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ECONOMIC COMMISSION FOR LATIN AMERICA
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THE
DRAFT LEGISLATION
on
I N S U R A N C E

Prepared
for
The Government of Dominica
by
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INTRODUCTION

The law of insurance is well known for its complexity, but where, as in many developing countries (including Commonwealth Caribbean), the volume of business is not very large and the administrative and technological skills and resources at the disposal of the Governments are limited, the enactment of a full-fledged, elaborate and complicated law, however desirable from the technical and other points of view, may create more difficulties than it would solve. In fact, no law, however elaborate or good it may be, can be of much use, unless it fully takes into account and caters to the local conditions and requirements and, additionally, is such as can be fully and properly administered.

The Draft Legislation contained in this Paper has been prepared to suit the requirements of the Government of Dominica, who, for good and sound reasons, wanted to have a simple piece of legislation, which would be easy to administer, but, at the same time, fully safeguard the interests of the policy holders, especially the life-policy holders, in Dominica. The proposed legislation, though quite simple, is nevertheless, fairly comprehensive in scope and is designed to meet all types of foreseeable situations. The provision regarding the making of regulations is, in particular, very elaborate and would, it is hoped, enable the administration to meet, from time to time and as and when the occasion arises, the changing conditions and requirements without any difficulty.

The writer will be glad to offer any clarification or assistance that may be required.

Draft Bill
for
THE INSURANCE ACT, 1970

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D O M I N I C A

DRAFT BILL

for

AN ACT to make provisions for regulating the carrying on of the insurance business in Dominica and for matters connected therewith or incidental thereto.

(On Proclamation)

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

PART I

Preliminary

- Short title. 1. This Act may be cited as the Insurance Act, 1970.
- Interpretation. 2. In this Act, unless there is anything repugnant in the subject or context, -
- "actuary" means a Fellow by examination of the Institute of Actuaries in England or the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America and includes a person, who, in the opinion of the Minister, possesses adequate actuarial knowledge and experience and is approved by the Minister to act as such;

"appointed day", in relation to any provision or provisions of this Act, means the day appointed under section 93;

"assets" does not include goodwill;

"association of underwriters" means an association of individual underwriters organised according to the system known as Lloyd's, whereby every underwriting member of a syndicate becomes liable for a separate part of the sum secured by each policy subscribed to by that syndicate, limited or proportionate to the whole sum thereby secured;

"auditor" means a person, who is a member of a professional organisation of accountants recognised as such by the Minister for the purposes of this Act and includes any person who, in the opinion of the Minister, possesses adequate knowledge and experience of accountancy and who is approved by the Minister to act as such for the purposes of this Act;

"bond investment business" means the business of issuing bonds or endowment certificates by which the insurer, in return for subscriptions payable at

periodic intervals of less than six months, contracts to pay the bondholder a sum at some future date, but does not include life assurance business, industrial assurance business or sinking fund or capital redemption insurance business;

"carrying on insurance business" includes the receipt of a proposal for, or the issuing of, a policy of insurance in Dominica or the collection or receipt in Dominica of any premium (including a renewal premium) in respect of a policy issued in Dominica or the making of payment due on such policy by an insurer or an insurance agent, either directly or otherwise; but does not include the collection or receipt in Dominica of any renewal premium in respect of any policy issued outside Dominica or the making in Dominica of any payment due on such policy to a person (not being a resident of Dominica), who is temporarily present in Dominica at the time of such collection or receipt or the making of payment, as the case may be;

"class of insurance business" includes -

- (a) life assurance business; or
- (b) general insurance business, or,
if separate revenue accounts are prescribed by the Minister under this Act, any category of insurance business for which a separate account has been so prescribed;

"company" means a body corporate which carries on or intends to carry on insurance business in Dominica and includes a local company or a foreign company as the context requires;

"contingent obligation dependent on human life" means -

- (a) an obligation to pay to a particular person certain sums of money at specified intervals or a certain sum of money or to provide for a particular person certain other benefit -

- (i) on the occurrence of death of a particular person or on the occurrence of the birth of a child to a particular person at any time or within a specified period;
or

(ii) in the event of a particular person surviving throughout a specified period or periods; or

(b) an obligation assumed -

(i) until the occurrence of the death of a particular person; or

(ii) during a specified period or until the occurrence of the death of a particular person before the expiration of the specified period;

"court" means a court of competent jurisdiction;

"director" means any person occupying the position of a director, by whatever name or designation called;

"dollar" means dollar in the currency of Dominica;

"external insurer" means a registered insurer constituted outside Dominica;

"financial year", in relation to an insurer, means the calendar year, or a period, not exceeding twelve months, at the end of

which the balance of the accounts of an insurer is struck;

"fire insurance business" means the issue of, or the undertaking of liability under, policies of insurance against loss by or incidental to fire;

"general insurance business" means insurance business of any class other than long-term insurance business and includes, fire insurance business and motor vehicle insurance business;

"industrial assurance policy" means a policy whereby the insurer assumes, in return for premium payable at intervals not exceeding two months, a contingent obligation dependent on human life, not exceeding in amount the sum of five hundred dollars if the insurer expressly or tacitly undertakes to send a person to the owner of the policy or to his place of work or residence to collect premiums;

"inspector" means the Inspector appointed under section 34 ;

"insurance agent" means a person who, with the authority of an insurer, acts on his behalf, for the initiation, negotiation

or procurement of insurance business, the receipt of proposals, the issue of policies or insurance contracts duly countersigned by him, if authorised so to do by the insurer, or the collection of premiums in respect thereof, or, the making of payments due on them;

"insurance broker" means a person who for compensation as an independent contractor, in any manner, solicits, negotiates, or procures insurance, or the renewal of insurance on behalf of any other person being an insurer or an insurance agent;

"insurance business" means the assumption of obligations of an insurer in any class of insurance business and includes re-insurance business;

"insurer" means a company registered to carry on insurance business in Dominica, and, except where otherwise stated, includes a member of an association of underwriters which is registered as an insurer under section 38 but does not include an insurance agent:

Provided that when any person is both an insurer and an insurance agent,

any reference to the business carried on by an insurer shall not include a reference to the business carried on by such person as an insurance agent;

"Laws of Dominica" and "foreign laws" mean respectively the relevant laws for the time being in force in Dominica and any country other than Dominica, as the context requires;

"life assurance business" means the issue of, or the undertaking of liability under, policies of assurance upon human life, or the granting of annuities upon human life, but does not include industrial assurance business;

"life assurance fund" means the fund to which the receipts of an insurer in respect of his life assurance business are carried and from which payments in respect of that business are made;

"life assurance policy" means any instrument by which the payment of money is assured on death or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life and

includes an ordinary life assurance policy, an industrial assurance policy and a sinking fund policy;

"life assurer" means a registered insurer carrying on life assurance business;

"local company" and "foreign company" mean respectively a company incorporated in Dominica under the Laws of Dominica or and in any country other than Dominica under the relevant foreign laws, as the context requires;

"local insurer" means a registered insurer constituted in Dominica;

"local policy" means a policy issued in Dominica and includes an ordinary life assurance policy which though issued outside Dominica is made payable in Dominica at the request, in writing, of the policy-holder and on his agreeing in writing to its being treated as a local policy for the purposes of this Act, but does not include an ordinary life assurance policy made payable outside Dominica at the request of the policy-holder and in respect of which the policy-holder has not agreed in writing that it shall be treated as a

local policy for the purposes of
this Act;

