

CHAPTER 317.

INSURANCE ACT.

15 of 2001

{Incorporating amendments of 7th September 2001}

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CHAPTER 317.

INSURANCE.

3 of 1969
E.L.A.O., 1974
37 of 1975
8 of 1980

**AN ACT TO MAKE PROVISION RELATING TO THE CARRYING ON OF
INSURANCE BUSINESS IN THE BAHAMAS AND FOR PURPOSES CONNECTED
THEREWITH.**

[27th February 1969.]
[Commencement 1st June 1970.]

15 of 2001

{Incorporating amendments of 7th September 2001}

PART I

PRELIMINARY.

Short Title

1. This Act may be cited as the Insurance Act.

Interpretation

2. In this Act, unless the context otherwise requires--

“actuary” means a person qualified as an actuary by examination of the Institute of Actuaries in England or the Faculty of Actuaries in Scotland or the Society of Actuaries in the United States of America or the Society of Actuaries in Canada or an actuary possessing such other qualifications as the Minister may recognise;

E.L.A.O., 1974

“Assistant Registrar” means the Assistant Registrar appointed under section 4;

“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 has qualified by examination of one of the Institutes of Chartered Accountants of England and Wales, Ireland and Scotland, the Institute of Chartered Accountants, Canadian Provinces, the Association of Certified and Corporate Accountants, the Association of Certified Public Accountants, or an auditor possessing such other qualifications as the Minister may recognise;

E.L.A.O., 1974

“Court” means the Supreme Court;

“Deputy Registrar” means the Deputy Registrar appointed under section 4;

“director” means any person occupying the position of director of a body corporate by whatever name called;

“external insurer” means an insurer who is not a local insurer;

“financial year”, in relation to an insurer, means each period not exceeding fifty-three weeks at the end of which the balance of the accounts of insurer is struck;

“Inspector” means a person appointed as such under the provisions of Section 40;

“insurance agent” means a person who with the authority of an insurer acts on his behalf in the initiation of insurance business, the receipt of proposals, the issue of policies or the collection of premiums;

“insurance broker” means a person who with the authority of an insurer acts on his behalf in the initiation of insurance business, the receipt of proposals, the issue of policies or the collection of premiums;

“insurance business” means the soliciting, effecting or carrying out of contracts of insurance as an insurer and includes re-insurance business;

“insurance salesman” means an individual employed by an insurer or agent to solicit applications for insurance or negotiate insurance business on behalf of an insurer or an agent, but shall not include a bona fide salarated employee of a registered insurer, insurance agent or broker who is employed at its principal office or branch thereof;

“insurer” means a person effecting and carrying on insurance business and, except where otherwise stated, includes each member of an association of underwriters;

“life assurance business” means insurance of human lives and insurance appertaining thereto or connected therewith and includes the granting of annuities, endorsement benefits, sinking fund benefits and benefits in the event of death or disability by accident or sickness, provided that such insurance against disability by accident or sickness is included as an additional benefit in a life policy;

“life assurance policy” means an ordinary life assurance policy, an industrial life assurance policy or a sinking fund or bond investment policy;

“life assurer” means an insurer carrying on life assurance business;

“local insurer” means an insurer incorporated or constituted in and having its head office in The Bahamas;

“local policy” means a policy issued by a registered insurer on property, lives or other risks located in The Bahamas;

“Minister” means the Minister responsible for Insurance (excluding National Insurance);

“mutual company” means a company whose capital is owned by the policy-holders of that company;

“officer”, in relation to a body corporate, includes a director, manager or secretary of that body, or any person having or exercising powers or duties substantially similar to any of those officers;

“owner”, in relation to a policy, means a person who is entitled to claim any benefit provided for in the policy;

“policy” means any written contract of insurance whether contained in one or more documents;

“Part” means a Part of this Act;

E.L.A.O., 1974

“principal office” means the office notified to the Registrar in accordance with the provisions of section 13;

“principal representative” means the representative notified to the Registrar in accordance with the provisions of section 13;

“Registrar” means the Registrar appointed under section 4 and includes the Deputy Registrar when exercising any powers under this Act in accordance with the directions of the Registrar;

“registered insurance agent” means a person registered as such under Part IV and thereby qualified to act as an agent for a registered insurer;

“registered insurance broker” means a person registered as such under Part IV;

“registered insurer” means an insurer registered under Part II or Part III;

“section” means a section of this Act;

“sinking fund policy” means a policy whereby one party to the contract assumes 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 part to the contract;

“regulations” means regulations made under this Act.

