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McKenzie, Dan  
Report on practical measures which  
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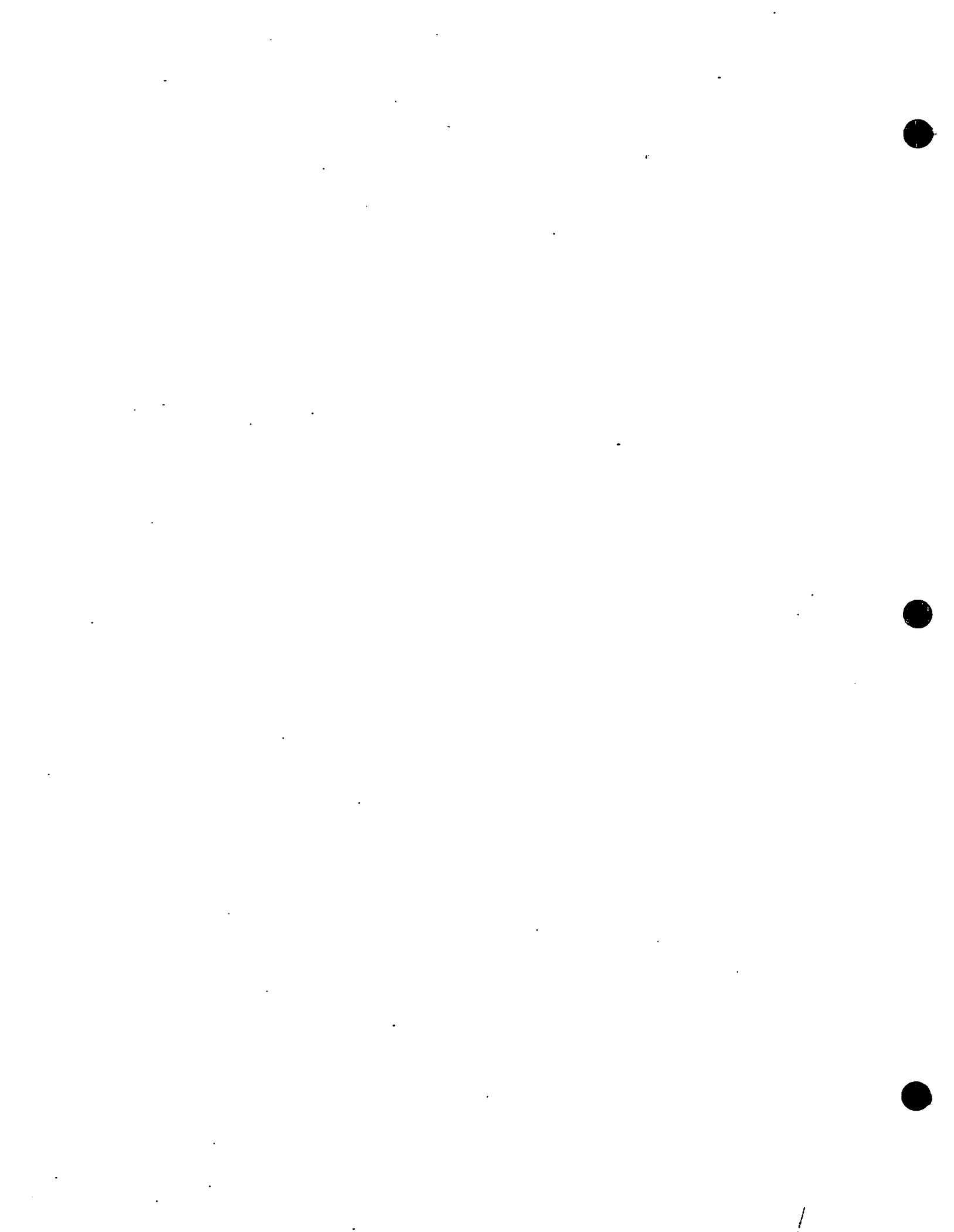
# **THE TURKS AND CAICOS ISLANDS**

## **THE COMPANIES ORDINANCE 1981**

including the current Fees Schedule and the  
Companies (Amendment) Ordinance 1985

Published in July 1987 by the Government of  
the Turks and Caicos Islands

Printed in Great Britain by  
Linneys ESL Ltd., Newgate Lane,  
Mansfield, Nottinghamshire, NG18 2PA



COMPANIES ORDINANCE, 1981.