"long-term insurance business" means
insurance business of all or any of
the following classes, namely, life
assurance business, industrial assurance
business, non-cancellable sickness and
accident insurance business, bond invest-
ment business, and includes, in relation
to any company, insurance business carried
on by the company as incidental only to
any such class of business;

"Minister" means the Minister charged for
the time being with responsibility for
the subject of finance;

"motor vehicle insurance business" means
the business of effecting contracts against
loss of, or damage to or arising out of or
in connection with the use of, motor
vehicles, including third party risks;

"mutual company" means a company whose
capital is owned by the policy-holders
of that company and includes a company which
has agreed to purchase back or is in the
process of purchasing back its share capital
at a fixed price and is recognised by the
Registrar as a mutual company;

"officer" in relation to any company includes a managing director, director, manager, secretary, accountant, treasurer, actuary or any other person designated as an officer of a company by the articles of association, by-laws, or other rules or orders regulating its operation;

"ordinary life assurance policy" means a policy whereby the insurer assumes, in return for the payment of a sum or sums of money, a contingent obligation dependent on human life but does not include an industrial assurance policy, a personal accident policy a sinking fund policy or an insurance policy whereby the insurer assumes a contingent obligation dependent on human life in which the contingent obligation forms a subordinate part of the insurance effected by the policy;

"paid-up policy" means a policy where no future premiums are required;

"person" means an individual, and includes a body of individuals, a firm, a company or any artificial juridical entity;

"policy" means any written instrument being an insurance contract, whatever the form and whether contained in one document or more documents than one, in which the

rights and obligations of the parties to the contract are expressed or created, and includes a sinking fund policy, but does not include an insurance contract in which -

(a) a person or a member of a class of persons declared to be exempt from the provisions of this Act by Order made under paragraph (a) of section 67 assumes the obligation of an insurer; or

(b) a person assumes the responsibility of an insurer in a class of insurance business declared to be exempt from the provisions of this Act by Order made under paragraph (b) of section 67;

"policy in Dominica" means -

(i) in relation to life assurance business, a policy issued or effected by a company registered under this Act upon the life of a person, for the time being resident, in Dominica;

(ii) in relation to fire insurance business, a policy issued or effected by a company registered under this Act upon property within Dominica; and

(iii) in relation to any other class of insurance business, a policy issued or effected by a company registered under this Act, where the risks covered by the policy were ordinarily within Dominica at the time the policy was issued;

"policy-holder" means the person who, for the time being, has the legal title to the policy and includes any person to whom a policy is, for the time being, assigned;

"prescribed" means prescribed by regulations made under section 91;

"principal office" means the office notified to the Registrar in accordance with section 14;

"principal representative" means the representative notified to the Registrar in accordance with section 14;

"registered insurance agent" means an insurance agent registered in accordance with the provisions of section 47;

"registered insurance broker" means an insurance broker registered in accordance with the provisions of section 47;

"registered insurer" means an insurer registered in accordance with the provisions of this Act;

"registrar" means the Registrar of Insurance for whom provision is made in section 4;

"registration" includes renewal of registration;

"sinking fund policy" means the obligation to pay, after the expiration of a certain period or during a specified period, a certain sum or certain sums of money to a particular person in return for the payment from time to time of certain sums of money by the other party to the contract;

"underwriter" includes any person named in a policy as liable to pay or contribute towards the payment of the sum secured by the policy;

"underwriting liabilities" in relation to a member of an association of underwriters, means the liabilities of the insurance business of the member calculated in accordance with formulae fixed by the governing body of the association and

approved --

- (a) in the case of an association constituted in Dominica, by the Minister; and
- (b) in the case of an association constituted in a country outside Dominica, by the authority in whom is vested the administration of the law relating to associations of underwriters in that country.

Application of
Parts II, III and
IV.

- 3. (1) Part II of this Act applies to insurers other than members of an association of underwriters.
- (2) Part III of this Act applies to insurers who are members of an association of underwriters.
- (3) Part IV of this Act applies to insurance agents and insurance brokers.

Registrar of
Insurance and
other officers.

4. (1) The Minister may designate an officer of the Ministry of Finance to be the Registrar of Insurance, who shall be responsible for the general administration of this Act.
- (2) The Registrar may, in the exercise of his powers and the performance of his duties under this Act, be assisted by such officer or officers and other employees as may, from time to time, be appointed or assigned by the Minister and shall carry out such general or special instructions as may, from time to time, be issued to him by the Minister.
- (3) The Registrar may, in relation to any particular matter or matters or class of matters, by writing under his hand, delegate, with the approval of the Minister, to any officer or officers referred to in sub-section (2) such powers or functions as may be specified by him in the instrument of delegation:

Provided that -

- (a) any such delegation
shall be revocable

at will by the Registrar;
and

- (b) nothing contained in the said instrument or any law for the time being in force shall have the effect of debarring the Registrar from cancelling, amending or modifying in such manner and to such extent as he may think fit, in review or otherwise, and within such time as may be specified in the said instrument any decision or action taken by the delegatee; and where any such cancellation, amendment or modification is made, the decision or action of the delegatee shall, to the extent of its repugnance to the decision made or action taken by the Registrar, have no effect.

PART II

Provisions regarding registration,
cancellation of registration and the carrying
on of the insurance business by insurers
other than members of associations
of underwriters

Insurers to be registered.

5. Save as hereinafter provided in this Act, no person shall carry on any class of insurance business in Dominica, after the expiration of four months from the appointed day, unless he is registered as an insurer under section 8 in respect of such class of insurance business.

Application for registration as an insurer.

6. An application for registration as an insurer shall be made to the Registrar in such form and shall be accompanied by such documents and such fee as may be prescribed.

Conditions for registration of insurers,

7. Subject to the provisions of this Act, -

(a) no person other than a company may be registered to carry on insurance business in Dominica;

(b) no company may be registered to carry on insurance business in Dominica unless -

(i) it has a paid-up share capital of not less than such amount as may be prescribed;

(ii) it has made with the Registrar such deposit or deposits in such amount or amounts and in such form or forms and in such manner as may be prescribed; and

(iii) the Registrar is satisfied that the company is solvent within the meaning of section 33; and

(c) no company, which is a foreign company, may be registered to carry on insurance business in Dominica unless, in addition to complying with the provisions of paragraph (b), the Registrar is satisfied that the company is lawfully constituted in accordance with the laws of the country in which it is incorporated and has been undertaking insurance business in that country in accordance with its laws and sound insurance principles for at least two years before the date of the application;

Provided that any company which has been carrying on insurance business in Dominica since before

the appointed day and has not ceased to carry on such business before that day shall, on application made to the Registrar pursuant to section 6, be registered by the Registrar as an insurer notwithstanding that such company does not satisfy the requirements of paragraph (b):

Provided further that the registration of such insurer shall be cancelled by the Registrar if after the expiration of one year from the appointed day the insurer fails to satisfy the requirements of the said paragraph (b):

Provided further that the provisions of sub-paragraph (i) of paragraph (b) shall not apply in the case of a company, which is a mutual company.

Registration as
an insurer.