**Application of
Parts II and III**

3. Subject to the provisions of section 28—

- (a) Part II shall apply to insurers other than members of an association of underwriters; and
- (b) Part III shall apply to insurers who are members of an association of underwriters.

PART II.

APPOINTMENT OF REGISTRAR, DEPUTY REGISTRAR AND ASSISTANT REGISTRAR AND PROVISIONS GOVERNING REGISTRATION, CANCELLATION OF REGISTRATION, AND THE CARRYING ON OF INSURANCE BUSINESS BY INSURERS (OTHER THAN MEMBERS OF ASSOCIATIONS OF UNDERWRITERS).

E.L.A.O., 1974

4. The Governor-General, acting in accordance with the advice of the Public Service Commission, may appoint for the purposes of this Act—

- (a) a Registrar;
- (b) a Deputy Registrar; and
- (c) an Assistant Registrar.

Appointment of Registrar, Deputy Registrar and Assistant Registrar.
Insurers to be registered.

5. (1) No person shall do any insurance business in or from within The Bahamas unless he is registered or deemed to be registered as an insurer under this Part, or is a member of an association of underwriters which is registered, or deemed to be registered, under the provisions of section 25.

(2) Any person doing insurance business in The Bahamas at the date of commencement of this Act shall be deemed to be registered under this Act as an insurer or a period of six months from such date:

Provided that any person or persons doing insurance business shall give notice of application to be a registered insurer, within two months of the date of the commencement of this Act and shall provide the necessary preliminary documents and particulars required under the provisions of this Act together with any fee which may be prescribed within four months of such date.

(3) Any person who contravenes the provisions of subsection (1) of this section shall be guilty of an offence and shall be liable on summary conviction to the penalty specified in section 53.

(4) For the purposes of this Part, any body corporate or incorporate which maintains a business office in The Bahamas shall be deemed to issue from within The Bahamas any policy of insurance issued in its name, on property, lives

or other risks located in The Bahamas whether or not such policy of insurance is or has been issued in The Bahamas.

**Financial
requirement for
registration.**

6. (1) Subject to the provisions of subsection (5) of this section no insurer shall be registered under this Part unless he satisfies the standards required under subsection (2) of this section, if doing life assurance business, and of subsection (3) of this section, if doing insurance business other than life assurance business.

(2) Any registered insurer doing a life assurance business shall have a paid up share capital, or equivalent surplus if a mutual company, of three hundred thousand dollars.

(3) Any registered insurer doing insurance business, other than life assurance business, shall have assets that exceed all liabilities by the amount of one hundred and forty thousand dollars in the case of an insurer who was not doing insurance business at the date of the commencement of this Act, or in the case of any other insurer by the amount specified in the following table:

TABLE

Case	Amount
1. The non-life assurance premium income of the registered insurer in its last preceding financial year did not exceed \$700,000.	\$140,000.
2. The said income in that year exceeded \$700,000 but did not exceed \$7,000,000.	One-fifth of the said income in that year.
3. The said income in that year exceeded \$7,000,000.	The aggregate of \$1,400,000 and one-tenth of the amount by which the said income in that year exceeded \$7,000,000.

E.L.A.O., 1974

(4) The Minister may by notice in the Gazette modify the requirements of this section where it appears to him to be necessary to do so in order to create a market for insurance coverage needed in the public interest.

E.L.A.O., 1974

(5) The Minister may permit a local insurer doing insurance business in The Bahamas at the date of the commencement of this Act to be registered despite its inability to comply with this section, provided that the insurer presents a satisfactory plan to the Minister for increasing the capital or surplus to the amount of one hundred thousand dollars in not more than five years.

Application for registration as insurer.

7. An application to be registered as an insurer in accordance with this Part shall be made in writing to the Minister through the Registrar and shall be accompanied by such documents and particulars as the Minister may reasonably require.

Minister may register or refuse application.
E.L.A.O., 1974

8. (1) The Minister may, if satisfied that the doing of insurance business by the applicant will not be against the public interest, and subject to the provisions of section 6, direct the Registrar to register such applicant as an insurer, subject to such terms and conditions as he may think fit to impose.

(2) Whenever the Minister considers it to be in the public interest, he may refuse to register an insurer, and any such decision shall be final.

(3) The Minister may refuse the registration of a local insurer if, in his opinion, any officer of the insurer is not a fit and proper person to be associated with insurance companies.

Notification of decision on application.

9. The Registrar shall notify the applicant for registration as an insurer in writing whether it is proposed to register the applicant, or whether the application is refused and when an application is refused shall give the reason for refusal:

Provided that whenever an application is refused under the provisions of subsection (2) of section 8 no further reason for refusal shall be required to be stated than that the registration of the applicant is not considered to be in the public interest.