(No. 11 of 1981.)

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-

THE COMPANIES ORDINANCE 1981

(No. 11 of 1981.)

An Ordinance to consolidate, update and revise the law relating to the incorporation, registration and winding up of trading companies, to provide for the creation of exempted companies, to provide for the incorporation as exempted companies of foreign companies incorporated in certain other jurisdictions, to provide for the confidentiality of information relating to exempted companies, to change the application of the *ultra vires* rule, to alter the provisions relating to shareholders, directorships, publication of notices, extraordinary general meetings, change of names and for matters connected therewith and ancillary thereto.

[20th January, 1982]  
[20th January, 1982]

*Assent.*  
*L. N. 5/1982.*  
*Commencement.*  
*L. N. 5/1982*

PART I

*Introduction.*

1. This Ordinance may be cited as the Companies Ordinance 1981.

Short title.

2.—(1) In this Ordinance, unless the context otherwise requires—

Interpretation.

“Court” means the Supreme Court of the Turks and Caicos Islands.

“company”, except where the context excludes an exempted company, means a company formed and registered under this Ordinance or an existing company;

“exempted company” means a company registered as an exempted company under section 181;

“existing company” means a company which prior to the coming into operation of this Ordinance

has been incorporated and its memorandum of association recorded in the Islands;

“Islands” means the Turks and Caicos Islands;

“Judge” means a Judge of the Supreme Court;

“nominal capital” means the capital of the company authorised by the Memorandum of Association;

“officer” in relation to a company includes a manager or the secretary;

“public notice” means a public notice affixed by the Registrar on the public notice board in Cockburn Town, Grand Turk, in the Islands or such other place as may be fixed from time to time by the Registrar;

“Registrar” means the Registrar of Companies appointed under section 3 and includes where appropriate, any Assistant Registrar of Companies;

“share” means a share in the share capital of a company and includes bearer shares and stock;

“special resolution” means a special resolution as defined in section 58.

(2) Where by any enactment in this ordinance it is provided that a company and every officer of the company who is in default shall be liable to a default fine, the company and every such officer shall be guilty of an offence and liable on summary conviction to a fine of twenty dollars for every day during which the default, refusal or contravention continues.

(3) For the purpose of any enactment in this Ordinance which provides that an officer of a company who is in default shall be liable to a default fine, the expression “officer who is in default” means any officer of the company who knowingly and wilfully authorises or permits the default, refusal or contravention mentioned in the enactment.

Registrar.

3.—(1) The Governor may by instrument under the Public Seal appoint, and may remove, a person duly qualified by his knowledge of law and of records to be the Registrar of Companies for the purpose of this



Ordinance, and may from time to time appoint, and remove, a substitute to act in the case of the illness or absence, or during a vacancy in the office, of such person.

(2) The Registrar of Companies with the approval of the Governor may appoint and may remove one or more assistant Registrars of Companies, who may perform any of the duties assigned by this Ordinance to the Registrar.

## PART II

### *Constitution and Incorporation of Companies and Associations Under this Ordinance.*

4.—(1) One or more persons may, by subscribing his or their names to a memorandum of association and otherwise complying with the requirements of this Ordinance in respect of registration, form an incorporated company with or without limited liability.

Mode of forming  
company.

(2) The memorandum of association of an exempted company may adopt all or any of the matters contained in the First Schedule.

(3) In the case of an exempted company registered after the commencement of this Ordinance in so far as the memorandum does not exclude or modify the objects contained in the First Schedule the objects listed therein shall, so far as applicable, be deemed to be included in the memorandum of the company in the same manner and to the same extent as if they were contained in such memorandum.