8. Where, on receipt of an application under section 6 and after obtaining such further information as may be necessary, the Registrar is satisfied that -

(a) the applicant is a fit and proper person to be registered as an insurer under this Act to carry on any class

or classes of insurance business in Dominica, he shall register him as such and issue a certificate of registration in such form as may be prescribed;

- (b) the applicant is not a fit or proper person to be registered as an insurer under this Act to carry on any class or classes of insurance business in Dominica, he shall reject the application for registration and inform the applicant accordingly stating his reasons for rejecting the application.

Cancellation of registration.

- 9. (1) Where a company ceases to carry on insurance business in Dominica of a class in respect of which it is registered under section 8, the company shall immediately notify the Registrar in writing and, subject to the provisions of section 10, the Registrar shall thereupon cancel its registration.
- (2) Where the Registrar is satisfied that any company registered to carry on any class of insurance business in Dominica under section 8 -

- (a) has ceased to carry on such class of insurance business

in Dominica, or

- (b) has failed to commence such class of insurance business in Dominica for a period of more than one year from the date of its registration;
- (c) has not done any such class of business for a period of more than one year; or
- (d) has ceased to be solvent within the meaning of section 33; or
- (e) has not been conducting its business in accordance with sound insurance principles; or
- (f) has failed to comply with any of the provisions of this Act;

he shall, subject to the provisions of section 10, cancel the registration:

Provided that no such registration shall be cancelled unless the Registrar has notified the company of his intention to cancel the registration and of the reasons therefor and given it an opportunity to present its case within such time as may be specified in such notice.

Registration not to be cancelled unless satisfactory provision for meeting outstanding liabilities made.

10. Notwithstanding the provisions of section 9, where any company registered as an insurer under section 8 is under any liability in respect of any policy or policies issued in Dominica in respect of any class of insurance, the Registrar shall not cancel its registration in respect of that class of insurance business, unless he is satisfied that reasonable provision has been made to meet such liability and that adequate arrangements have been made, or will exist after the cancellation of the company's registration, for the payment in Dominica of premiums and claims in respect of such policy or policies, as the case may be.

Cancellation of registration not to affect company's undischarged liabilities.

11. Nothing contained in section 7, section 9 or section 10 shall affect in any manner the liability of any existing insurance company or a company registered under this Act on or after the appointed day in respect of the policies issued by it, or on its behalf, in Dominica.

Insurers may be prohibited from writing new business.

12. The Registrar may, by an order in writing, prohibit an insurer from writing new policies or procuring new insurance business if he is satisfied that it is in the interests of the existing or prospective policyholders so to do:

Provided that no such order shall be issued unless the Registrar has notified the insurer of his intention so to do and given him an opportunity to present his case within such time as may be specified in such notice.

Policies issued before registration of cancellation of registration to be continued.

13. An insurer whose application for registration has been rejected or whose registration has been cancelled under section 9 or who has been prohibited under section 12 to write or procure any new business shall continue to carry on business relating to policies issued by him, or on his behalf prior to the date on which he was notified of such rejection or cancellation, unless the Registrar, on being satisfied that he has made adequate arrangements or such arrangements will exist for meeting his obligations under the said policies, has notified him accordingly.

Registered insurer to maintain principal office and appoint principal representative.

14. (1) A registered insurer shall maintain a principal office in Dominica and shall appoint a principal representative in Dominica.

(2) A registered insurer shall notify the Registrar in writing of the address of his principal office and the name of his principal representative.

(3) If a registered insurer changes the address of his principal office in Dominica or appoints a new principal representative, he shall, within twenty-one days of the change of address or appointment, as the case may be, give notice thereof to the Registrar in writing.

Publication of authorised capital, etc. of registered insurers.

15. Whenever any advertisement, notice or other document of a registered insurer contains a statement of the amount of his authorised capital or of its issued capital, the said advertisement, notice or document shall also contain a statement of the amount of the capital which has been paid up.

Deposits, etc.

16. The Registrar may require a company registered under section 8 to carry on any class of insurance business in Dominica to make such deposit or deposits, in such amount or amounts and in such manner and maintain such statutory fund or funds and invest moneys in such fund or funds in such amount or amounts and in such securities or other assets as may be prescribed.

Increase of deposit in case of depreciation.

17. If the Registrar is satisfied that by reason of depreciation in the value of securities or any other cause the value of

money or approved securities deposited by a company with him falls short of the value required under this Act, he shall, by notice in writing, require the company to deposit with him money or approved securities or both to a value deemed by him to be sufficient to bring the aggregate amount of the deposit to the value required under this Act.

Deposits to form
assets of the
company.

18. (1) All deposits made by a company in pursuance of this Act shall be deemed to form part of the assets of the company.

(2) All interest and dividends accruing due on any securities deposited in pursuance of this Act shall be paid to the company.

Retention and release
of deposits, etc.

19. (1) Any deposit made by a company in respect of any class of insurance business shall be retained by the Registrar until either the company ceases to be registered in respect of that class of insurance business or the deposit is required in the winding up of insurance business of the company; and if the company ceases to be registered as afore-said, the deposit or a part thereof

may be retained for such further time as may be necessary to provide for its outstanding or future liabilities.

- (2) Where any company makes an application for the release of its deposit, or any part thereof, it shall file with the Registrar a list of all policyholders in Dominica whose risks have not been provided for or who have not surrendered their policies and shall, at the same time, publish, and continue its publication at least once a week for six consecutive weeks, in the Gazette and in at least one newspaper approved by the Registrar, a notice that it has applied to the Registrar for the release of its deposits and calling upon the policyholders to file their objections, if any, to such release with the Registrar on or before a date specified in such notice being a date not earlier than four months after the date of the first publication of such notice.
- (3) After the date so specified in the said notice, if the Registrar is satisfied that the deposit of the

company with him is substantially in excess of the requirements of this Act in respect of the continuing policyholders, he may, with the approval of the Minister, release, from time to time, to the company such portion of the excess as he deems proper in the circumstances of the case and shall continue to hold the balance of the deposit for the protection of the interests of the continuing policyholders:

Provided that the Registrar may, from time to time release such further amount or amounts out of such balance as he may think fit, depending on the number and nature of policies the claims in respect of which have been satisfied in the meanwhile.

- (4) Where the registration of the company which has not commenced business in Dominica is cancelled in pursuance of section 9, the Registrar shall refund to the company any moneys and deliver to the company any securities, deposited by the company in pursuance of section 16 and section 17.

(5) Notwithstanding anything to the contrary contained in sub-sections (1), (2), (3) and (4), where a company has gone into liquidation, the deposit or any part thereof made by the company may, on the order of the court having jurisdiction over the company under any law for the time being in force, be released by the Registrar to the liquidator.

Prohibition of certain types of transactions.

20. (1) A local company shall not, after the appointed day, directly or indirectly, -
- (a) acquire or deal in its own shares or lend money or make advances on the security of its own shares;
 - (b) lend any of its funds to a director or any officer of the company or to the spouse or minor child of such director or officer except on the security of its own policies; nor shall a company lend any of its funds to a company if more than fifty per cent of its voting shares are owned by a director or an officer

of the company or the spouse or minor child of such director or officer or by any combination of such persons;

(c) grant unsecured credit facilities to any person, save for temporary cover in the case of general insurance where such cover does not exceed ninety days;

(d) pay any dividend on its shares until all its capitalised expenditure including preliminary expenses, share selling commission and brokerage, if any, not represented by tangible assets has been completely written off.

(2) No foreign company shall, after the appointed day, grant directly or indirectly, unsecured credit facilities to any person in Dominica, except in the case of general insurance for temporary cover not exceeding ninety days.