Provision for restricting registered insurers from writing new business and for securing proper conduct of business.

10. (1) The Minister may prohibit a registered insurer from writing new policies in any class of insurance business or may restrict or limit the new policies which a registered insurer may write if he is satisfied that it is in the interest of the policy-holders or prospective policy-holders to do so.

(2) The Minister may require that a registered local insurer shall not make investments of a specified class and may in that case require such insurer to realise investments of that class within a specified period.

(3) The Registrar shall notify the registered insurer in writing of any decision made under the provisions of subsections (1) or (2) of this section and shall state the reasons for the decision.

(4) A registered insurer shall comply with the terms of any prohibition or requirement notified to him in accordance with the provisions of this section.

Cancellation of registration.
E.L.A.O., 1974

11.—(1) The Minister may cancel the registration of an insurer—

- (a) if the insurer has ceased to carry on an insurance business in The Bahamas; or
- (b) if the insurer has not commenced business in The Bahamas within two years of registration; or
- (c) at the request of the registered insurer or his liquidator, trustee or any manager or receiver appointed by the court; or
- (d) if false, misleading or inaccurate information is given in an application or under the provisions of sections 14, 19, 26 or 38; or
- (e) if he is not satisfied that the free assets of the insurer are sufficient for the proper conduct of his insurance business; or
- (f) if he is not satisfied that the insurance business of the insurer is being conducted in accordance with sound insurance principles; or
- (g) if the insurer has contravened any of the provisions of this Act; or
- (h) if the insurer does not fulfill the financial requirements of section 6.

(2) The cancellation shall be effective fifteen days after the Registrar has given written notice to the insurer of the intention to cancel the registration and the reasons therefor, subject to the right of the insurer to appeal to the court under section 54 at any time within fifteen days from the date of such notification:

Provided that pending determination of the appeal, the insurer shall not write any new insurance business.

Policies issued before refusal of application or cancellation of registration.

12. An insurer whose application for registration has been refused or whose registration has been cancelled in accordance with the provisions of this Part, shall continue to carry on business relating to policies issued by him prior to the date on which he was notified by such refusal or cancellation until the Registrar is satisfied that he has made suitable arrangements for his obligations under these policies to be met, but any such insurer shall forthwith prepare and furnish the information and other documents required under section 19.

Registered insurers to maintain principal office and appoint principal representative.

13. (1) A registered insurer shall maintain a principal office in The Bahamas and shall appoint a principal representative in The Bahamas.

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

(3) If a registered insurer changes the situation of his principal office or appoints a new principal representative, he shall, forthwith, and in any case within twenty-one days of the change, give notice thereof to the Registrar in writing.

Control of advertisements.

14. No advertisement shall be used by a registered insurer or insurance agent which, directly or by implication, has the capacity and tendency to mislead or

which, directly or by implication, has the capacity and tendency to mislead or deceive prospective policy-holders with respect to an insurer's assets, corporate structure, financial standing, age or relative position in the insurance business, or in any other material respect.

Separate accounts for business other than insurance business of insurers.

15. A registered insurer who carries on besides insurance any other business shall keep separate accounts in respect of his insurance business, and shall segregate the assets and liabilities of his insurance business from those of his other business.

Life assurance carrying on other insurance business.

16. (1) A registered insurer who carries on both life assurance business and other insurance business shall keep separate accounts in respects of his life assurance business.

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

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

(4) Nothing in this section contained shall be deemed to require the investments of any life assurance fund to be kept separate from the investments of any other fund.

Security of life policy-holders.

17. (1) The assets of the life assurance fund of a registered insurer—

- (a) shall be as absolutely the security of the life policy-holders as though the insurer carried on no business other than life assurance business;
- (b) shall not be liable for contracts of the registered life assurer carrying on other business or insurance business for which it would not have been liable had the business of the insurer been only that of life insurance; and
- (c) shall not be applied, directly or indirectly, for any purposes other than those to which the fund is applicable.

(2) In the winding up of a life assurer the value of the liabilities and assets of his life assurance fund shall be ascertained separately from the value of any other liabilities or assets and no assets of the life assurance fund shall be applied to the discharge of any liabilities other than those towards life policy-holders except insofar as those assets exceed those liabilities.

Audit of accounts of registered insurers.

18. (1) The accounts of a registered insurer shall be audited annually by an independent auditor. The auditor shall not be an employee or an officer of the insurer, nor financially interested in 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 include in his certificate such particulars as may be prescribed by regulations.

Accounts and balance sheets etc. of registered insurers to be admitted.