(4) The memorandum of association of an exempted company may provide that its objects are unrestricted, whereupon it shall have authority to carry on any lawful business and, except to the extent that the objects or the provisions of this Ordinance otherwise specifically provide, every such company shall have, for the futherance of its objects and of any duly authorised business carried on by it, all the powers and discretions of a natural person of full capacity.

5. The liability of the members of a company formed under this Ordinance may, according to the

Mode of limiting  
liability of  
members.

memorandum of association, be limited either to the amount, if any, unpaid on the shares respectively held by them or to such amount as the members may respectively undertake by the memorandum of association to contribute to the assets of the company in the event of its being wound up.

Memorandum of association of a company limited by shares.

6.—(1) Where a company is formed on the principle of having the liability of its members limited to the amount unpaid on their shares (hereinafter referred to as a company limited by shares) the memorandum of association shall, subject to subsection (2) of this section, contain—

(a) the name of the proposed company, with the addition of the word "Limited" or the abbreviation "Ltd" as the last word in such name;

(b) a statement that the registered office of the company is within the Islands, and the address of such registered office;

(c) the objects for which the proposed company is to be established;

(d) a declaration that the liability of the members is limited; and

(e) the amount of nominal capital with which the company proposes to be registered, divided into shares of a certain fixed amount (except where it is stated therein that the shares are to be of no par value).

(2) No subscriber shall take less than one share.

Memorandum of association of a company limited by guarantee.

7. Where a company is formed on the principle of having the liability of its members limited to such amount as the members respectively undertake to contribute to the assets of the company in the event of the same being wound up (hereinafter referred to as a company limited by guarantee) the memorandum of association shall contain—

(a) the name of the proposed company, with the addition of the word "Limited" or the abbreviation "Ltd" as the last word in such name;

(b) a statement that the registered office of the company is within the Islands and the address of such registered office;

(c) the objects for which the proposed company is to be established; and

(d) a declaration that each member undertakes to contribute to the assets of the company, in the event of the same being wound up during the time that he is a member, or within one year afterwards, for payment of the debts and liabilities of the company contracted before the time at which he ceases to be a member, and of the costs, charges and expenses of the winding up of the company, and for the adjustment of the rights of the contributories amongst themselves, such amount as may be required, not exceeding a specific amount to be therein named.

8.—(1) A company may, by special resolution, alter its memorandum of association with respect to the objects of the company, so far as may be required to enable it—

Objects of memorandum of association may be altered by special resolution.

(a) to carry on its business more economically and more efficiently;

(b) to attain its main purpose by new or improved means;

(c) to enlarge or change the local area of its operations;

(d) to carry on business which under existing circumstances may conveniently or advantageously be combined with the business of the company;

(e) to restrict or abandon any of the objects specified in the memorandum of association;

(f) to sell or dispose of the whole or any part of the undertaking of the company; or

(g) to amalgamate with any other company or body of persons:

Provided that if an application is made to the Registrar in accordance with this section for the alteration to be cancelled, it shall not have effect except in so far as is confirmed by the Registrar.

(2) An application under this section may be made by the holders of not less than fifteen *per centum* in nominal value of the company's issued share capital or any class thereof or, if the company is not limited by

shares, not less than fifteen *per centum* of the company's members:

Provided that an application shall not be made by any person who has consented to or voted in favour of the alteration.

(3) An application under this section may not be made except within twenty-one days after the day on which the resolution altering the company's objects was passed, and may be made on behalf of the persons entitled to make the application by such one or more of their number as they may appoint in writing for the purpose.

(4) On an application under this section the Registrar may make an order confirming the alteration either wholly or in part and on such terms and conditions as he thinks fit, and may if he thinks fit adjourn the proceedings in order that an arrangement may be made to the satisfaction of the Registrar for the purchase of the interests of dissentient members and give such directions or make such orders as he may think expedient for facilitating or carrying into effect any such arrangement:

Provided that no part of the capital of the company shall be expended in any such purchase.