Borrowing powers
of Directors.

21. The directors of a company, which is a registered insurer, may exercise all the borrowing powers of the company; but at no time shall the undischarged amount of moneys borrowed or secured by the directors exceed

such percentage of the assets of the company for the time being issued as may from time to time be prescribed.

Separate accounts for business other than insurance business of insurers.

22. A registered insurer, who carries on besides insurance any other business, shall keep separate accounts in respect of his insurance business.

Life assurers carrying on business other than life assurance business.

23. (1) A life assurer, who carries on general insurance business in addition to his life assurance business, shall keep separate accounts in respect of his life assurance business.

(2) All receipts of a life assurer in respect of his life assurance business shall be carried to, and form part of, his life assurance fund.

(3) Payments from life assurance fund of a registered insurer shall not be made, directly or indirectly, for any purpose other than his life assurance business, except in so far as such payments can be made out of surplus disclosed on an actuarial valuation and certified by the actuary to be distributable otherwise than to the policyholders.

Security of life
policy-holders.

24. (1) The assets of the life assurance fund of a registered assurer shall be absolutely the security of the life policy-holders as though the insurer carried on no business other than life assurance business.

(2) A life assurer shall keep a separate record of the assets of his life assurance funds:

Provided that the Registrar may, in any case where he is satisfied that such segregation of assets is not necessary, waive this requirement and in that event the assets of the life assurance fund for the purpose of sub-section (1) shall be taken to be that proportion in value of the registered insurer's total assets which the life assurance fund bears to his total liabilities, excluding any liabilities in respect of business other than life assurance business to the extent that they could not be met except in contravention of the provisions of sub-section (3) of section 23.

Amalgamations and
transfers of life
assurance business.

25. No local insurer shall, without the prior approval of the Registrar, -

- (a) amalgamate with one or more insurers if any of the insurers to be amalgamated are persons carrying on life assurance business; or
- (b) transfer his life assurance business, or any part of his life assurance business, to, or accept transfer of the life assurance business or a part of the life assurance business of, another insurer.

Periodical investigations to be made into financial position of life assurers.

26. (1) A life assurer shall, not less than once in every five years, cause an investigation into his financial position, including a valuation of his liabilities, to be made by an actuary.
- (2) A life assurer shall, whenever his financial position is investigated with a view to a distribution of surplus or in compliance with subsection (1), prepare and furnish to the Registrar in such form as may be prescribed, within twelve months of the date to which his accounts are made up for the purposes of investigation, an abstract of the report of the actuary by

whom the investigation was made and a statement of his assurance business as at that date.

Keeping of records
by external insurers.

27. A foreign company shall keep within Dominica and shall make available to the Registrar, on request, -

- (a) a record of all local policies issued by it showing its rights and obligations thereunder;
- (b) a record of the aggregate amount of the premiums received in respect of all local policies issued by it.

Supply of
information.

28. (1) A local company shall furnish such information relating to any matter connected with its insurance business and within such time as the Registrar may require.

(2) A foreign company shall furnish such information relating to any matter connected with its insurance business in Dominica and within such time as the Registrar may require.

Audit of accounts
of registered
insurers.

29. (1) The accounts of a registered insurer shall be audited annually by an independent auditor, not being an employee or an officer of the insurer.

(2) The auditor of a registered insurer shall satisfy himself that the accounts of the insurer have been properly prepared in accordance with the books and records of the insurer.

(3) The auditor of a registered insurer shall certify whether -

(a) the accounts and balance sheet have been prepared in accordance with the provisions of this Act;

(b) the profit and loss account gives a true and fair view of the profit and loss of the company for the period to which it relates;

(c) the balance sheet gives a true and fair view of the state of affairs of the company as at the end of the period to which it relates; and

(d) the books of the company have been properly kept and record correctly the affairs and transactions of the company.

Accounts and balance sheets, etc. of registered insurers to be submitted to Registrar.

30. (1) Subject to the provisions of this Act, a registered insurer shall, within six months of the end of each financial year, prepare and furnish to the Registrar in such forms as may be prescribed -
- (a) a balance sheet showing the financial position of all the insurance business of the insurer at the close of the year;
 - (b) a separate balance sheet with the same closing date for the insurer's life assurance business if he carries on any;
 - (c) a profit and loss account in respect of his life assurance business in that year except in the case of a mutual company;
 - (d) separate revenue accounts for -
 - (i) ordinary life assurance business;
 - (ii) industrial assurance business;
 - (iii) sinking fund business; and
 - (iv) general insurance business, or such classes thereof as may be prescribed by the Minister by regulations under this Act;

- (e) an analysis of life assurance policies in force at the end of that year;
- (f) a certificate that the assets of his insurance business are in the aggregate at least of the value shown in the balance sheet;
- (g) (i) in relation to any life assurance business carried on by the insurer, a certificate that the value of the assets of the life assurance fund exceeds liabilities;
- (ii) where an insurer carries on general insurance business, a certificate that the value of his assets exceeds the amounts of his liabilities by whichever is the greater of the amounts specified in paragraph (a) (ii) of sub-section (1) of section 33; and
- (iii) where an insurer carries on both life assurance business and general insurance business, a certificate that the value of his assets, including the life assurance fund, exceeds his liabilities by the amount specified in paragraph (a) (ii) of sub-section (1) of section 33; and

- (h) such other documents and information relating to the accounts and balance sheets referred to in this sub-section as may be prescribed.
- (2) A registered insurer shall furnish to the Registrar with the documents referred to in sub-section (1), a copy of any report on the affairs of the insurer submitted to the policy-holders of the insurer in respect of the financial year to which these documents relate.
- (3) All the documents required to be furnished under sub-section (1) shall relate to the world-wide business of the registered insurer but the Registrar may require in addition a statement showing in respect of the insurer's business in Dominica the amounts of premiums and considerations for annuities received, claims paid and outstanding, surrenders, including surrenders of bonus, annuities paid, bonuses paid, commission and expenses of management.
- (4) Such of the documents required to be furnished under sub-section (1) as may be prescribed shall be certified by an independent auditor, by an actuary or by officers of a body corporate.

- (5) Where in the opinion of the Registrar, a document furnished by a registered insurer under sub-section (1) is incorrect or has not been prepared in accordance with the provisions of this Act, he may, by notice in writing, call upon the insurer to amend the document, or to furnish a correct document or, as the case may be, a document prepared in accordance with the provisions of this Act.
- (6) Where, a registered insurer fails to comply with a notice referred to in sub-section (5) to the satisfaction of the Registrar, the Registrar may himself either amend the document in question, giving the insurer particulars of the amendment, or reject the document.
- (7) A document amended by the registered insurer or the Registrar under sub-section (5) or sub-section (6), as the case may be, shall be treated as having been submitted to the Registrar in its amended form.
- (8) Where any document of a registered insurer has been rejected by the Registrar under sub-section (6), the insurer shall be treated as having failed to comply

with the provisions of sub-section (1) in relation to the said document, unless and until he has furnished another document in compliance with the direction of the Registrar.

- (9) A registered insurer liable under a local life assurance policy shall, at the request of the policy-holder, furnish him free of charge with a copy of the relevant revenue account, profit and loss account and balance sheet prepared by the insurer under sub-section (1) in respect of his last preceding financial year.

Separate group accounts.

