

CHAPTER 413

THE STATE INSURANCE CORPORATION ACT

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STATE INSURANCE CORPORATION

An Act to provide for the establishment of the State Insurance Corporation, charged with the functions of insuring the assets of the Government and certain statutory boards and the undertaking and carrying on of all classes of insurance business and for purposes incidental thereto and connected therewith.

(1st January, 1986.)

9/1985.

PART I

Preliminary

1. This Act may be cited as the State Insurance Corporation Act. **Short title.**

2. In this Act, **Interpretation.**

"appointed day" means the first day of January, 1986.

"Board" means the Board of Directors of the Corporation established under section 12;

"Corporation" means the State Insurance Corporation established under section 3;

"the Department" means the State Insurance Department established under section 3 of the State Insurance Act 1976;

**No. 21 of 1976.
Repealed.**

"General Manager" means the person appointed as such under section 16;

"insurance business" has the same meaning as in section 3 of the Insurance Act;

Cap. 218.

"public property" means property owned or used by the Government or owned or used by a statutory board and includes any other liability or risk in which the Government or statutory board has an insurable interest.

PART II

*Establishment, Constitution and Functions of the Corporation***Establishment of the Corporation.**

3. (1) There is hereby established a Corporation which shall—

(a) be a body corporate by the name of the State Insurance Corporation with perpetual succession and a seal;

(b) in its corporate name be capable of suing and being sued;

(c) be capable of holding, purchasing and otherwise acquiring and disposing of any property, movable or immovable, for the purpose of carrying out its functions under this Act.

Schedule.

(2) The provisions of the Schedule shall have effect with respect to the constitution and proceedings of the Board.

Headquarters and branches.

4. The Corporation shall have its headquarters in Antigua and Barbuda, and may, for the better performance of its functions under this Act, establish branches and appoint agents or representatives within or outside Antigua and Barbuda.

Functions of the Corporation.

5. (1) The functions of the Corporation shall be—

(a) to undertake and carry on all or any class of insurance business;

(b) to guarantee in relation to any stock, shares, debentures, debenture stock, bonds, obligations or securities issued by or having any guarantee of any company or institution or by any authority, or of any person whether corporate or unincorporate;

(c) to carry on business as consultants, advisers, and managers in relation to insurance and pension schemes;

(d) to establish, promote and otherwise assist any company for the purpose of acquiring any of the property or furthering any of the functions of the Corporation;

(e) subject to the regulations, to invest the funds of the Corporation in such manner as the Board thinks fit and to take such steps as are necessary for the protection or realization of any investment, including the taking over and administering of any property offered as security for investment;

(f) to purchase, take on lease, or otherwise acquire for the purposes of the Corporation, any estate, lands, buildings, easements, or other interest in real estate and to sell, let or lease or otherwise dispose of or grant rights over any real property belonging to the Corporation;

(g) to take over and carry on the business of the Department;

(h) to rebuild, repair, replace or reinstate, houses, buildings, machinery, and every other description or property which may be insured by the Corporation and to carry on any kind of business necessary or expedient for any such purpose;

(i) to reinsure in whole or in part any class of insurance business specifically for any risk or in accordance with standing agreements entered into with other insurers or reinsurers on such terms and conditions as the exigencies of business dictate and in the best interest of the Corporation;

(j) to advance or lend money upon security of any property;

(k) subject to the approval of the Minister and to the provisions of the Insurance Act, to acquire or amalgamate with the business carried on by any insurer in Antigua and Barbuda;

(l) to undertake, for such time as the Minister approves, the management of the affairs of any insurer, agent or association of underwriters in Antigua and Barbuda;

(m) to carry on such other business as in the opinion of the Board is capable of being carried on in conjunction with the Corporation's business; and

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(n) to do such other things as appear to the Board to be incidental or conducive to the attainment of the above functions or any of them.

(2) The Corporation shall function as a commercial organisation and conduct its business subject to the accepted business principles applicable to insurance.

Business of the Corporation.

6. The Corporation shall provide insurance for all classes of insurance business.

Property to be insured with the Corporation.

7. As from the appointed day, all public property, other than such property as the Minister may by Notice published in the *Gazette* specify, shall be insured with the Corporation.

PART III

Capital, Profits and Reserves

Capital.

8. (1) The authorised capital of the Corporation shall be five million dollars and may be increased by such amounts as the Board, with the approval of the Minister, determines.

(2) The paid-up capital shall be five hundred thousand dollars and the Government shall within thirty days of the enactment of this Act, pay up such capital in cash or securities.

(3) The authorised capital and paid-up capital of the Corporation shall be for the sole account of the Government and shall not be transferable nor subject to encumbrance.

(4) Notwithstanding the other provisions of this Act, the Minister shall cause to be transferred to the Corporation securities issued by the Government in varying amounts for the purpose of preserving the paid-up capital from any impairment whenever the annual statement of accounts discloses that the assets of the Corporation are less than the sum of its liabilities and paid-up capital.