(5) Where a company passes a special resolution altering its objects, if no application is made with respect thereto under this section, the company shall within thirty days from the end of the period for making such application deliver to the Registrar a certified copy of the special resolution authorising the same.

(6) If a company makes default in delivering any document to the Registrar as required by subsection (5), the company and every director, secretary or officer of the company who knowingly or wilfully authorises or permits such default shall incur a penalty for each day during which the default continues.

(7) The validity of an alteration of the provisions of a company's memorandum of association with respect to the objects of the company shall not be questioned on the ground that it was not authorised by subsection (1) except in proceedings taken for the purpose (whether under this section or otherwise)

before the expiration of twenty-one days after the date of the resolution in that behalf; and where any such proceedings are taken otherwise than under this section, subsections (5) and (6) shall apply in relation thereto as if the proceedings had been taken under this section and as if an order declaring the alteration invalid were an order cancelling it and as if an order dismissing the proceedings were an order confirming the alteration.

**9.—(1)** A company may by resolution of the directors change the location of the registered office of the company to another location in the Islands:

Location of registered office may be changed.

Provided that within thirty days from the date on which the resolution changing the location of the registered office is passed the company shall—

(a) deliver to the Registrar a certified copy of the resolution of the directors authorising the same; and

(b) cause notice of such change to be published in the *Gazette*.

(2) Until such notice is given, the company shall not be deemed to have changed its registered office.

**10.** Where a company is formed on the principle of having no limit placed on the liability of its members (hereinafter referred to as an unlimited company) the memorandum of association shall contain the following things (that is to say)—

Memorandum of association of an unlimited company.

(a) the name of the proposed company;

(b) the address of the registered office of the company;

(c) the objects for which the proposed company is to be established.

**11.** The memorandum of association shall be signed by every subscriber, who shall indicate his address and occupation and the number of shares he takes, in the presence of at least one witness who shall likewise sign his name and state his address and occupation. It shall, when registered, bind the company and the members thereof to the same extent as if each

Signature and effect of memorandum of association.

member had subscribed his name and fixed his seal thereto and there were in the memorandum contained on the part of himself, his heirs, executors and administrators a covenant to observe all the conditions of such memorandum, subject to the provisions of this Ordinance.

Power of  
company limited  
by shares to alter  
its capital.

12.—(1) A company limited by shares or a company limited by guarantee and having a share capital, if so authorised by its articles, may by special resolution alter the conditions of its memorandum to—

(a) increase its nominal capital by new shares of such amount as it thinks expedient;

(b) consolidate and divide all or any of its share capital;

(c) convert all or any of its paid-up shares into stock, and reconvert that stock into paid-up shares of any denomination;

(d) subdivide its shares, or any of them, into shares of an amount smaller than that fixed by the memorandum, so, however, that in the subdivision the proportion between the amount paid and the amount, if any, unpaid on each reduced share shall be the same as it was in the case of the share from which the reduced share is derived; and

(e) cancel shares of nominal capital which at the date of the passing of the resolution in that behalf have not been taken or agreed to be taken by any person, and diminish the amount of its share capital by the amount of the shares so cancelled.

(2) The powers conferred by this section may not be exercised by the company except in general meeting.

(3) A cancellation of shares in pursuance of this section shall not be deemed to be a reduction of share capital within the meaning of this Ordinance.

Special  
resolution for  
reduction of  
share capital.

13.—(1) Subject to confirmation by the Court, a company limited by shares or a company limited by guarantee and having a share capital may, if so authorised by its articles, by special resolution reduce its share capital in any way, and in particular (but

without prejudice to the generality of the foregoing power) may—

(a) extinguish or reduce the liability on any of its shares in respect of share capital not paid up; or

(b) either with or without extinguishing or reducing liability on any of its shares, cancel any paid-up share capital which is lost or unrepresented by available assets; or

(c) either with or without extinguishing or reducing liability on any of its shares, pay off any paid-up share capital which is in excess of the needs of the company, and may, if and so far as is necessary, alter its memorandum by reducing the amount of its share capital and of its shares accordingly.