19. (1) A registered insurer shall, within six months of the end of each financial year, prepare and furnish to the Registrar—

- (a) a certified copy of the audited balance sheet and accounts showing the financial position of all the insurance business of the insurer at the close of that year; and
- (b) such other documents and information as the Registrar may require or as may be prescribed by regulations,

and shall at the time of furnishing the balance sheet and accounts to the Registrar as required by paragraph (a) of this subsection cause a summary thereof in a form previously approved by the Registrar to be published in the Gazette.

(2) A registered insurer shall furnish to the Registrar a copy of any report on the affairs of the insurer submitted to the policy-owners or shareholders of the insurer in respect of the financial year to which the balance sheet relates.

(3) A registered insurer liable under a life assurance policy shall, at the request of the owner, furnish him free of charge with a copy of the relevant revenue account, profit and loss account and balance sheet prepared by the insurer in terms of subsection (1) of this section in respect of his last preceding financial year, and shall make available, at the request of the policy-owner, for inspection at the insurer's principal office a copy of the last actuarial report.

Registered insurers to furnish returns.
37 of 1975, s. 2

20. A registered insurer shall within four weeks of the end of each quarter of a financial year furnish to the Registrar a return showing the amount of the gross premiums collected by that registered insurer for that quarter.

Separate or group accounts.

21. All registered insurers who operate as separate entities which can be wound up under local or foreign law shall render separate accounts but where they are associated together in a group the holding company shall also furnish to the Registrar consolidated accounts of the insurance business for the group as a whole.

Keeping of records by insurers.

22. A registered insurer other than an association of underwriters constituted outside The Bahamas shall keep within The Bahamas and shall make available to the Registrar on request a record of all local policies in force or upon which liabilities are outstanding which have been issued by him showing his rights and obligations thereunder and recording the premiums received.

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

23. (1) A registered life assurer shall, not less than once in every three years, cause an investigation into his financial position, including a valuation of his liabilities, to be made by an actuary:

Provided that the Minister may require a life assurer to cause such an investigation to be made at any time if he deems it to be in the public interest to do so.

(2) A life assurer shall, whenever his financial position is investigated with a view to a distribution or surplus or in compliance with subsection (1) of this section, prepare and furnish to the Registrar within six months of the date to which his accounts are made up, for the purposes of the investigation, a full report of the actuary by whom the investigation was made or an abstract thereof at the Registrar's option, and a statement of his life assurance business at that date. The actuary shall also provide a statement of the assumption and the methods used in making the valuation.

Amalgamations
and transfers of
insurance
business.

24. No local insurer shall—

- (a) amalgamate with any one or more insurers; or
- (b) transfer his insurance business or a part thereof to, or take transfer of the insurance business or a part thereof from, another insurer,

unless the amalgamation, or, as the case may be, the transfer is sanctioned by the Minister.

PART III.

PROVISIONS GOVERNING REGISTRATION CANCELLATION OF REGISTRATION AND THE CARRYING ON OF INSURANCE BUSINESS BY MEMBERS OF ASSOCIATIONS OF UNDERWRITERS.

Registrations of
associations of
underwriters.

25. (1) No member of an association of underwriters shall do insurance business in or from within The Bahamas unless he is registered or deemed to be registered under this section.

E.L.A.O., 1974

(2) The Minister may register as an insurer an association of underwriters but may refuse to register any particular association or syndicate of an association when he considers that such registration is not in the public interest.

(3) An application for registration submitted by an association of underwriters shall be made to the Minister through the Registrar and shall be accompanied by the following documents—

- (a) a copy of its statute or articles of association; and
- (b) in the case of an association constituted outside The Bahamas a certificate stating that it has been established for at least five years, that the legislation of the place in which it is constituted provides for the

regulation of an association of underwriters and that it is operating in accordance with that legislation,

and by such further information as the Minister may require.

(4) Any person, who, being a member of an association of underwriters, issues policies of insurance in or from within The Bahamas when such association is not registered under the provisions of this section shall be guilty of an offence and shall be liable on summary conviction to the penalties specified in section 53.

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

26. An association of underwriters registered in accordance with the provisions of section 25 shall within six months of the end of each financial year furnish to the Registrar—

- (a) in the case of an association constituted outside The Bahamas—
 - (i) a certified copy of such returns relating to the insurance business year as are required to be made to the responsible public authority in the place in which the association is constituted;
 - (ii) a certificate, signed by the chairman or other presiding officer of the association stating whether the association has complied in respect of the preceding year with the requirements of the legislation for the regulation of associations of underwriters in the place in which it is constituted; and
 - (iii) the latest annual list of members and the names of its committee or other governing body;
- (b) in the case of an association constituted within The Bahamas such documents and information as the Registrar may require.

