



I assent,

EUSTACE JOHN, CMG

Deputy Governor-General

29th May 2006.

ISLAND OF NEVIS

No. 1 of 2006

AN ORDINANCE to amend The Nevis International Insurance Ordinance (No. 1 of 2004) and for matters incidental thereto or connected therewith.

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

1. This Ordinance may be cited as **THE NEVIS INTERNATIONAL INSURANCE (AMENDMENT) ORDINANCE, 2006** and shall be read and construed as one with The Nevis International Insurance Ordinance, No. 1 of 2004 which, as amended, is hereinafter referred to as the Principal Ordinance.

Short title.

2. Section 2 of the Principal Ordinance is hereby amended as follows:

Amendment of section 2.

(a) by inserting the following new definitions in their appropriate alphabetical order:—

“allied annuity company” means a company carrying on insurance business where the registered insurer’s business entails only the issuance of annuity contracts, and/or single premium life contracts, and where premiums are acceptable only from its parent(s), or other person(s) of substantial relationship, whether personal or business, and the number of annuitants does not exceed ten (10) persons;

“allied reinsurance company” means a company carrying on insurance business where the registered reinsurer is allied to a primary insurer who typically initiates insurance contracts as part of its normal course of

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business, and the allied reinsurer will only assumes risks and accepts premiums from this primary insurer;

“insurance adjuster” means a person, not being an employee of a registered insured, but employable by insurer or insured, who investigates, qualify and/or quantify a loss experienced in relation to a covered risk;

“insurance broker” means a person, not being an employee of a registered insured, who arranges contracts of insurance between insurer and insured, or gives advice facilitating the sale of insurance contracts, or is authorized by one or more insurer to enter that insurer into contracts of insurance, collect premiums, and otherwise act as the insurer in dealing with the insured.

- (b) by inserting the definition of “category of business” in its appropriate alphabetical order by placing it immediately after the definition of “captive insurance business”
- (c) by repealing the definition of “currency” occurring therein and replacing it with the following:–
““currency” means the United States of America Dollar”
- (d) by adding the new definition of “currency” immediately after the definition of “Court”.
- (e) by substituting the word “Off-shore” for the word “International” occurring therein.
- (f) by inserting the definition of “international insurance business” in its appropriate alphabetical order by placing it immediately after the definition of “insurance manager”
- (g) by inserting the definition of “person” in its appropriate alphabetical order by placing it immediately after the definition of “Owner”
- (h) by inserting the definition of “registered insurance manager” in its appropriate alphabetical order by placing it immediately after the definition of “registered agent”
- (i) by deleting the definition of “year”.

Amendment of
section 3.

- 3. Section 3 of the Principal Ordinance is amended as follows:–
 - (a) by renumbering subsection “(1)” as subsection (1)(a);
 - (b) by deleting in subsection “(1)(a)” the words “to have the charge and control of the International Insurance Ordinance and;

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(c) by adding the following subsection as (1)(b):–

“(b) The Registrar of International Insurance shall act under the general supervision of the Minister and shall carry out the functions and duties imposed upon him by this Ordinance.”

(d) by renumbering subsections “(4)” to “(9)” as (5) to (10), respectively and inserting the following new subsection as subsection (4):–

“(4) The Registrar of International Insurance, Deputy Registrar(s) of International Insurance or any employee in the office of the Registrar of International Insurance, shall not directly or indirectly be interested:–

(a) as a shareholder in any company that is licenced under this Ordinance as an insurer carrying on international insurance business in or from within Nevis;

(b) as a shareholder in a company that is authorized under this Ordinance to act as an insurance manager or insurance broker”.

(e) by inserting the following new subsection after subsection “(10)”:-

“(11) The Registrar of International Insurance shall on or before the 31st day of December in each year prepare for the Minister an annual report showing an overall statement of affairs and statistics of all matters relating to international insurance business carried on and conducted in and from within Nevis during the prevailing year.”

4. The Principal Ordinance is amended by inserting immediately after section 3, the following new section:–

Addition of section 3A.

“Duties and Functions of the Registrar of International Insurance.