(2) A special resolution under this section is in this Ordinance referred to as “a resolution for reducing share capital”.

(3) The requirements of confirmation by the Court under subsection (1) shall not apply to shares issued in accordance with the provisions of section 198.

14.—(1) Where a company has passed a resolution for reducing share capital, it shall apply to the Court for an order confirming the reduction.

Application to Court for confirming order; objections by creditors.

(2) Where the proposed reduction of share capital involves either diminution of liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital, and in any other case if the Court so directs, the following provisions shall have effect, subject nevertheless to subsection (3)—

(a) every creditor of the company who at the date fixed by the Court is entitled to any debt or claim which, if that date were the commencement of the winding up of the company, would be admissible in proof against the company, shall be entitled to object to the reduction;

(b) the Court shall settle a list of creditors so entitled to object, and for that purpose shall ascertain as far as possible without requiring an application from any creditor; the names of those creditors and the nature and amount of their debts

or claims, and may publish notices fixing a day or period on or within which creditors not entered on the list are to claim to be so entered or are to be excluded from the right of objecting to the reduction;

(c) where a creditor entered on the list whose debt or claim is not discharged or has not been determined does not consent to the reduction, the Court may, if it thinks fit, dispense with the consent of that creditor, on the company securing payment of his debt or claim by appropriating as the Court may direct, the following amount—

(i) if the company admits the full amount of the debt or claim, or, though not admitting it, is willing to provide for it, then the full amount of the debt or claim;

(ii) if the company does not admit and is not willing to provide for the full amount of the debt or claim or if the amount is contingent or not ascertained, then an amount fixed by the Court after the like enquiry and adjudication as if the company were being wound up by the Court.

(3) Where a proposed reduction of share capital involves either the diminution of any liability in respect of unpaid share capital or the payment to any shareholder of any paid-up share capital the Court may, if having regard to any special circumstances of the case it thinks proper so to do, direct that subsection (2) shall not apply as regards any class or any classes of creditors.

Order  
confirming  
reduction and  
powers of Court  
on making such  
order.

15.—(1) The Court, if satisfied with respect to every creditor of the the company who under section 14 is entitled to object to the reduction, that either his consent to the reduction has been obtained or his debt or claim has been discharged or has been determined or has been secured, may make an order confirming the reduction on such terms and conditions as it thinks fit.

(2) Where the Court makes any such order, it may—

(a) if for any special reason it thinks proper so to do, make an order directing that the company



shall, during such period, commencing on or at any time after the date of the order, as is specified in the order add to its name as the last words thereof the words "and reduced"; and

(b) make an order requiring the company to publish as the Court directs the reasons for reduction or such other information in regard thereto as the Court may think expedient with a view to giving proper information to the public and if the Court thinks fit, the causes which led to the reduction.

(3) Where a company is ordered to add to its name the words "and reduced", those words shall until the expiration of the period specified in the order, be deemed to be part of the name of the company.

16.—(1) The Registrar, on delivery to him by the company of a copy of an order of the Court confirming the reduction of the share capital of a company, and of a minute approved by the Court showing with respect to the share capital of the company, as altered by the order, the amount of the share capital, the number of shares into which it is to be divided, and the amount of each share, and the amount, if any, at the date of the registration of the order and minute deemed to be paid upon each share, shall register the order and minute.

Registration of  
order and minute  
of reduction.

(2) On the registration of the order and minute, and not earlier, the resolution for reducing share capital as confirmed by the order so registered shall take effect.

(3) Notice of the registration shall be published in the *Gazette* if so directed by the Court.

(4) The Registrar shall certify under his hand the registration of the order and minute, and his certificate shall be conclusive evidence that all the requirements of this Ordinance with respect to reduction of share capital have been complied with, and that the share capital of the company is such as is stated in the minute.