Profits of the Corporation.

9. (1) The net profits of the Corporation for each financial year shall be determined in accordance with the

established accounting principles applicable to insurance business, after provision has been made for adequate reserves, unexpired risks, outstanding claims and special or contingency reserves and taxation, if any.

(2) The Board may, with the approval of the Minister, make such other additional provisions relating to the reserves as it thinks fit.

10. (1) As from the appointed day, all the assets, liabilities, books, records, furniture and fittings of the Department and all contracts and agreements entered into or agreed to be entered into by the Department shall stand transferred to and vested in the Corporation. **Vesting of assets.**

(2) The Reserves and Funds set up by the Department to meet any liabilities to the policyholders and transferred under the provisions of subsection (1), shall be maintained in a similar manner in the name of the Corporation.

(3) The Corporation shall have like rights, powers and remedies (including in particular, rights and powers as to taking and resisting of legal proceedings) for ascertaining, perfecting or enforcing any rights or liabilities vested in or attaching to the Department under this section as if this had at all times been the rights and liabilities of the Corporation.

(4) All civil proceedings commenced before the appointed day in any court in Antigua and Barbuda by or against the Department or on its behalf may be continued by or against the Corporation and any such proceedings may be amended accordingly.

11. (1) Subject to subsection (2), a part of the net profits of the Corporation shall at the end of each financial year be transferred to the General Reserve of the Corporation in the following amounts— **Distribution of profits.**

(a) where the General Reserve is equal to or less than the authorised capital, twenty-five per cent of such profits;

(b) where the General Reserve exceeds the authorised capital but is equal to or less than twice the

authorised capital, twelve and one-half per cent of such profits.

(2) Except the Board with the approval of the Minister otherwise determines, no transfer shall be made to the General Reserve where the General Reserve is in excess of twice the authorised capital.

(3) Subject to subsection (5), after an allocation is made to the General Reserve in accordance with subsection (1), the balance of the net profits for the financial year shall be distributed as follows:—

- (a) where there are securities to be redeemed—
 - (i) fifty per cent thereof shall be applied to the redemption on behalf of the Government in respect of securities held by the Corporation and issued in accordance with section 8 (4), and
 - (ii) such amounts of the remaining balance of the net profits shall be applied to a special contingency reserve fund as the Board may, with the approval of the Minister, determine; or

(b) where there are no securities to be redeemed such amounts of the remaining balance of the net profits shall be transferred to a special contingency reserve as the Board may, with the approval of the Minister, determine.

(4) The balance of the net profits for the financial year remaining after allocations have been made in accordance with this section shall, as soon as practicable after the end of each financial year, be paid into the Consolidated Fund.

(5) No allocations shall be made under this section, in respect of any financial year, if in that year the accounts of the Corporation disclose that the assets of the Corporation are, or after such allocations are likely to be, less than the sum of its liabilities and paid-up capital.

PART IV

Administration and Accounts

12. There shall be a Board of Directors of the Corporation which shall be responsible for the policy and general administration of the Corporation. **Board of Directors.**

13. The directors of the Corporation shall be paid such remuneration as the Board with the approval of the Minister determines. **Remuneration.**

14. The Board may— **Functions of the Board.**

(a) appoint at such remuneration and on such terms and conditions as it thinks fit, such officers and employees as it considers necessary for the proper functioning of the Corporation;

(b) provide, with the approval of the Minister, the guidelines for investment of the monies of the Corporation;

(c) approve settlement of claims admissible under any policy of insurance issued by the Corporation in excess of such limits of settlement as is prescribed for the General Manager;

(d) approve settlement of *ex-gratia* claims;

(e) appoint with the approval of the Minister, the actuary, solicitor and the auditor of the Corporation;

(f) delegate such powers as it thinks fit to the General Manager;

(g) approve the annual recurrent budget of the Corporation including specific resolutions for capital expenditure and expenditure of sums in excess of the limits which the General Manager approves;

(h) provide guidelines regarding the rates and terms of the policies of insurance which the corporation may issue;

(i) approve schemes of reinsurance for the Corporation;

(j) approve the annual audited statement of accounts of the Corporation and, subject to this Act

and to the approval of the Minister, determine the allocation of the profits;

(k) subject to such terms and conditions as the Board prescribes, authorise advances to employees for housing and transport;

(l) constitute such committees of the Board and employees of the Corporation as it considers necessary and delegate functions thereto; and

(m) perform such other functions as the Minister approves for the efficient and proper functioning of the Corporation.

Power to make rules.

15. (1) The Board may make rules for the conduct of the Corporation's business and may issue such orders and instructions as it thinks fit for giving effect to this Act and for the effective management of the Corporation.