31. All registered insurers who operate as separate entities which can be wound up under the Laws of Dominica or foreign laws shall render separate accounts in respect of each separate entity but when they are associated together in a group the parent company shall also furnish to the Registrar consolidated accounts for the group as a whole.

Returns.

32. Every company carrying on insurance business in Dominica shall, at the expiration of each financial year, prepare such returns and in such form and shall submit them to the Registrar on or before such date and accompanied by such documents as may be prescribed.

Insolvency of registered
insurers.

33. (1) A registered insurer shall be deemed
to be insolvent -

(a) (i) in the case of an insurer

undertaking no class of
insurance business other than
life assurance business, if the
value of his assets does not
exceed his liabilities; or

(ii) in the case of an insurer

undertaking general insurance
business but not life assurance
business, if the value of his
assets does not exceed his
liabilities by whichever is the
greater of the following amounts,
namely:-

(A) two hundred thousand
dollars or an equivalent
sum in other currency; or

(B) one-tenth of his premium
income in respect of his
general insurance business
in his last preceding
financial year; or

(iii) in the case of an insurer under-
taking both life assurance
business and general insurance

business, if the value of his assets, including the life assurance fund, does not exceed his liability by the amount specified in sub-paragraph (ii) of this sub-section; or

(b) until the contrary is proved, if he fails to present to the Registrar a certificate, or as the case may be, certificates in accordance with the provisions of paragraph (g) of sub-section (1) of section 30 within the time specified in the said sub-section.

(2) In calculating the margin of solvency referred to in paragraph (a) (ii) of sub-section (1) -

(a) all contingent and prospective liabilities of an insurer including adequate provision for un-expired policies and outstanding claims, but not liabilities in respect of share-capital, shall be taken into account in assessing the amount of the liabilities of the insurer; and

(b) the insurer's premium income in any financial year shall be assessed as the net amount, after

deduction of any premiums paid by re-insurance, of the premiums received in his last preceding financial year in respect of all general insurance business carried on by him.

Investigation of the affairs of an insurer.

34. (1) Where the Registrar is satisfied that it is in the interest of the policyholders to investigate the affairs of an insurer, he may appoint an Inspector to carry out the investigation and to submit a report to him on such point or points and in respect of such matter or matters as he may specify.
- (2) An inspector appointed under sub-section (1) shall investigate the affairs of the insurer and may for this purpose also investigate the affairs of any other body corporate which is or has at any relevant time been the insurer's subsidiary or holding company or a holding company of its subsidiary.
- (3) All past and present officers of the insurer and of bodies corporate under investigation by an Inspector shall produce to the Inspector all books and documents relating to the registered

insurer or body corporate under investigation which are in their custody or control and otherwise give to the Inspector all assistance in connection with the investigation which they are reasonably able to give or the Inspector may require.

- (4) An Inspector appointed under sub-section (1) shall have the same powers, rights and privileges as are conferred upon a commissioner appointed under the Commission of Inquiry Ordinance and the provisions of that Ordinance shall, mutatis mutandis, apply in relation to an investigation made under this section and to any person summoned to give evidence or giving evidence at that investigation.
- (5) On consideration of the report of such an investigation submitted pursuant to sub-section (1), the Registrar may institute such proceedings as may be considered by him to be appropriate against the insurer or other body corporate, or any person connected with them.
- (6) All expenses incurred in connection with an investigation made under this section or in connection with any proceedings

instituted as a result of any such investigation may be recovered as a civil debt due to the Government from the registered insurer or other body corporate whose affairs are investigated under this section.

PART III

Provisions regarding registration,
cancellation of registration and the carrying
on of insurance business by members of associa-
tions of underwriters

Registration of
associations of
underwriters.

35. Save as hereinafter provided in this Act, no association of underwriters shall carry on any class of insurance business in Dominica, after the expiration of four months from the appointed day, unless it is registered under section 38 in respect of such class of insurance business.

Application for
registration.

36. An application for registration shall be made to the Registrar in such form and shall be accompanied by such documents and such fee as may be prescribed.

Conditions for
registration.

37. Subject to the provisions of this Act, no association of underwriters shall be registered to carry on insurance business in Dominica, unless the Registrar is satisfied that -

- (a) it has made with the Registrar such deposits in such amount or amounts and in such form or forms and in such manner as may be prescribed; and

(b) (i) in the case of a local association -

(aa) it has been constituted in such manner and fulfills such conditions as may be prescribed; and

(bb) its constitution and the by-laws governing its operation have been approved by the Registrar;

(c) in the case of an association constituted outside Dominica -

(aa) it has been lawfully constituted in accordance with the laws of the country in which it has been constituted; and

(bb) it has been undertaking insurance business in such country on sound insurance principles for at least five years before the date of the application:

Provided that where any association of underwriters has been carrying on insurance business in Dominica since before the appointed day and

has not ceased to carry on such business before that day, it shall, on an application made to the Registrar pursuant to section 36, be registered by the Registrar notwithstanding that it does not satisfy the requirements of paragraph (a):

Provided further that the registration of such association shall be cancelled by the Registrar if after the expiration of six months from the appointed date it fails to satisfy the said requirements.

Registration as
an association
of underwriters.

38. Where, on receipt of an application under section 36, and after obtaining such further information as may be necessary, the Registrar is satisfied that -

(a) the applicant is a fit and proper person to be registered under this Act to carry on any class or classes of insurance business in Dominica, he shall register him as such and issue a certificate of registration in such form as may be prescribed;

(b) the applicant is not a fit and proper person to be registered to carry on any class or classes of insurance in Dominica under this Act, he shall reject the application for registration and inform the applicant accordingly stating his reasons for rejecting the application.

Cancellation of registration.

39. (1) Where an association of underwriters ceases to carry on insurance business in Dominica of a class in respect of which it is registered under section 38, the association shall immediately notify the Registrar in writing and, subject to the provisions of section 40, the Registrar shall thereupon cancel its registration.

(2) Where the Registrar is satisfied that any association of underwriters registered to carry on any class of insurance business in Dominica under section 38 -

(a) has ceased to carry on such class of insurance

- business in Dominica; or
- (b) has failed to commence such class of insurance business in Dominica for a period exceeding one year from the date of its registration;
 - (c) has not done any such class of business for a period exceeding one year; or
 - (d) has not been conducting its business in accordance with sound insurance principles; or
 - (e) has failed to comply with any of the provisions of this Act;

he shall, subject to the provisions of section 40, cancel the registration;

Provided that no such registration shall be cancelled unless the Registrar has notified the association of his intention to cancel the registration and of the reasons therefor

and given it an opportunity to present its case within such time as may be specified in such notice.

Registration not to be cancelled unless satisfactory provision for meeting outstanding liabilities made.

40. Notwithstanding the provisions of section 39, where any association of underwriters registered under section 38 is under any liability in respect of any policy or policies issued in Dominica in respect of any class of insurance, the Registrar shall not cancel its registration in respect of that class of insurance business, unless he is satisfied that reasonable provision has been made to meet such liability and that adequate arrangements have been made or will exist for the payment in Dominica of premiums and claims in respect of such policy or policies, as the case may be.

Cancellation of registration not to affect association's undischarged liabilities.

41. Nothing contained in section 38, section 39 or section 40 shall affect in any manner the liability of any association of underwriters in respect of the policies issued by it, or on its behalf, or any member thereof in Dominica.

Application of certain sections of Part II to associates of underwriters.

Documents and information relating to insurance business to be furnished to the Registrar.