(5) The minute when registered shall be deemed to be substituted for the corresponding part of the memorandum, and shall be valid and alterable as if it had been originally contained therein.

Liability of  
members in  
respect of  
reduced shares.

17.—(1) In the case of a reduction of share capital, a member of the company, past or present, shall not be liable in respect of any share to any call or contribution exceeding in amount the difference, if any, between the amount of the share as fixed by the minute and the amount paid or the reduced amount, if any, which is to be deemed to have been paid on the share as the case may be:

Provided that if any creditor entitled in respect of any debt or claim to object to the reduction of share capital is, by reason of his ignorance of the proceedings for reduction or of their nature and effect with respect to his claim, not entered on the list of creditors, and after the reduction the company is unable, within the meaning of the provisions of this Ordinance with respect to winding up by the Court, to pay the amount of his debt or claim, then—

(a) every person who was a member of the company at the date of the registration of the order for reduction and minute shall be liable to contribute for the payment of that debt or claim an amount not exceeding the amount which he would have been liable to contribute if the company had commenced to be wound up on the day before the said date; and

(b) if the company is wound up, the Court, on application of any such creditor and proof of his ignorance as aforesaid, may, if it thinks fit, settle accordingly a list of persons so liable to contribute, and make and enforce calls and orders on the contributories in a winding up.

(2) Nothing in this section shall affect the rights of the contributories among themselves.

Penalty for  
concealment of  
name of  
creditors.

18. Any director, secretary or other officer of the company who—

(a) knowingly or wilfully conceals the names of any creditors entitled to object to the reduction; or

(b) knowingly or wilfully misrepresents the nature or amount of the debt or claim of any creditor; or

(c) aids, abets or is privy to any such concealment or misrepresentation as aforesaid,

shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for six months.

19. There shall, in the case of a company limited by shares and in the case of a company limited by guarantee or unlimited, be registered, with the memorandum, articles of association signed by the subscriber or subscribers to the memorandum and prescribing regulations for the company.

Articles prescribing regulations for companies.

20.—(1) In the case of an unlimited company the articles must state the number of members with which the company proposes to be registered and, if the company has a share capital, the amount of share capital with which the company proposes to be registered.

Regulations required in case of unlimited company or company limited by guarantee.

(2) In the case of a company limited by guarantee, the articles must state the number of members with which the company proposes to be registered.

(3) Where an unlimited company or a company limited by guarantee has increased the number of its members beyond the registered number it shall, within fifteen days after the increase was resolved on or took place, give to the Registrar notice of the increase, and the Registrar shall record the increase.

(4) If default is made in complying with subsection (3), the company and every officer who is in default shall be liable to a default fine.

21.—(1) Articles of association may adopt all or any of the regulations contained in Table A in the Second Schedule, and articles of association of an exempted company may adopt all or any of the regulations contained in Table B or in both such tables.

Adoption and application of Table A or B.

(2) Subject to subsection (3), in the case of a company limited by shares and registered after the commencement of this Ordinance, other than as an exempted company, in so far as the articles do not

exclude or modify the regulations contained in Table A those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

(3) In the case of an exempted company registered after the commencement of this Ordinance, in so far as the articles do not exclude or modify the regulations contained in Table B, those regulations shall, so far as applicable, be the regulations of the company in the same manner and to the same extent as if they were contained in duly registered articles.

Printing, and  
signature of  
articles.

**22. Articles shall—**

(a) be divided into paragraphs numbered consecutively; and

(b) be signed by every subscriber of the memorandum of association in the presence of at least one witness who shall sign his name and state his address and occupation.

Alteration of  
articles by  
ordinary  
resolution.

**23.—(1)** Subject to the provisions of this Ordinance and to the conditions contained in its memorandum, a company may by ordinary resolution alter or add to its articles.

(2) Any alteration or addition so made in the articles shall, subject to the provisions of this Ordinance, be as valid as if originally contained therein, and be subject in like manner to alteration by ordinary resolution.