Insurers liable to suit in The Bahamas.

27. (1) Every local policy issued by members of a registered association of underwriters shall contain a clause subjecting the insurers thereon to suit in the courts of The Bahamas.

(2) Every insurer registered under this Part shall appoint and maintain a representative, resident in The Bahamas, duly authorised to accept service of process.

Application of other sections.

28. The provisions of sections 5(4), 9, 10, 11, with the exception of paragraph (h) of subsection (1) thereof, 12, 14 and 22 shall apply mutatis mutandis to associations of underwriters.

PART IV.

REGISTRATION AND CANCELLATION OF REGISTRATION OF INSURANCE AGENTS, BROKERS AND INSURANCE SALESMEN.

Insurance agents, insurance brokers and insurance salesmen to be registered.

29. (1) No person shall act as an insurance agent, insurance broker or insurance salesman unless he is registered under this Part.

(2) Every applicant for registration as an insurance agent, insurance broker or insurance salesman shall satisfy the Registrar—

- (a) that he has knowledge of the insurance business adequate to give proper service to the public; and
- (b) that he is of good character.

Application for registration.

30. (1) An application to be registered as an insurance agent, insurance broker or an insurance salesman shall be made in writing to the Minister through the Registrar and shall be accompanied by such documents as may be required and such fee as may be prescribed.

(2) The Minister shall direct the Registrar to register an insurance agent, an insurance broker or an insurance salesman who has applied under subsection (1) of this section and is qualified under section 29(2).

(3) The Registrar shall notify the applicant in writing whether the application is accepted or rejected. If it is rejected he shall state the reasons therefor.

Cancellation of registration.

31. (1) Subject to the provisions of subsection (2) of this section the Minister may cancel the registration of an insurance agent, insurance broker or insurance salesman if he considers it in the public interest to do so and any such decision shall be final. The provisions of section 11(1) (a), (b), (c) and (d) shall also apply mutatis mutandis to insurance agents, insurance brokers and insurance salesmen.

(2) The Minister shall direct the Registrar to notify the insurance agent, insurance broker or insurance salesman, as the case may be, that it is proposed to cancel the registration under subsection (1) and shall state the reasons for so doing.

Lists of registered insurance agents, brokers and salesmen to be maintained.

32. (1) Each registered insurer shall maintain in his principal office an accurate list of all persons representing him as agents in The Bahamas and shall provide the Registrar on demand with a copy thereof.

(2) Each registered insurance agent and broker who employs an insurance salesman shall provide the Registrar on demand with full details of the employment of such salesman including a copy of any employment contract.

Insurance agent and broker to keep record of business.

33. A registered insurance agent or insurance broker shall keep and make available to the Registrar on demand a record of all insurance business placed through him on property, lives and other risks in The Bahamas, including a record of all premiums and commissions paid in respect thereof:

Provided that any such agent or broker shall not be required to produce to the Registrar any record—

- (a) made more than three years preceding the date of any demand therefor; and
- (b) relating to any policy which is not in force, or upon which any liability is not outstanding, at that date.

Agents of insurer.

34. Any registered insurance agent, or insurance broker or insurance salesman shall for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer and notwithstanding any conditions or

stipulations to the contrary the registered insurer shall be deemed to have received any premium received by such agent, broker or salesman.

Paying over of premiums to insurer.

35. A registered insurance agent or insurance broker or insurance salesman who acts in negotiating or renewing a contract of insurance with an insurer and receives payment of the premium for such a contract from the insured, shall be guilty of an offence if he fails to pay the premium over to the insurer within thirty days of the receipt by him of the premium or such shorter or longer period as may be agreed in advance by the insurer, less his commission and any other deductions to which by written consent of the insurer he is entitled, and shall be liable on summary conviction to the penalties specified in section 53.

PART V.

GENERAL POWERS AND DUTIES.

Minister may accept compliance certificates from external insurers. *E.L.A.O., 1974*

36. The Minister may waive or modify such of the requirements of Part II or Part III or of any regulations as he thinks fit in the case of an external insurer—

- (a) who furnishes annually a certificate issued by the insurance supervisory authority in the place in which the insurer is incorporated to the effect that he is complying with all the applicable insurance supervisory requirements of that authority; and
- (b) who gives such further information regarding his business as the Minister may think relevant to the purposes of this Act.

Minister may extend periods specified for performance of acts. Registrar may demand information.