3A. (1) The Registrar of International Insurance shall–

(a) have general supervision of the international insurance business being carried on in or from within Nevis;

(b) ensure that the laws and regulations relating to the

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conduct of the international insurance business are enforced and complied with; and

- (c) upon the request of the Minister, examine and report to the Minister on all matters connected with international insurance.”

Addition of section 3B.

5. The Principal Ordinance is amended by inserting immediately after Section 3A, the following new section:–

“Establishment of the Insurance.

3B. (1) There shall be established, a committee called the Insurance Advisory Committee to investigate, report to and advise the Minister on matters connected with the development and regulation of the International Insurance industry in Nevis.

(2) The Insurance Advisory Committee shall consist of such persons, not more than five (5) persons to be appointed by the Minister, as the Minister may think fit.

(3) The Permanent Secretary shall be the Chairman of the Insurance Advisory Committee and the Registrar of Insurance and the Regulator shall be *ex-officio* members thereof.

(4) In appointing the members of the Committee the Minister shall consider:

- (i) the knowledge and experience of the person in matters relating to International Insurance;
- (ii) any other matter which may affect the performance of Committee functions.

(5) The Insurance Advisory Committee shall have the power to establish its own working rules and procedures and as many sub-committees as it deems necessary.

(6) It shall be the duty of the Insurance Advisory Committee to advise the Minister on any matter which it is required by the Minister so to do.”.

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6. Section 5 of the Principal Ordinance is hereby amended in subsection 1(b) by substituting the word “off-shore” for the word “international” occurring therein. Amendment of section 5.

7. Section 6 of the Principal Ordinance is hereby amended as follows:– Amendment of section 6.

- (a) in subsection 1 by substituting the word “off-shore” for the word “international” occurring therein.
- (b) by renumbering subsection (2) as subsection (3);
- (c) by adding the following as subsection (2):–

“(2) Where applications for registration are made by an insurer who is either an allied reinsurance company or an allied annuity company, said insurer shall provide the Registrar with the information set out in subsections 1(a),(b) and (d) above in addition to:–

- (a) completed application Form 5;
- (b) Insurance Manager’s undertaking as to the ultimate beneficial owner(s) of the entity to be registered;
- (c) details of Insurance Manager and Registered Agent;
- (d) an undertaking from company management that risks and premiums will only be assumed from named and approved primary company;
- (e) business plan showing–
 - (i) nature and character of business to be undertaken;
 - (ii) details of primary insurer (in the case of an allied reinsurance company, or parent entity (in the case of an allied annuity company), to which company will be allied;
 - (iii) five (5) year financial projections”.

8. Subsection 1 of section 7 of the Principal Ordinance is amended as follows:– Amendment of section 7.

- (a) in paragraph 1(b)(i) by deleting the figure “\$500,000” and substituting the figure “\$185,000.00”

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- (b) in paragraph 1(b)(ii) by deleting the figure “\$500,000” and substituting the figure \$185,000.00”
- (c) in paragraph 1(b)(iv)a. by deleting the figure “\$27,000.00” and substituting the figure \$10,000.00”
- (d) in paragraph 1(b)(iv)b. by deleting the figure “\$54,000.00” and substituting the figure “\$20,000.00”
- (e) in paragraph 1(b)(iv)c. by deleting the figure “\$135,000.00” and substituting the figure “\$50,000.00”.
- (f) by renumbering subsection 1(b)(v) as 1(b)(vi);
- (g) by adding the following as subsection (v):–
 - “(v) in a case where the applicant proposes to carry on insurance business as an allied insurer, is \$10,000 or more;”.

Repeal and replacement of section 9(1).

9. Section 9(1) of the Principal Ordinance is hereby repealed and replaced with the following:–

“A Certificate of Registration shall be renewable on or before the 31st day of January every year following the year in which the certificate is issued and upon due payment of the prescribed annual renewal fee.”

Addition of section 11A.

10. The Principal Ordinance is hereby amended by the addition immediately after section 11, the following new section:–

11A. (1) Any person who is aggrieved by the rejection of an application for registration, may within 14 days of the notification under section 8(2)(a) of this Ordinance, file a complaint to the Financial Services Commission.