(2) Without prejudice to subsection (1), the Board may, subject to the approval of the Minister, make rules—

(a) governing the proceedings of the Corporation and the manner and transaction of its business;

(b) providing the manner in which cheques and other instruments may be signed or executed on behalf of the Corporation;

(c) prescribing the salaries, allowances, benefits, pension or superannuation schemes and gratuity for officers and employees of the Corporation;

(d) generally for the performance of its functions under this Act.

Appointment of General Manager.

16. (1) There shall be a General Manager of the Corporation who shall perform the functions conferred on him by this Act, and such other functions as may be conferred on him by the Board.

(2) The General Manager shall be appointed by the Minister by instrument in writing on the recommendation of the Board for such period and on such terms and conditions as the Minister determines, from among persons who

possess qualifications in insurance or in related fields, or who have had substantial experience or training in such fields.

17. (1) The General Manager shall be responsible to the Board for the execution of its policy and for the management of the Corporation. **Functions of General Manager.**

(2) The function of the General Manager shall be—

(a) to act, contract and sign instruments and documents on behalf of the Corporation;

(b) to delegate such powers to other employees of the Corporation as he thinks necessary for the efficient management of the Corporation;

(c) subject to the approval of the Board, to appoint the employees of the Corporation;

(d) to accept any form of insurance or reinsurance business and enter into such contracts of insurance or reinsurance as he thinks necessary;

(e) to draw up the terms and conditions of contracts including the contracts of insurance and reinsurance;

(f) subject to the provisions of this Act, to fix the rates and terms for undertaking various classes of insurance business within the guidelines laid down by the Board;

(g) subject to any limits or guidelines which the Minister or the Board issues, to invest the monies of the Corporation;

(h) subject to approval of the Board, to conduct negotiations with trade unions;

(i) subject to the approval of the Board, to establish branch offices of the Corporation.

(3) The General Manager shall attend all meetings of the Board, but shall not have the right to vote.

(4) Subject to subsection (5), the General Manager shall devote the whole of his professional services to the

Corporation and while holding office shall not receive any salary or supplementary emoluments from any source other than the Corporation nor shall he occupy any other office or employment whether or not remunerated.

(5) Notwithstanding subsection (4), the General Manager may—

(a) serve as a member of any board established by the Government or by the insurance industry, from which he does not derive any remuneration in respect of his activities thereon, other than fees for attendance, travelling and other similar allowances;

(b) with approval of the Minister, become a director or member of the Board of any corporation, company or other organisation.

(6) The General Manager shall, subject to the approval of the Board, designate one of the employees of the Corporation to perform the functions of secretary to the Corporation or himself perform the functions of secretary.

Directions of the Minister.

18. The Minister may, after consultation with the Chairman of the Board or in his absence or inability to act, the General Manager, give to the Board written directions of a general nature as to the policy to be followed in the performance by the Board of its functions in relation to insurance matters and the Board shall give effect to such directions.

Disqualifications.

19. (1) No person shall be appointed, or as the case may be, remain a director or General Manager if—

(a) he is a director, officer, employee or owner of any insurance company or firm of brokers, agents or sub-agents, surveyors or insurance consultants;

(b) he has been convicted by a court of felony or other offence involving dishonesty;

(c) he has been adjudged or otherwise declared bankrupt;

(d) he is a person certified to be insane or otherwise adjudged to be out of sound mind under any law in force within or outside Antigua and Barbuda;

(e) the appointing authority on the recommendation of the Board finds that he is incompetent or otherwise incapable of performing his functions or that he is guilty of misconduct in relation thereto;

(f) he has been absent without leave of the Board for three or more consecutive regular meetings of the Board.

(2) Subject to subsection (3), the General Manager may resign his office on giving to the Minister in writing not less than three month's notice.

(3) The Minister may waive the period of notice required under subsection (2).

20. (1) A director or the General Manager shall not act as a delegate of, or accept instructions from any commercial, financial, agricultural, industrial or other interest unless authorised by the Board, and the Board shall not authorise such representation if in its opinion it is likely to conflict with the interests of the Corporation. **Conflict of interest.**

(2) Subject to subsection (3), the directors and the General Manager shall fully disclose to the Board any commercial, financial, agricultural, industrial or other interest with which they may at any time directly or indirectly be connected, and shall refrain from voting on any matter related thereto which becomes the subject of action by the Board.

(3) The disclosure of interest by a director under subsection (2) shall not disqualify that director for the purpose of constituting a quorum.

(4) No director, or employee of the Corporation shall accept any gift or advantage for himself or in his behalf from persons with whom he may have any business connection, if the acceptance thereof would result or give the appearance of resulting in a diminution of his impartial devotion to his duties with the Corporation.