42. The provisions of sections 12, 13, 14, 16, 17, 18, 19, 27, 28, 29, 32 and 34 shall apply mutatis mutandis to an association of underwriters as they apply to a company.

43. An association of underwriters registered under section 38 shall, within six months of the end of each financial year, furnish to the Registrar -

(a) in the case of an association constituted outside Dominica -

(i) a certified copy of such returns relating to the insurance business of the members during the preceding year as are required to be made to the responsible Minister or other public authority in the country in which the association is constituted; and

(ii) a certificate, signed by the Chairman or other presiding officer of the association and by or on behalf of the

responsible Minister
or other public authority
stating whether the
association has
complied with the re-
quirements of the
legislation for the
regulation of associations
of underwriters in the
country in which it is
constituted; and

(iii) the latest annual list
of members and the names
of the members of its
Committee or other
governing body; and

(b) in the case of an association
constituted in Dominica, such
documents and information as
may be prescribed.

PART IV

Provisions regarding registration and
cancellation of registration of insur-
ance agents and insurance brokers.

Registration
of insurance
agents and
brokers.

44. Save as hereinafter provided in this Act, no person shall act or carry on business or purport to act or carry on business as an insurance agent or an insurance broker in Dominica in respect of any class of insurance business after the expiration of four months from the appointed date unless he is registered under section 47.

Application for
registration as
an insurance
agent or broker.

45. An application for registration as an insurance agent or as an insurance broker shall be made to the Registrar in such form and shall be accompanied by such documents and such fee as may be prescribed:

Provided that only a registered insurer may apply for a person to be registered as an insurance agent.

Restrictions on
registration of
insurance agent
or broker.

46. (1) Subject to the provisions of this Act, -

- (a) no person under the age of twenty-one years;
- (b) no person found by a court of competent jurisdiction to be of unsound mind;

- (c) no undischarged bankrupt, unless he has been granted leave so to act or carry on such business by the court by which he was adjudged bankrupt,-

shall be registered or authorised to act as insurance agent or insurance broker in Dominica.

- (2) The Registrar may, in his absolute discretion, refuse to register under section 47 -

- (a) any person who has been convicted of any offence involving fraud or dishonesty;
- (b) any person who has persistently failed to comply with any of the provisions of this Act;
- (c) any person who has been known to have acted recklessly or incompetently in acting as or carrying on business as an insurance agent or insurance broker, as the case may be.

Registration as insurance agent or insurance broker.

47. Where on receipt of an application under section 45 and after obtaining such further information as may be necessary, the Registrar is satisfied that -

- (a) the applicant is a fit and proper person to be registered as an insurance agent or an insurance broker in respect of any class of insurance business in Dominica under this Act, he shall register him as such and issue a certificate of registration in such form as may be prescribed;
- (b) the applicant is not a fit or proper person to be registered as an insurance agent or an insurance broker in respect of any class of insurance business in Dominica under this Act, he shall reject the application for registration and inform the applicant accordingly stating his reasons for rejecting the application.

Cancellation of registration as an insurance agent or insurance broker.

48. (1) Subject to the provisions of section 49, where an insurance agent or insurance broker, registered under section 47 ceases to act as such, he shall immediately notify the Registrar in writing and thereupon the Registrar shall cancel his registration.
- (2) If at any time an insurer terminates his appointment of a person to act as an

insurance agent for him, he shall, at the same time, notify the Registrar in writing of the name of the person whose appointment he has terminated and on receipt of such notification, the Registrar shall cancel the registration of that person to act as an insurance agent for the said insurer.

- (3) If at any time the registration of an insurer is cancelled, the Registrar shall at the same time cancel the registration as an insurance agent for that insurer of all persons so registered.
- (4) Where the Registrar is satisfied that any person registered under section 47 -

(a) has ceased to act as an insurance agent or an insurance broker, as the case may be; or

(b) has failed for a period exceeding one year to commence his business or start his profession as such or procure any insurance business of the class in respect of which he is registered;

(c) has not been conducting his business or profession in accordance with sound insurance principles;

(d) has failed to comply with any of the provisions of this Act, he shall cancel the registration:

Provided that no such registration shall be cancelled under this sub-section unless the Registrar has notified the insurance agent or insurance broker concerned and every insurer for whom he is registered of his intention to cancel the registration and given him an opportunity to present his case within such time as may be specified in such notice.

Cancellation of registration not to affect previous acts.

49. Nothing contained in section 48 shall affect in any manner the liability of the insurance agent or insurance broker in respect of anything done before the cancellation of registration.

Insurance agents to be separately registered for each insurer.

50. An insurance agent shall not act as an agent for two or more registered insurers unless he is separately registered as an insurance agent for each such insurer.

Insurance agents or brokers to act for registered insurers only.

51. (1) No person registered as an insurance agent under section 47 shall act as such for an insurer who is not registered under section 8 or whose registration has been cancelled under section 9.

(2) No insurance broker registered under section 47 shall negotiate, continue, or renew contracts of insurance, or

place risks or effect insurance with any person other than a duly registered insurer or the registered agent of such insurer.

Insurance agent or broker deemed to be agent of insurer.

52. An insurance agent or insurance broker shall, for the purpose of receiving any amount on account of premium in respect of any policy or contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary contained in any contract or agreement in writing or otherwise.

Paying over of premiums to insurer.

53. Where any insurance agent or insurance broker acts in negotiating or renewing or continuing a contract of insurance with any insurer and receives directly or indirectly any money or any valuable consideration or thing in lieu thereof as a premium for such a contract from the insured or any other person on his behalf and fails to pay the premium over to the insurer within fifteen days of the receipt by him of the premium, or such shorter or longer period as may be agreed in advance by the insured or any other person on his behalf, less his commission and any other deductions to which by written consent of the insurer or the other person, as the case may be, he is guilty of an offence against this Act.

Fraudulent
representation.

54. (1) An insurance agent or insurance broker who knowingly procures, by fraudulent representation, payment or the obligation for payment of any premium in respect of an insurance policy is guilty of an offence against this Act.

(2) An insurance agent or insurance broker who directly or indirectly causes an insured to discontinue any policy of insurance without being satisfied on reasonable grounds that such discontinuance is to the benefit of the insured, is guilty of an offence against this Act.

Misleading
advertisement,
etc.

55. No insurance agent or insurance broker shall orally make any statement, or issue or permit to be issued any advertisement, statement, circular, descriptive booklet or other document, or make, or permit to be made, a statement by means of any broadcasting or other medium which misleads or tends to mislead the public or any existing or prospective policy-holder or any class of such persons.

Liability for
unlawful
contracts.

56. An insurance agent or insurance broker shall be personally liable to the insured on all contracts of insurance unlawfully made by or through him, directly or indirectly,

with any insurer not registered to carry on insurance business in Dominica in the same manner as if such agent or broker were the insurer.

Registration not to import agency.

57. Subject to the provisions of section 51, an insurance broker shall not be presumed to be the agent of the insurer or the agent of the insured merely by virtue of his registration under section 47.

Appointment of sub-agents.

58. (1) No person shall act as sub-agent for a registered insurance agent unless that person has received from the registered insurance agent a letter of appointment or similar authorisation in writing in which that agent defines the powers which the sub-agent may exercise on his behalf and for which that agent will hold himself responsible.

(2) An insurance sub-agent shall, on demand by the Registrar or by any person authorised by the Minister in that behalf, produce to the Registrar or to any such person the sub-agent's letter of appointment or similar authorisation referred to in subsection (1).

