of words.....	14
15. Audited accounts	16
16. Prohibitions on licensee.....	17
17. Number of directors	17
18. Transfer of business	18
19. Powers and duties of director.....	18
20. Secrecy.....	20
21. Powers of Minister	21
22. Order for winding-up	22

PART 5	23
MISCELLANEOUS	23
23. Offences and penalties	23
24. Appeals.....	23
25. Insurance	25
26. Immunity	25
27. Non-application of Insurance Act and Exchange Control Act.....	25
28. Regulations	26

CHAPTER 12.15

INTERNATIONAL INSURANCE ACT

(Act 38 of 1999)

AN ACT to provide for the licensing and regulation of international insurance business and related matters.

Commencement [26 January 2000]

PART 1

SHORT TITLE AND INTERPRETATION

1. SHORT TITLE

This Act may be cited as the International Insurance Act.

2. INTERPRETATION

(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 5 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 5 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 under section 11 of the Registered Agent and Trustee Licensing Act;

“**eligible company**” means a body corporate—

- (a) which is incorporated or continued under the International Business Companies Act 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 2 or more entities, whether corporate or unincorporated, that are in association, and 2 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; however another licensee, or a person registered or licensed under any other law in force relating to international financial services is 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; or

- (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 would 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 licensed to carry on the business of international financial services representation under the Registered Agent and Trustee Licensing Act and so designated by a licensee under section 5(1)(b);

“**resident**” means—

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

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 “\$” shall, unless otherwise stated, be to the lawful currency of the United States of America.

PART 2 LICENCES

3. REQUIREMENT FOR LICENCE

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.

4. APPLICATION FOR AND GRANT OF LICENCE

- (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.

5. REGISTERED OFFICE AND REGISTERED AGENT

- (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.

6. NOTIFICATION OF CHANGE OF PARTICULARS

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.

7. CATEGORIES OF LICENCES

- (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 under 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.

8. FEES

- (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 15 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 $\frac{1}{12}$ of that fee for every month or part of a month that the fee is not paid.

9. REFUSAL TO GRANT LICENCE

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.

10. SURRENDER OF LICENCE

- (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 subsection (1)(b), 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 relating to the winding-up of a company by or subject to the supervision of that Court shall apply with the necessary changes.

11. LIMITATIONS ON ACTIVITIES

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.

12. CAPITAL

- (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 \$50,000 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 \$50,000 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 \$100,000 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 \$50,000 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 \$100,000 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 \$50,000 or its equivalent in another currency in such manner as the Minister may reasonably prescribe.

PART 3 SHARES

13. PROHIBITION ON ISSUE, TRANSFER OR DISPOSAL

- (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.

PART 4 ADMINISTRATION

14. USE OF WORDS

- (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;

- (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.

15. AUDITED ACCOUNTS

- (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 3 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 3 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 30 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.

16. PROHIBITIONS ON LICENSEE

- (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 subsection (1)(b) may be revoked by the Minister.

17. NUMBER OF DIRECTORS

- (1) A licensee shall have at least 2 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.

18. TRANSFER OF BUSINESS

- (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 a 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.

19. POWERS AND DUTIES OF DIRECTOR

- (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 provisions 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 under subsection (3)(b) 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, authorise 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.

20. SECRECY

- (1) Subject to the subsections (2) and (3), information shall not 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) Subsection (3) does not authorise 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.

21. POWERS OF MINISTER

- (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—
- (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 3 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; and
 - (f) require such action to be taken by the licensee as the Minister considers necessary.

- (2) A licensee may, within 7 days of the decision, apply to the Minister for a reconsideration of the Minister's decision to revoke a licence under subsection (1)(a).
- (3) A person appointed under subsection (1)(d) or (1)(e) or whose appointment has been extended under subsection (4)(b), shall from time to time at the person's discretion and in any case within 3 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 subsection (1)(d) or (1)(e);
 - (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 wound-up by that Court in which case, the provisions of the International Business Companies Act relating to the winding-up of a company by that Court shall apply.
- (5) Despite 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 subsection (1)(a), subsection (4)(d), 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.

22. ORDER FOR WINDING-UP

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.

PART 5 MISCELLANEOUS

23. OFFENCES AND PENALTIES

- (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 \$100,000 or to imprisonment for 5 years.
- (3) A person who contravenes section 3(1) commits an offence and is liable on conviction to a fine of \$100,000 or to imprisonment for a term not exceeding 5 years.
- (4) A person who contravenes section 14 commits an offence and is liable on conviction to a fine of \$20,000 or to imprisonment for 3 years and in the case of a continuing offence to a fine of \$500 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 and is liable on conviction to a fine of \$20,000 or to imprisonment for 3 years.