(5) Any person who contravenes the provisions of subsection (1), (2), or (4) shall be guilty of an offence and

liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

(6) Where the person convicted under subsection (5) is a 'director, that conviction shall automatically disqualify him from holding office as a director.

Secrecy.

21. (1) Except for the purpose of performing his functions, or when lawfully required to do so by any court under any law, no director, General Manager, or employee of the Corporation shall disclose to any person any material information relating to the affairs of the Corporation or of any other institution, organisation, firm or person which he has acquired in the course of performing his functions.

(2) For the purposes of this section, "employee" includes any person who is engaged in employment with the Corporation under a contract of service.

(3) A person who contravenes the provisions of subsection (1) shall be guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

Accounts and
Audit.

22. (1) The financial year of the Corporation shall be the calendar year.

(2) The accounts of the Corporation shall be audited at least once every financial year by the auditor of the Corporation and shall thereafter be submitted to the actuary of the Corporation.

(3) The General Manager shall submit to the Board as soon as practicable after the end of each quarter, but not later than the end of the subsequent quarter, a financial statement and report of the business of the Corporation.

(4) The Board shall not later than four months after the end of each financial year, or within such longer period as the Minister allows, submit to the Minister—

(a) a copy of its annual statement of accounts duly certified by the auditor and the actuary;

(b) a report of its operations during the year.

(5) The Minister shall lay a copy of the annual statement of accounts of the Corporation, together with the certificates of the auditor and the actuary and the report, before the Senate and the House of Representatives as soon as practicable after he has received such accounts, certificates and report.

(6) The Corporation shall, at least once in every three years, have an actuarial valuation conducted on its long-term insurance business and the actuarial report shall be forwarded to the Minister who shall lay it before the Senate and the House of Representatives.

PART V

Miscellaneous.

23. The Board may, with the approval of the Minister, make regulations for the efficient running of the Corporation and generally for giving effect to the provisions of this Act. **Regulations.**

24. (1) Subject to subsection (2), the provisions of the Insurance Act and regulations made thereunder shall apply to the Corporation. **Insurance Act to apply.**

(2) The Minister may by order declare the sections in the Insurance Act or the regulations made thereunder which do not apply to the Corporation or which shall apply with such modification or adaptations as he deems fit.

25. (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any director or General Manager of the Corporation, in respect of any act done *bona fide* in the course of performing his functions under this Act. **Protection of Directors.**

(2) Where a director is exempt from liability under subsection (1), the Corporation shall be liable to the extent that it would be as if the director were an employee or agent of the Corporation.

Preliminary.

26. All preliminary expenses incurred in connection with the establishment of the Corporation shall be met by the Department.

Exemption from duties and taxes.

27. Notwithstanding anything in any other Act contained, the Corporation shall be exempt from the payment of income tax, company tax, property tax, land tax, customs duty, consumption tax, and any other taxes having similar effects.

SCHEDULE

Section 3(2)

1. (1) The Board of Directors of the Corporation shall consist of seven directors including a chairman and a vice-chairman, appointed by the Minister by Notice published in the Gazette.

(2) The directors shall be persons of recognised standing, knowledge and experience in business, professional, or academic matters.

2. A director shall hold office for such period, not exceeding three years, as the Minister directs in the instrument appointing him, but is eligible for re-appointment.

3. A director other than the Chairman may at any time resign his office by instrument in writing addressed to the Chairman who shall cause the instrument of resignation to be sent to the Minister and upon the date of receipt by the Chairman of such instrument, that person shall cease to be a director of the Corporation.

4. The Chairman may at any time resign his office by instrument in writing addressed to the Minister and upon the date of receipt by the Minister of such instrument, shall cease to be Chairman and director of the Corporation.

5. (1) If there is a vacancy in the Board, the Minister may appoint in accordance with paragraph 1 another person in his place.

(2) In respect of a temporary vacancy the Minister may on the recommendation of the Board, appoint in accordance with paragraph 1, a suitable person to act temporarily in the place of the director who is absent.

(3) The appointment, removal, death or resignation of a member shall be notified in the *Gazette*.

6. The official seal of the Corporation shall be kept in the custody of the Chairman, General Manager or such other officer of the Corporation as the Board approves and may be affixed to instruments in accordance with a resolution of the Board or in the presence of the Chairman or a director and the General Manager.

7. (1) Subject to subparagraph (2), the Board shall meet at such times and places as the business of the Corporation requires but not less frequently than ten times each year.

(2) There shall not be an interval of more than two months between meetings.

8. The Chairman, or in his absence the vice-chairman, shall preside at all meetings of the Board and in the absence of both, the directors present and constituting a quorum, shall elect, a temporary chairman from among their number to be chairman of that meeting.

9. Three members of whom one shall be the Chairman or vice-chairman shall form a quorum.

10. The decisions of the Board shall be by a majority of votes and in the event of an equality of votes, the chairman of the meeting shall have a casting vote.