Maintenance of records and furnishing of returns and information.

59. An insurance agent or an insurance broker registered under section 47 shall keep such records and submit within such time such returns or information regarding the insurance business carried on by him or conducted through him as the Registrar may require.

PART V

Miscellaneous

Restriction on
the use of word
"insurance" or
"assurance".

60. After the expiration of sixty days from the appointed day, no person, other than a registered insurer or a registered insurance agent, or registered insurance broker, shall have or use without the Registrar's approval in writing the word "insurance" or "assurance" or any derivative thereof, in the name under which such person is carrying on business.

Restriction on
the names to be
used for registration.

61. (1) The Registrar shall not register an applicant for registration as an insurer if the name under which the applicant desires to be registered is identical to or so nearly resembles the name of a registered insurer as to be likely to be mistaken for it, unless that registered insurer is being wound up or dissolved or has ceased to carry on insurance business in Dominica and consents in writing to the registration of the applicant under the name in question.

- (2) The Registrar shall not register an applicant as an insurance broker if the name under which the applicant desires to be registered is likely to suggest that the applicant is an insurer.
- (3) The Registrar shall not register an insurance agent if the name under which he desires to be registered is likely to suggest that he is an insurer or an insurance broker.
- (4) A registered insurer, insurance agent or an insurance broker shall not change the name under which he is registered without the prior permission in writing of the Registrar.

Standard policy and proposal forms to be approved by the Registrar.

62. Every insurer desirous of carrying on insurance business in Dominica after the appointed day shall send to the Registrar for approval copies of the standard proposal and policy forms used or intended to be used by him in Dominica and no such forms which have not been so approved by the Registrar shall thereafter be used by the insurer in respect of policies issued or proposed to be issued in Dominica.

Policies to be printed or typed in clearly legible letters.

63. No registered insurer shall, after the expiration of one year from the appointed day, issue a local policy the provisions of which, whatever their nature, are not printed, lithographed, typed or reproduced by any mechanical means approved by the Registrar in clearly legible letters.

Maintenance of Register of policies issued in Dominica.

64. Every insurer shall keep a register of the policies issued by it at its principal office in Dominica in which shall be entered all policies issued by such insurer in Dominica whether before the appointed day or thereafter.

Inspection of documents and intimation of the name of the principal representative and the address of principal office of a registered insurer.

65. (1) Any person may, subject to the payment of such fee as may be prescribed, -

(a) inspect; or

(b) inspect and make a copy of, any document furnished by a registered insurer to the Registrar under the provisions of this Act or of any Order or regulation made thereunder.

(2) The Registrar shall, without charge, furnish, at the request of any person, the name of the principal representative in Dominica of a registered insurer and

the address of the principal office in Dominica of a registered insurer notified to him under this Act.

Payment of unclaimed moneys, etc. to the Registrar.

66. (1) An insurer may pay to the Registrar any moneys payable by him in respect of a policy for which, in the opinion of the insurer, no valid discharge can otherwise be obtained.
- (2) Where, for any reason, any sum payable by an insurer under any policy cannot be paid to the rightful claimant or beneficiary or remains unclaimed or unpaid for a period not exceeding three years, it shall be paid by the insurer or his agent to the Registrar.
- (3) The receipt given by the Registrar acknowledging payment made to him by the insurer under sub-section (1) or sub-section (2) shall constitute sufficient evidence of a good and valid discharge of the insurer's liability in respect of the said policy to the extent of the amount of such payment.

Exemptions.

67. The Minister may, by Order published in the Gazette, -

- (a) declare a person or a class of persons to be exempt from any provisions of this Act;
- (b) declare a class of insurance business to be exempt from any provisions of this Act, except in so far as it may be required to be taken into account in returns to be made by a registered insurer under section 21.

Compliance by certificates in the case of external insurers.

68. The Minister may, by Order published in the Gazette, waive or modify such of the requirements of Part II, Part III or Part IV or any regulations made under this Act as he thinks fit in the case of an external insurer -

- (i) who furnishes annually a certificate issued by the insurance supervisory authority of the country in which the insurer is incorporated to the effect that he is complying with all the applicable insurance supervisory requirements of that country or in the case of a member of an association of underwriters that the association is so complying; and

(ii) who gives such further information regarding his business as the Minister may think relevant to the purposes of this Act.

Extension of period specified for performance of acts.

69. The Minister may, if he thinks fit, by Order published in the Gazette, extend any period prescribed under this Act for the performance of any Act.

Classification of insurance business.

70. The Registrar may determine that insurance business of any particular class which an insurer carries on shall be treated, for the purposes of this Act, as insurance business of another class.

Approval of variations from prescribed forms.

71. The Registrar may approve variations from any prescribed form for the purposes of adapting the form to take account of the circumstances of a particular registered insurer or applicant for registration as an insurer.

Power to demand information.

72. The Minister or the Registrar, as the case may be, may for the purpose of carrying out the provisions of this Act, demand from a registered insurer, registered insurance agent or registered insurance broker or an applicant for registration as an insurer, insurance agent or insurance broker, any document or information relating to any matter

connected with his business or transactions, whether insurance business transactions or otherwise.

Information to be supplied in English.

73. The Minister or the Registrar, as the case may be, may require any person who furnishes to the Minister or to the Registrar, in accordance with the provisions of this Act, any statement, certificate or other document whatsoever in a language other than the English language, to provide a translation of that document in the English language at that person's expense.

Fees.

74. The Minister may from time to time prescribe a scale of fees to be charged in respect of such proceedings under this Act as may be prescribed, and the Minister may in such regulations direct by whom and in what manner the fees are to be collected and accounted for.

Copies and certification of documents.

75. The Minister may prescribe the number of copies and the manner of certification for all documents required under the provisions of this Act to be furnished by an insurer, insurance agent or insurance broker.

Notification of
Registrar's action.

76. The Registrar shall cause notice of registration or cancellation of registration of an insurer, or of an insurance agent or of an insurance broker to be published in the Gazette.

Revision.

77. (1) The Minister may, of his own motion or on an application made by any person aggrieved by any order, decision or direction of the Registrar, call for the record of any proceedings under this Act and make such enquiry or cause such enquiry to be made, and subject to the provisions of this Act, may pass such order thereon as he thinks fit.

(2) The Minister may delegate his power under sub-section (1) to any person or authority and subject to such conditions and limitations as he thinks fit.

(3) An application under sub-section (1) shall be made in such form and shall be accompanied by such documents or fee and shall be dealt with in such manner as may be prescribed.

Prohibition
of rebating.

78. No insurer and no officer, employee or agent thereof and no insurance broker or other person shall, directly or indirectly, make or attempt to make an agreement, whether in writing or otherwise, as to the premiums to be paid for a policy other than as set forth in the policy, or pay, allow or give, or offer or agree to pay, allow or give directly or indirectly a rebate of the whole or a part of the premium stipulated by the policy, or any other valuable consideration or thing in the nature, or in lieu, of a rebate of premium, to any policy-holder or other beneficiary or person making a proposal for insurance directly or indirectly in respect of his own life or property or assets or the life, property or assets of any other person and any insurer, broker or other person who contravenes the provisions of this section, shall be guilty of an offence against this Act.

Compensation for
placing or
negotiating
insurance.