37. The Minister may, if he thinks fit, extend the periods prescribed under this Act for the performance of any act.

38. The Registrar may, for the purpose of carrying out the provisions of this Act, demand from a registered insurer, registered insurance agent, registered insurance broker or registered insurance salesman, or an applicant for registration as an insurer, insurance agent, insurance broker or insurance salesman, any document or information relating to any matter connected with his insurance business or transactions, and any such person shall comply with any such demand.

Duty of Registrar. 15 of 2001

38A. The Registrar shall, for the purposes of carrying out the provisions of this Act, satisfy himself that the provisions of the Financial Transactions Reporting Act, 2000 are being complied with.

Registration and cancellation of registration to be notified in Gazette.

39. The Registrar shall cause notice of registration or cancellation of registration or restriction under section 10 of an insurer or of an insurance agent or of an insurance broker to be published in the Gazette.

Investigation of the affairs of an insurer.

40. (1) The Minister may appoint any suitable person as an Inspector to investigate the affairs or any part of the affairs of a registered insurer if he is satisfied that such investigation would be in the interest of the policy-holders or of persons who may become policy-holders.

(2) An Inspector appointed under subsection (1) of this section may

investigate the affairs of any other body corporate which is or has at any relevant time been the registered insurer's subsidiary or holding company or a subsidiary of its holding company or a holding company of its subsidiary

(3) It shall be the duty of the registered insurer under investigation and of all past and present officers of the registered insurer and of the related bodies corporate specified in subsection (2) of this section, to produce to the Inspector all books, records and documents relating to the registered insurer or body corporate under investigation which are in their custody or control, and otherwise to give to the Inspector all assistance in connection with the investigation which they are reasonably able to give.

(4) An Inspector may—

- (a) examine on oath the officers and agents of the registered insurer or other body corporate under investigation in relation to its business and may administer an oath accordingly;
- (b) if he thinks it necessary for the purpose of his investigation that a person whom he has no power to examine on oath should be so examined, apply to the Court, and the Court may, if it sees fit, order that person to attend and be examined on oath before it on any matter relevant to the Investigation.

(5) The Registrar may recover from the registered insurer or other body corporate whose affairs are investigated under the provisions of this section all expenses properly incurred in connection with the investigation or in connection with the proceedings instituted as a result of the investigation.

Power of Registrar to petition for winding-up on grounds of insolvency. Ch. 279.

41. The Registrar may present a petition for the winding-up of a registered insurer, or his business within The Bahamas on the grounds of insolvency in accordance with the relevant winding-up provisions the Companies Act.

PART VI.

MISCELLANEOUS PROVISIONS.

Restriction and use of word "insurance".

42. After the expiry of six months from the commencement of this Act no person other than a registered insurer or a registered insurance agent or a registered insurance broker shall have or use the word "Insurance" or any derivative thereof, in the name under which such person is carrying on business.

Registered names.

43. (1) Notwithstanding the provisions of section 8, the Registrar shall not register an applicant 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 being dissolved, or has ceased to carry on insurance business in The Bahamas and consents to the registration of the applicant under the name in question.

(2) The Registrar shall not register an applicant as a local insurer if the name under which the applicant desires to be registered is calculated to suggest, falsely, that such local insurer has a special status in relation to or derived from the Government of The Bahamas or has the official backing of or acts on behalf of the said Government or of any department or official thereof or is recognised in The Bahamas as a national or central insurer.

(3) 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.

(4) 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.

(5) The Registrar may refuse to register an applicant under a name which is likely to mislead policy-holders.

(6) A registered insurer, insurance broker or insurance agent shall not change the name under which he is registered without the prior permission of the Registrar.

Policies to be printed or typed in clearly legible letters.

44. No registered insurer shall issue a policy the provisions of which, whatever their nature, are not printed or typed in clearly legible letters.

Policy not invalid owing to failure to comply with law.

45. A policy issued by any person, whether before, on, or after the coming into force of this Act, shall not be invalid by reason only that such person contravened or failed to comply with the provisions of any enactment in force applying to that policy.

Cancellation of policies.

46. (1) No local policy shall be liable to cancellation except in accordance with the provisions of this section.

(2) A policy other than a life assurance policy may be cancelled at any time at the request of the insured named therein, and the insurer shall, upon the surrendering of the policy, refund the excess of any premiums paid over and above the customary short-rate premium for the period when the policy has been in force.

(3) A policy other than a life assurance policy may be cancelled at any time by an insurer after giving to the insured named therein at least thirty days notice in writing of the proposed cancellation by personal service or by registered post and upon a refund to the insured of the excess of paid premium over and above the pro rata premium for the time the policy has been in force, which repayment shall accompany the notice.