24. APPEALS

- (1) An appeal lies to the Court from any decision of the Minister—

- (a) revoking a licence under section 14(5), section 21(1)(a), 21(4) or 25(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 21 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.

25. INSURANCE

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 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.

26. IMMUNITY

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.

27. NON-APPLICATION OF INSURANCE ACT AND EXCHANGE CONTROL ACT

- (1) The Insurance Act 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.
- (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 Act.
- (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.

28. REGULATIONS

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.

INTERNATIONAL INSURANCE REGULATIONS – SECTION 28

(Statutory Instruments 82/2000 and 35/2001)

Commencement [1 April 2000]

1. SHORT TITLE

These Regulations may be cited as the International Insurance Regulations.

2. INTERPRETATION

In these Regulations—

“**Act**” means the International Insurance Act;

“**Registrar**” means Registrar of International Business Companies employed as such under the International Business Companies Act.

3. APPLICATION FOR LICENCE

A person applying for a licence under section 4 of the Act shall apply by submitting an application form as prescribed in Form 1 of Schedule 1 together with the fee prescribed in Schedule 2.

4. LICENCES

- (1) A Class “A” subclass “1” licence issued under sections 4 and 7 of the Act shall be in the form as prescribed in Form 2 of Schedule 1.
- (2) A Class “A” subclass “2” licence issued under sections 4 and 7 of the Act shall be in the form as prescribed in Form 3 of Schedule 1.
- (3) A Class “B” licence issued under sections 4 and 7 of the Act shall be in the form as prescribed in Form 4 of Schedule 1.

- (4) A Class “C” subclass “1” licence issued under sections 4 and 7 of the Act shall be in the form as prescribed in Form 5 of Schedule 1.
- (5) A Class “C” subclass “2” licence issued under sections 4 and 7 of the Act shall be in the form as prescribed in Form 6 of Schedule 1.

5. ACTUARIAL OPINION

An actuarial opinion required under section 15(3) of the Act shall be as prescribed in Form 7 of Schedule 1.

6. NOTICE OF CHANGE

A notice of change of particulars under section 6 of the Act shall be in the form as prescribed in Form 8 of Schedule 1.

7. NOTICE OF REVOCATION

A notice of a revocation of a licence under section 21 of the Act shall be in the form as prescribed in Form 9 of Schedule 1.

8. FEES

- (1) In this regulation—
 - “**annual fees**” means the annual fee under section 8(2) of the Act;
 - “**prescribed fee**” means the prescribed fee under section 8(1) of the Act.
- (2) Subject to subregulation (3), the annual fee payable under section 8 of the Act shall be as prescribed in Schedule 2.
- (3) Where a licence is granted between—
 - (a) 1 January and 31 March or on either of these dates, the prescribed fee payable on the grant of the licence shall be the full annual fee;
 - (b) 1 April and 30 June or on either of these dates, the prescribed fee payable on the grant of the licence shall be 75% of the annual fee;

- (c) 1 July and 30 September or on either of these dates, the prescribed fee payable on the grant of the licence shall be 50% of the annual fee;
- (d) 1 October and 31 December or on either of these dates, the prescribed fee payable on the grant of the licence shall be 25% of the annual fee.

(Substituted by S.I. 35/2000)

9. DEPOSITS AND INVESTMENT

- (1) For the purposes of section 12 of the Act, an eligible company may deposit or invest the applicable sum by any of the following methods—
 - (a) treasury bills issued by the Government of Saint Lucia;
 - (b) bonds and debentures issued by the Government of Saint Lucia;
 - (c) deposits with the Saint Lucia Development Bank;
 - (d) deposits with a bank licensed under the Banking Act; or
 - (e) deposits with a financial institution approved by the Minister.
- (2) An eligible company shall provide an undertaking in writing not to dispose of, pledge, hypothecate, release or otherwise encumber the deposit or investment made under section 12 of the Act without prior notification and approval by the Minister.

SCHEDULE 1**FORM 1**

(Regulation 3)

SAINT LUCIA*(International Insurance Act: Section 4)***APPLICATION FOR LICENCE TO CARRY OUT
INTERNATIONAL INSURANCE BUSINESS****(To be completed in English language or with certified translation
attached)**

Please tick the class of licence applied for. Please complete all parts of the application.