Adoption and  
effect of articles  
of association.

**24.** When registered the articles of association shall bind the company and the members thereof to the same extent as if every member had subscribed his name thereto, and there were in such articles contained a covenant on the part of himself, his heirs, executors and administrators to conform to all the regulations contained in such articles subject to the provisions of this Ordinance, and all moneys payable by any member to the company in pursuance of the conditions or regulations shall be deemed to be a debt due from such member to the company.

25.—(1) The memorandum of association and the articles of association in triplicate shall be delivered to the Registrar who shall file and retain the original thereof as records of the office and shall return the duplicates thereof endorsed with a memorandum of registration and a memorandum of the particulars set out in subsection (3).

Registration.

(2) Each memorandum of association and the articles of association shall be numbered and filed consecutively and shall be endorsed with the date of the month and year of such filing.

(3) A register of companies shall be kept in which shall be entered the following particulars which shall be annexed to the memorandum of association or articles of association in so far as they are not included therein—

- (a) the name of the company;
- (b) the address of the registered office of the company;
- (c) the amount of nominal capital of the company and the number of shares into which it is divided and the fixed amounts thereof;
- (d) the names and addresses and occupations of subscribers to the memorandum of association and the number of shares taken by every subscriber;
- (e) the date of execution of the memorandum of association;
- (f) the date of filing the memorandum of association;
- (g) the registered number assigned to the company; and
- (h) in the case of a company limited by guarantee or which has no limit placed on the liability of its members that the same is limited by guarantee or is unlimited, and any of the particulars as hereinbefore specified which may be inappropriate to the case may be omitted.

(4) Upon the filing of the memorandum and articles of association of any company the fees set out in the Fourth Schedule shall be paid to the Registrar.

Fourth Schedule.  
Fees.

Certificate of  
incorporation.

26.—(1) Upon filing of the memorandum and articles of association a company shall be deemed to be registered and the Registrar shall issue a certificate under his hand and seal of office that the company is incorporated and, in the case of a limited company, that the company is limited.

(2) From the date of incorporation mentioned in the certificate of incorporation every subscriber of the memorandum of association, together with such other persons as may from time to time become members of the company, shall be a body corporate by the name contained in the memorandum of association, capable forthwith of exercising all the functions of an incorporated company and having perpetual succession and a common seal, with power to hold lands, but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is hereinafter provided in this Ordinance.

(3) A certificate of incorporation of a company issued under this Ordinance shall be conclusive evidence that compliance has been made with all the requirements of this Ordinance in respect of registration subject to compliance with the provisions of section 48 hereof.

(4) Every copy of a memorandum and articles of association filed and registered in accordance with this Ordinance or any extract therefrom certified under the hand and seal of the Registrar as a true copy shall be received in evidence in any Court without further proof.

Governor may  
grant licences to  
lay down rails in  
public streets  
and build out  
wharves in  
certain cases.

27. If any company or association incorporated under this Ordinance requires, for the purpose of enabling it to carry on business or carry out the objects for which the members have associated themselves together to lay down rails, pipes or other material in any public road, street or other public place, or to build wharves or abutments in any port, harbour or public water, the Governor may, on application, grant in his discretion a licence or licences for the purpose or purposes required.

Members to be  
provided with  
copy of  
memorandum  
and articles.

28. A copy of the memorandum of association having annexed thereto the articles of association shall

be forwarded to every member, at his request on payment of such reasonable sum, not exceeding twenty-five dollars for each copy, as may be fixed by any rule of the company; and in the absence of any such rule, such copy shall be given gratuitously; and if any company makes default in forwarding a copy of the memorandum of association and articles of association to a member in pursuance of this section, the company so making default shall be guilty of an offence and liable on summary conviction to a fine of one hundred dollars.

29.—(1) No company shall be registered by a name which—

Restrictions on registration of certain names.