(4) A life assurance policy may be cancelled by the insurer in the event of non-payment of any renewal premiums due but only after notice in writing specifying the default and the intention of the insurer to cancel the policy has been given to the insured by personal service or by registered post:

Provided that a life assurance policy shall not be cancelled by reason only of the non-payment of a premium unless at least twenty-eight days have

elapsed since the premium became due.

(5) Any policy of insurance may be cancelled by the mutual consent in writing of the insurer and the insured made prior to the date of intended cancellation.

Jurisdiction of local courts.

47. Any provision contained in a local policy whereby the jurisdiction of the courts of The Bahamas is in any way ousted, circumscribed or avoided shall, to that extent, be absolutely void and of no effect.

Borrowing powers of directors.

48. The directors of a local insurer who is a body corporate may exercise all the borrowing powers of the body corporate provided that at no time may the undischarged amount of monies to be borrowed or secured by the directors exceed five per centum of the assets of the body corporate without the written consent of the Minister.

Prohibition of loans to directors.

49. A local insurer shall not, directly or indirectly, without the approval of the Registrar—

- (a) loan any of his funds to any of his directors or officers or to the wife or child of any such director or officer; or
- (b) enter into any guarantee or provide any security in connection with a loan to a person mentioned in paragraph (a) by any other person:

Provided that loans may be so made within the surrender value of a life policy issued by the insurer to such person.

Service of process upon registered insurers.

50. (1) Any notice issued under any provisions of this Act and any process in legal proceedings may be served upon a person carrying on insurance business by leaving the same at the principal office of the insurer.

(2) If the principal office of a person carrying on insurance business cannot reasonably be found any notice served under this Act or process in any legal proceedings may be served by leaving the same at the office of the Registrar.

(3) Service of process upon the Registrar, in accordance with the provisions of subsection (2) of this section shall be deemed to be service upon the insurer.

Persons acting on behalf of unregistered insurers.

51. (1) Anyone who causes or solicits 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, shall be guilty of an offence and shall be liable on summary conviction to a fine of three thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

(2) Anyone who as agent or broker places insurance on property, lives or other risks within The Bahamas with an unregistered insurer, shall incur personal liability on the policy as if he was the insurer.

(3) For the purposes of this section, any registered agent who places insurance with a member of a registered association of underwriters shall be

considered as placing such insurance with a registered insurer.

False statements
etc.

52. If a person issues a document for any of the purposes of this Act which is false or misleading in any material respect, that person and every other person who took part in the preparation or issue of the document or who signed it, unless it is proved that the accused, if an individual, or that 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 issued and had taken every reasonable precaution to ensure its accuracy, shall be guilty of an offence and shall be liable on summary conviction to a fine of three thousand dollars or to imprisonment for one year or to both such fine and imprisonment.

General
provisions relating
to offences.

53. (1) A person who contravenes any provision of this Act or of any regulations or fails or neglects to comply with a provision of this Act or of any regulations with which it is his duty to comply, shall be guilty of an offence and shall be liable on summary conviction in a case for which no specific penalty is otherwise provided in this Act, if the offender is an individual, to a fine of two thousand dollars or to imprisonment for six months, or to both such fine and imprisonment, or if the offender is not an individual, to a fine of three thousand dollars.

(2) Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer or servant of the body corporate, he, as well as the body corporate, shall be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Appeals.

54. Any person aggrieved by the cancellation of any registration made under the provisions of Part II, III or IV or by the exercise of any power conferred upon the Minister or Registrar by any of the provisions of this Act, may appeal to the Court against such cancellation or the exercise of any such power, in accordance with such procedure as may be prescribed by rules made under section 29 of the Supreme Court Act, within fifteen days of the date of the notification to the person concerned of the intention to cancel such registration, or, in the Case of an appeal from the exercise of any other power, within fifteen days from the date when such power was exercised.

Ch. 41.

Immunity of
officials exercising
powers.

55. No action shall lie against the Registrar, the Deputy Registrar, any Assistant Registrar or Inspector officials in respect of any act done in good faith in exercise or purported exercise of any powers conferred by this Act.

Confidentiality.
15 of 2001

55A. (1) Subject to subsections (2) and (3), the Registrar or any officer, employee, agent or adviser of the Registrar who discloses any information relating to -

- (a) the affairs of the Registrar's office;
- (b) any application made to the Registrar;
- (c) the affairs of an insurer, insurance agent, insurance broker or insurance salesman; or

- (d) the affairs of a customer, client or policyholder of an insurer, insurance agent, insurance broker or insurance salesman,

that he has acquired in the course of his duties or in the exercise of the Registrar's functions under this or any other law, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.