<input type="checkbox"/> Class A – General insurance business	Subclass []
<input type="checkbox"/> Class B – Long term insurance business	Subclass []
<input type="checkbox"/> Class C – Long term and General Insurance business	Subclass []

**PART 1
APPLICANT DETAILS**

Name of Applicant: <input type="text"/>	Registered Office of Applicant <input type="text"/>
International Business Company No. <input type="text"/>	Business address of Applicant <input type="text"/>
Date of Incorporation <input type="text"/>	Telephone Fax <input type="text"/>
Contact person for this application <input type="text"/>	

Revision Date: 31 Dec 2001

	Email
<u>Share Capital</u>	Method of Raising Share capital
Authorised <input type="text"/>	<input type="text"/>
Issued <input type="text"/>	Amount and nature of loan capital
Paid Up <input type="text"/>	<input type="text"/>

PART 2

APPLICANT'S ADDITIONAL INFORMATION

Please indicate and attach where applicable the following items of information.	
<p><input type="checkbox"/> <i>Certified evidence of <u>capital and deposit</u> requirements. See section 12 of the Act</i> <i>Name, citizenship, bankers' references and addresses of <u>shareholders</u> (include names of beneficiaries where shareholders are nominees) with statutory declaration as shown in Part 7. Also amount and type of shares held.</i></p> <p><input type="checkbox"/> <i><u>Resumes</u> of each Director and senior management personnel of applicant, together with banker's references. Resumes— shall contain: name, previous names, date and place of birth, citizenship details, country of residence and length of residency, private address for past 10 years, educational and professional qualifications, employment history, etc.</i></p> <p><input type="checkbox"/> <i><u>Constitutional documents</u> - Certified copies of Memorandum and Articles of Association, and Certificate of</i></p>	<p><input type="checkbox"/> <i><u>Business plan</u> – encompassing background, business objectives, management and staff structure, projected financial position for first three (3) years. Also full details of parent or subsidiary relationships where applicable.</i></p> <p><input type="checkbox"/> <i><u>Customer base statement</u> – For general business sub class 1, include the names and addresses of general business customers.</i></p> <p><input type="checkbox"/> <i><u>Auditors, actuaries and attorneys-at-law Confirmation of Appointment</u> – Names and addresses of appointed firms of auditors, actuaries and attorneys-at-law with confirmation letters.</i></p> <p><input type="checkbox"/> <i><u>Undertaking to provide and set apart fully paid capital, before and at the time business commences.</u> Undertaking must</i></p>

Incorporation.

- Particulars of shareholder loan – Include details of all loans to and from shareholders.
- Comparative financial statement– Copy of applicant’s and applicant’s parents company’s latest audited accounts and group accounts where applicable for three (3) years prior to year of application, and statements of accounts at end of month prior to submission of application. (Applies to subsidiary or continuing companies)

expressly provide that Laws of Saint Lucia are to govern validity, interpretation and effects on the rights and obligations of each of the parties.

- Actuarial opinion – Required under section 15(3) of the Act. See form 7 of the Regulations for the format of the opinion.

PART 3 APPLICANT MANAGEMENT

Please list all directors of the applicant, identify the Chairperson, Chief Executive or Managing Director and any other directors with specific title. Non-executive directors should be distinguished. A completed resume for each person should be appended.

Name and Title	Address	Is a resume attached?
		YES/NO
		YES/NO
		YES/NO

PART 4 DETAILS OF CORPORATE STRUCTURE OF WHICH APPLICANT FORMS PART

Please provide details of group companies of which the applicant forms part and describe the services provided.

Name of Company	Relationship (Parent, subsidiary, group or related)	Jurisdiction or Domicile	Address	Services provided

Revision Date: 31 Dec 2001

	company)			

PART 5
APPLICANT ADMINISTRATION EXPERIENCE (WHERE APPLICABLE)

Please provide details of insurance business administered by the applicant over the past seven (7) years.		
Name of Insurance Jurisdiction/Domicile	No. of Years Administered	Nature of services provided

PART 6
REGULATORY RELATIONSHIPS

Please provide name and address of all Regulatory Entities to which the applicant or other group companies report or reported over the past five (5) years	
Name of Company	Name and Address of Regulatory Authority