79. No insurer and no officer, employee or agent thereof and no insurance broker shall directly or indirectly pay or allow, or agree to pay or allow, compensation or anything of value to any person for placing or negotiating

insurance on lives, property or interests in Dominica or negotiating the continuance or renewal thereof, or for attempting so to do, who, at the date thereof, is not an insurer or an insurance agent or insurance broker and whosoever knowingly contravenes the provisions of this section is guilty of an offence against this Act.

Persons acting on behalf of unregistered insurers.

80. Anyone who causes a person to enter into, or to make application to enter into, a contract of insurance with a person who is not a registered insurer is guilty of an offence against this Act.

Registrar may act as arbitrator.

81. Where, in relation to any policy, any dispute arises between an insurer or an insurance agent and the policy-holder, the Registrar may, on an application made by the policy-holder and notwithstanding anything to the contrary contained in any contract or agreement or in any law for the time being in force, act as an arbitrator and his decision shall, as between the parties to the dispute, be, subject to the provisions of section 77, treated as final and conclusive.

Return of registration certificates on discontinuance of business or cancellation of registration.

82. Where any person registered under section 8, section 38 or section 47 ceases to carry on the class of business for which he has been registered or his registration is cancelled under any provision of this Act, he shall return to the Registrar the relevant registration certificate issued to him.

Contravention of the provisions of the Act and other offences against the Act.

83. (1) Any person, who contravenes or fails to comply with any provision of this Act or any provision of an Order issued or regulation made under this Act or any direction or requirement given or made by the Registrar or the Inspector, shall be guilty of an offence, unless he can prove that he did not knowingly commit such contravention or omission and, in the case of a default in complying with any such provision, direction or requirement, the offence shall be deemed to be continued so long as the default continues.

(2) Where an offence against this Act is committed by a company and the offence is proved to have been committed with the consent or connivance of, or to

have been facilitated by any neglect on the part of, any director, principal officer, or other officer or an auditor or an actuary, he, as well as the company, shall be deemed to be guilty of the offence.

- (3) If a person issues, files or submits, a document, statement or return referred to in this Act which is false or misleading in any material respect, that person and every other person who took part in the preparation, issue, filing, or submission of the document, statement or return, as the case may be, or who signed it shall be guilty of an offence against this Act, unless it is proved that the accused, if an individual, or all the persons who acted on behalf of the accused, if he is not an individual, had no knowledge of the falsity or misleading character of the document when it was prepared, issued, filed or submitted and had taken every reasonable precaution to ensure its accuracy.

- (4) Any person who, in any way, aids and abets the commission of an offence

against this Act shall be deemed to be guilty of that offence.

(5) Notwithstanding anything to the contrary contained in any law for the time being in force limiting the period within which such proceedings are required to be commenced, summary proceedings for offences against this Act may be commenced at any time within one year from the date on which there comes to the knowledge of the Registrar evidence sufficient in his opinion to justify a prosecution for the offence and, for this purpose, a certificate purporting to be signed by the Registrar as to the date on which the evidence came to his knowledge shall, in any such proceedings, be the evidence of that date.

(6) Any proceedings under this section for an offence against this Act shall be without prejudice to any other proceedings which may be commenced under any law for the time being in force in respect of the matter constituting the offence.

Offences by insurer,
etc. not to invali-
date policies.

84. Any failure on the part of any insurer,
insurance agent or insurance broker to comply
with any provision of this Act shall not, in
any way, invalidate any policy issued by the
insurer.

Service of notices.

85. (1) Where notice is required or permitted
by, or under, this Act to be given to
or served upon a person, the notice
shall be in writing and may be given
or served -

(a) in the case of a notice
addressed to a person other
than a company, by serving
it upon him personally or
by sending it by registered
post addressed to him at his
usual or last known place of
abode or business; and

(b) in the case of a notice
addressed to a company, by
serving it personally upon
the person last known to the
Registrar as being a director,
or the principal representative
or officer of the company or

by sending it by registered post addressed to the company or such director, principal representative or officer at the address last known to the Registrar.

(2) Where any notice is sent by post as provided in sub-section (1), it shall be deemed to have been given or served on the addressee on the date on which it would have been delivered in the ordinary course of post.

(3) In this section, "company" includes a body corporate which has ceased to carry on insurance business in Dominica.

Documents to be received in evidence.

86. Every document purporting to be certified by the Registrar to be a document lodged with him under the provisions of this Act, and every document purporting to be similarly certified to be a true copy of such a document, shall be deemed to be such a document or copy, as the case may be, and shall be received in evidence as if it were the original document, unless some variation between it and the original document is proved.

Power of Registrar to petition for winding up on insolvency.

87. A petition for the winding up of a registered insurer, or his business within Dominica, on the grounds of insolvency within the meaning of section 23 or of section 191 of the Commercial Code may, with the leave of the High Court, be presented by the Registrar.

Jurisdiction of local courts.

88. Every policy issued in Dominica or to a person resident in Dominica through a person or office in Dominica (whether before or after the appointed day) shall be governed by the laws of Dominica and shall be subject to the jurisdiction of the courts of Dominica notwithstanding any provision to the contrary contained in the policy or in any agreement relating to the policy; and any provision to the contrary contained in such policy or any agreement relating thereto shall be void and of no effect.

Adaptation and modification of other enactments.

89. The Minister may from time to time, by Order published in the Gazette, make such adaptations and modifications to the Commercial Code and any enactment amending or replacing the same or to any other enactment for the time being in force as appears to him to be necessary or expedient by reason

of anything contained in this Act or to give effect to the provisions, or to carry out the purposes, of this Act.

Annual report to be made by the Registrar.

90. (1) The Registrar shall, on or before the last day of June in each year, or such later date in the year as the Minister may allow, prepare and submit to the Minister a report, in respect of the last preceding year, of the matters regulated by this Act.

(2) The Minister shall cause a copy of every report prepared under sub-section (1) to be laid before the House of Assembly as soon as possible after its submission to him.

Regulations.

91. (1) The Minister may, from time to time, make such regulations as he may think fit for the purposes, and to give effect to the provisions, of this Act.

(2) Without prejudice to the generality of sub-section (1), such regulations may -

(a) provide for anything required to be prescribed under this Act; and

(b) prescribe any forms for the purposes of this Act;

- (c) prescribe the requirements, qualifications and conditions for the registration (including the renewal of registration) of the various persons under this Act;
- (d) provide for the holding of examinations for applicants for registration (including the renewal of registration) under this Act;
- (e) prescribe grounds on which any registration allowed under this Act may be revoked, suspended or not renewed;
- (f) require persons registered or applying for registration (including renewal of registration) to furnish bonds or other security and to fix the amount, form, requirements and terms thereof;
- (g) regulate the method of handling premiums collected and requiring and regulating accounts or records to be maintained by insurance agents and insurance brokers; and

(h) make provision for any matter or thing for which no provision or no sufficient provision exists in this Act.

(3) The Regulations made under this section may provide for any infringement thereof or failure to comply therewith by the imposition, on summary conviction thereof, of a fine not exceeding two thousand five hundred dollars or imprisonment for a term not exceeding six months or both such fine and imprisonment or if the offender is not an individual, a fine not exceeding five thousand dollars.

Repeal.

92. The Act/Ordinance/.....
.....are hereby repealed.

Commencement.

93. This Act shall come into operation on such day as the Governor may, by Proclamation published in the Gazette, appoint and different days may be appointed for different provisions of this Act.