- (2) Subsection (1) shall not apply to a disclosure -
 - (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
 - (b) for the purpose of assisting the Registrar to exercise any functions conferred on him by this Act, by any other Act or by regulations made thereunder;
 - (c) in respect of the affairs of an insurer, insurance agent, insurance broker or insurance salesman or of a customer, client or policyholder of an insurer, insurance agent, insurance broker or insurance salesman, with the consent of the insurer, insurance agent, insurance broker or insurance salesman, customer, client or policyholder, as the case may be, which consent has been voluntarily given;
 - (d) where the information disclosed is or has been available to the public from any other source;
 - (e) where the information disclosed is in a manner that does not enable the identity of any insurer, insurance agent, insurance broker or insurance salesman or of any customer, client or policyholder of the insurer, insurance agent, insurance broker or insurance salesman to which the information relates to be ascertained;
 - (f) to a person with a view to the institution of, or for the purpose of -
 - (i) criminal proceedings,
 - (ii) disciplinary proceedings, whether within or outside The Bahamas, relating to the exercise by a counsel and attorney, auditor, accountant, valuer or actuary of his professional duties,
 - (iii) disciplinary proceedings relating to the discharge by a public officer, or a member or employee of the Registrar of his duties; or
 - (g) in any legal proceedings in connection with -
 - (i) the winding-up or dissolution of an insurer, insurance agent, insurance broker or insurance salesman, or
 - (ii) the appointment or duties of a receiver of an insurer, insurance agent, insurance broker or insurance salesman.

(3) Subject to subsection (6), the Registrar may disclose to an overseas regulatory authority information necessary to enable that authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

(4) In deciding whether or not to exercise his power under subsection (3), the Registrar may take into account -

- (a) whether the inquiries relate to the possible breach of a law or other requirement which has no close parallel in The Bahamas or involve the assertion of a jurisdiction not recognised by The Bahamas; and
- (b) the seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in The Bahamas.

(5) The Registrar may decline to exercise his powers under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the cost of the exercise as the Registrar considers appropriate.

(6) Nothing in subsection (3) authorises a disclosure by the Registrar unless -

- (a) the Registrar has satisfied himself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; or
- (b) the Registrar has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Registrar; and
- (c) the Registrar is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of the overseas regulatory authority's regulatory functions including the conduct of civil or administrative investigations or proceedings to enforce laws, regulations and rules administered by that authority; and
- (d) the Registrar is satisfied that information provided following the exercise of his power under sub-section (3) will not be used in criminal proceedings against the person providing the information.

(7) Where in the opinion of the Registrar it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Stipendiary and Circuit Magistrate in obtaining information requested by the overseas regulatory authority, the Registrar shall immediately notify the Attorney-General with particulars of the

request, and shall send him copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings in The Bahamas, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(8) The Registrar may provide information that he has acquired in the course of his duties or in the exercise of his functions under this or any other law to any other regulatory authority in The Bahamas where he considers such information may be relevant to the functions of such other regulatory authority.

(9) In this section “overseas regulatory authority” means an authority which, in a country or territory outside The Bahamas exercises functions corresponding to any functions of the Registrar.

Regulations.
E.L.A.O., 1974

56. The Minister may make regulations prescribing anything which under this Act may be prescribed and generally for carrying into effect the objects of this Act, and without derogation from the generality of the foregoing power such regulations may provide for—

- (a) the exemption of a person or a class of persons from some or all of the provisions of this Act,
- (b) the exemption of a class or part of a class of insurance business from some or all of the provisions of this Act, subject to such terms and conditions as the Minister may see fit;
- (c) scales of fees to be charged in respect of specified proceedings under this Act; and
- (d) the number of copies and manner of certification of any documents required under the provisions of this Act to be furnished by an insurer.

**Act not to apply to
Friendly Societies
or registered
Trade Unions.**
Ch. 283
Ch. 296.

57. Nothing in this Act contained shall apply to any Friendly Society established under and in accordance with the provisions of the Friendly Societies Act or to the business carried on by any such society or to any Trade Union registered under the Industrial Relations Act.

**Exchange Control
Regulations Act.**
Ch. 330.

58. Nothing in this Act shall be deemed to convey exemption from the requirements of the Exchange Control Regulations Act.

Annual Report.
E.L.A.O., 1974

59. The Minister shall as soon as possible after the end of each year lay on the table of each House of Parliament a copy of a report on the exercise and performance of the functions of the Minister and the Registrar under this Act.