PART 7
STATUTORY DECLARATION – TO BE COMPLETED BY
SHAREHOLDERS, DIRECTORS AND SENIOR MANAGEMENT
PERSONNEL

I, [..... full name] Passport Number [.....]
of [..... please state full address]
do solemnly and sincerely declare as follows—

1. That I am a citizen of [.....]
2. That *I have never been convicted of an offence under the Laws of Saint Lucia or any other State. *(except for minor traffic offences).
3. That I am of good character.
4. That I have never been the subject of any refusal in any related application for registration, licence, recognition or authorisation by any regulatory authority in any country or jurisdiction.
5. That I have never been the subject of any suspension, cancellation or revocation of registration, licence, recognition or authorisation by any regulatory authority in any country or jurisdiction.
6. That no judgment has been rendered against me nor any suit or proceedings are pending against me in any country or jurisdiction which has been based in whole or in part on fraud, theft, deceit, misrepresentation or similar conduct.
7. I have never been charged, indicted or convicted in any country or jurisdiction for any offence in any criminal or civil proceedings relating to fraud or theft arising out of operating or dealing in mutual funds, collective investment schemes/funds, securities, banking or insurance business.
8. I have never been declared bankrupt nor have I been a party to bankruptcy or insolvency proceedings.
9. I have never been subject to proceeding relating to winding-up, dissolution, creditors' arrangement, creditors' compromise or receivership.

I make this Declaration conscientiously believing the same to be true and in accordance with the Statutory Declaration Act and that I am aware that if there is any statement in this Declaration which is false, or which I know to be false or do not believe to be true, I am liable to imprisonment.

Revision Date: 31 Dec 2001

DECLARED before me at this day of	_____
	<i>Declarant</i>

<i>Notary Royal</i>	

FORM 2

(Regulation 4(1))

[COAT OF ARMS]

SAINT LUCIA

LICENCE

INTERNATIONAL INSURANCE BUSINESS

(*International Insurance Act: sections 4 and 7*)

This is to certify that _____
Name of licensee

has been granted a licence to carry on international insurance business from Saint Lucia.

The licence granted is of type **CLASS "A" Subclass "1"** and is subject to the following:

1. The international insurance business shall consist of **general** insurance business carried on from Saint Lucia.
2. *The licensee must be wholly owned by one or more persons and the business of the licensee must consist only of insuring the risks of those persons; or
3. *The licensee shall be an affiliate of a group of companies and the business of the licensee must consist only of insuring the risks of any other affiliates of that group or of its own shareholders.

4. The licensee shall not without the written approval of the Minister carry on any business other than one for which the licence has been obtained.
5. Other conditions specified below.

Dated this _____ day of _____, _____.

Minister
International Financial Services

FORM 3

(Regulation 4(2))

[COAT OF ARMS]

SAINT LUCIA

LICENCE

INTERNATIONAL INSURANCE BUSINESS

(International Insurance Act: sections 4 and 7)

This is to certify that _____
Name of licensee

has been granted a licence to carry on international insurance business from Saint Lucia.

The licence granted is of type **CLASS "A" Subclass "2"** and is subject to the following:

1. The international insurance business shall consist of **general** insurance business carried on from Saint Lucia.
2. The licensee shall not without the written approval of the Minister,

Revision Date: 31 Dec 2001

carry on any business other than one for which the licence has been obtained.

3. Other conditions specified below.

Dated this _____ day of _____, _____.

Minister
International Financial Services

FORM 4

(Regulation 4(3))

[COAT OF ARMS]

SAINT LUCIA

LICENCE

INTERNATIONAL INSURANCE BUSINESS

(International Insurance Act: Sections 4 and 7)

This is to certify that _____
Name of licensee

has been granted a licence to carry on international insurance business from Saint Lucia.

The licence granted is of type CLASS "B" and is subject to the following:

1. The international insurance business shall consist of long term insurance business carried on from Saint Lucia.
2. The licensee shall not without the written approval of the Minister, carry on any business other than one for which the licence has been obtained.
3. Other conditions specified below.

Dated this _____ day of _____, _____.

Minister
International Financial Services

FORM 5

(Regulation 4(4))

[COAT OF ARMS]

SAINT LUCIA

LICENCE

INTERNATIONAL INSURANCE BUSINESS

(International Insurance Act: Sections 4 and 7)

This is to certify that _____
Name of licensee

has been granted a licence to carry on international insurance business from Saint Lucia.