(2) The Financial Services Commission shall hear the complaint and review the decision of the Registrar of International Insurance.

Addition of section 15A.

11. The Principal Ordinance is hereby amended by the addition immediately after section 15, the following new section:–

15A. Where an insurer is a captive, allied reinsurance company or an allied annuity company, section 15(1) to 15(5) above will not apply. These companies shall submit annually:

- (i) financial statements and tax returns, as filed and accepted by relevant authority in country of origin, (or where filed), within

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21 days of filing but no later than 6 months after the year to which it applies, and has been completed by an approved accounting firm; where documents required above are not available, a registered insurer shall submit audited financial statements.

- (ii) an undertaking by the Insurance Manager as to the financial viability and solvency of the registered insurer.
- (iii) other such information or submissions as may be deemed necessary by the Registrar.”

12. The Principal Ordinance is hereby amended by the addition immediately after section 24, the following:–

Addition of section 24A.

“Insurance
Brokers and
Adjusters.

24A. (1) No person shall act as an insurance broker or insurance adjuster for, or in relation to, a registered insurer, unless that person is Registered as such in a register to be kept by the Registrar in accordance with regulations and has paid to the Registrar the prescribed registration fee and every prescribed annual renewal fee.

(2) Any applicant for registration shall provide such documents and information as may be required by the Registrar including, without limiting the generality of the foregoing, such documents and information as the Registrar may require to satisfy himself that the applicant is a fit and proper person and has or has available adequate knowledge and expertise so as to provide satisfactory insurance brokerage services.

(3) Notwithstanding subsection (2) of this section an applicant for registration shall submit an application form and personal questionnaire on the prescribed forms in addition to the information required by section 24(3)(a) and (b) of this Ordinance.

(4) The Registrar may, if he thinks it proper to do so –

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- (a) refuse to approve any application for registration; and
- (b) cancel registration at any time.

(5) Where a person that carries on a business which, in any respect is or in the opinion of the Registrar appears to be of a similar character to the business carried on by an insurance broker or insurance adjuster, that person shall be deemed to be acting as an insurance broker, and shall be subject to the provisions of this section and must comply with the provisions of this section within 6 months of its passage.

(6) The provisions of section 31 of this Ordinance shall apply to Insurance Brokers and Adjusters with respect to inspection and investigation.

(7) Insurance Brokers shall submit annually, a statement of Broker's affairs, produced by management, including companies for which contracts are brokered, countries in which contracts are sold, and audited financial statements.

(8) Any person who contravenes subsection (1) of this section or wilfully—

- (a) takes or uses any style, title or description which consists of or includes the expression "insurance broker" when he is not registered; or
- (b) takes or uses any style, title or description falsely implying or otherwise pretends, that he is registered

commits an offence against this Ordinance".

Amendment to
section 26.

13. Section 26 of the Principal Ordinance is hereby amended as follows:—

- (a) by placing a comma immediately after the word "manager"; and
- (b) by adding the words "insurance broker, insurance adjuster" immediately after "manager," occurring therein.

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| 14. Section 28 of the Principal Ordinance is amended by deleting the figure “\$50,000.00” and substituting the figure “\$20,000.00”. | Amendment to section 28. |
| 15. Section 39 of the Principal Ordinance is hereby amended as follows:– | Amendment to section 39. |
| (a) by deleting “(1)” and the words “but subject to subsection (2)” | |
| (b) by repealing subsection 2. | |
| 16. Section 42 of the Principal Ordinance is hereby repealed. | Repeal of section 42. |
| 17. Section 46 of the Principal Ordinance is amended by renumbering subsection “(2)(iii)” as (c). | Amendment of section 46. |
| 18. The Principal Ordinance is amended by inserting after section 46, the following new section:– | Addition of section 46A. |
| “Guidance
Notes for
Allowable
Assets. | 46A. The Minister may from time to time issue Guidance Notes for allowable assets”. |

MARJORIE MORTON
President

Passed by the Nevis Island Assembly this 3rd day of May 2006.

ST CLAIR WALLACE
Clerk of the Nevis Island Assembly