The licence granted is of type **CLASS “C” Subclass “1”** and is subject to the following:

1. The international insurance business shall consist of **general and long term** insurance business carried on from Saint Lucia.
2. The licensee must be wholly owned by one or more persons and the general business of the licensee must consist only of insuring the risks of those persons. or
3. The licensee shall be an affiliate of a group of companies and the

Revision Date: 31 Dec 2001

general business of the licensee must consist only of insuring the risks of any other affiliates of that group or of its own shareholders.

4. The licensee shall not without the written approval of the Minister, carry on any business other than one for which the licence has been obtained.
5. Other conditions specified below.

Dated this _____ day of _____, _____.

Minister
International Financial Services

FORM 6

(Regulation 4(5))

[COAT OF ARMS]

SAINT LUCIA

LICENCE

INTERNATIONAL INSURANCE BUSINESS

(International Insurance Act: Sections 4 and 7)

This is to certify that _____
Name of licensee

has been granted a licence to carry on international insurance business from Saint Lucia.

The licence granted is of type **CLASS “C” Subclass “2”** and is subject to the following:

1. The international insurance business shall consist of **general and long term** insurance business carried on from Saint Lucia.

- 2. The licensee shall not without the written approval of the Minister, carry on any business other than one for which the licence has been obtained.
- 3. Other conditions specified below.

Dated this _____ day of _____, _____.

Minister
International Financial Services

FORM 7

(Regulation 5)

ACTUARIAL OPINION TO BE INCLUDED IN THE AUDITED ACCOUNTS ON ACCOUNT OF GENERAL BUSINESS

(International Insurance Act: Section 15(3))

(To be completed in English language or with certified translation attached)

Name of the Company_____

I, _____ am the Actuary of _____

I have examined the actuarial assumptions and actuarial methods used in determining future policy obligations and expenses, deferred acquisition expenses, and related actuarial items in the audited accounts of the company, as prepared by the company to accord with internationally accepted accounting standards, from the period beginning _____ to _____.

My examination included such review of the actuarial assumptions and actuarial methods and of the underlying basic records and such tests of the

Revision Date: 31 Dec 2001

actuarial calculations as I considered necessary.

In my opinion, the amounts carried in the balance sheet on account of unamortised acquisition expenses and on account of other future policy obligations and expenses are based on actuarial assumptions which are appropriate to the financial statements of the company prepared in accordance with internationally accepted accounting standards and computed by sound actuarial methods consistently applied and are fairly stated.

Provisions have been made for all actuarial reserve and related items which ought prudently to be established.

Signed:.....

Date:.....

FORM 8

(Regulation 6)

NOTICE OF CHANGE OF PARTICULARS

(International Insurance Act: Section 6)

(To be completed in Duplicate, and to be completed in English language or with certified translation attached)

Date:.....

To: Minister for International Financial Services
Financial Services Supervision Department
Castries
SAINT LUCIA

Dear Sir:

We hereby notify you that we have changed the particulars set forth in our application for licence as follows.

Approval is requested for the following changes for the reasons outlined:

1.

-
-
-
- 2.
-
-
-
- 3.
-
-
-

Yours Faithfully,

Name:

Signature:

APPROVED, except as maybe set forth in an attachment hereto.

Minister
International Financial Services

FORM 9

(Regulation 7)

NOTICE OF REVOCATION OF LICENCE

(International Insurances Act: Section 21)

Name of licensee:

Licence Number:

Address:

.....

.....

 Revision Date: 31 Dec 2001

The Minister of International Financial Services hereby notifies the above holder of an international insurance licence, that its licence has been revoked by the Minister as at [... date..] under section 21 of the International Insurance Act for the following reason(s):

- the licensee appears likely to become unable to meet its obligations as they fall due.
- the licensee is carrying on business in a manner detrimental to the public interest, the interest of its policyholders or other creditors.
- a condition exists that would have caused the Minister to refuse to grant the licensee a licence upon application.
- the licensee has contravened the provisions of section _____ of the International Insurance Act.
- the licensee has failed to comply with the following condition(s) of its licence.

The licensee may under section 21(2) of the International Insurance Act apply to the Minister within 7 days of the date of this notice for a reconsideration of his or her decision to revoke its licence.

The licensee may appeal any revocation under section 24 of the International Insurances Act by lodging an appeal to the High Court of Saint Lucia.

Dated this day of 20.....

.....
Minister
International Financial Services

SCHEDULE 2

(Regulation 8)

FEES

US\$

1. Application fee 500
2. Annual licence fee 2,500