(a) is identical with that by which a company in existence is already registered or so nearly resembles that name as to be calculated to deceive, except where the company in existence is in the course of being dissolved and signifies its consent in such manner as the Registrar requires;

(b) contains the words "Chamber of Commerce" unless the company is a company which is to be registered under a licence granted by the Registrar in pursuance of section 78 without the addition of the word "Limited" or the abbreviation "Ltd" to its name;

(c) except with the consent of the Financial Secretary contains the words "bank"; "building society"; or "cooperative society"; or

(d) is, in the opinion of the Registrar undesirable or misleading.

(2) Except with the consent of the Registrar no company shall be registered by a name which—

(a) contains the words "royal", "imperial", or "empire", or in the opinion of the Registrar suggests, or is calculated to suggest, the patronage of Her Majesty or of any member of the Royal Family or connection with Her Majesty's Government or any department thereof in the United Kingdom or elsewhere; or

(b) contains the words "municipal" or "chartered" or any words which in the opinion of the Registrar suggest, or are calculated to suggest,

connection with any public board or other local authority or with any society or body incorporated by Royal Charter.

(3) In the event that a company is registered with an identical or similar name to a company already registered the Registrar may order the company last so registered to change its name.

Change of name.

**30.—**(1) Any company may by special resolution change its name.

(2) Where a company changes its name, the Registrar on receiving a certified copy of its resolution authorising the same together with a non-returnable fee of fifty dollars and on being satisfied that the change of name conforms with the provisions of section 29, shall enter the new name on the register in place of the former name and lodge the special resolution for registration and shall issue a certificate of change of name showing the new name of the company and the company shall within thirty days of the issue of such certificate cause notice of such change of name to be published in the *Gazette*.

(3) If, through inadvertence or otherwise, a company on its first registration or on its registration by a new name is registered by a name which in any way contravenes the provisions of section 29 or which in the opinion of the Registrar is misleading or undesirable then the company may, with the sanction of the Registrar change its name, and shall, if the Registrar so directs, change its name within six weeks of the date of such direction or within such longer period as the Registrar may think fit to allow.

(4) If a company makes default in advertising within the time stipulated in subsection (2) or in complying with a direction under subsection (3) it shall be liable to a fine of twenty dollars for every day during which the default continues.



## PART III.

*Distribution of Capital and Liability of Members of  
Companies and Associations Under this Ordinance.**Distribution of Capital.*

31.—(1) The share or other interest of a member in a company shall be personal estate capable of being transferred in manner provided by the regulations of the company and shall not be of the nature of real estate; and save in the case of shares that are fully paid up each share shall in the case of a company having a capital divided into shares be distinguished by its appropriate number:

Share or interest  
in company to be  
personalty.

Provided that, if at any time all the issued shares in a company, or all the issued shares therein of a particular class, are fully paid up and rank *pari passu* for all purposes, none of those shares need thereafter have a distinguishing number so long as they remain fully paid up and rank *pari passu* for all purposes with all the shares of the same class for the time being issued and fully paid up.

(2) No share, stock or debenture shall be advertised for sale, issue or circulation or any prospectus issued or advertised and no person shall by way of advertisement solicit funds for any company registered in the Islands or coming within the provisions of Part XI without prior disclosure to and authorisation by the Registrar who may in his discretion call for and examine the accounts of the company, and the prospectus shall comply with the rules set out in Part I of the Third Schedule and shall contain the matters specified in Part II of the said Schedule.

Third Schedule.

(3) Any officer of any company and any agent or person contravening the provisions of subsection (2) shall be guilty of an offence and shall be liable on summary conviction to a fine of two thousand dollars and to imprisonment for six months.

32.—(1) (a) A company limited by shares if so authorised by its articles may with respect to any fully paid up shares issue under its common seal such shares

Issue and effect  
of bearer shares.

as bearer shares stating that the bearer is entitled to the shares therein specified and may provide by coupons or otherwise for the payment of the future dividends on such shares.

(b) A bearer share shall entitle the bearer thereof to the shares therein specified and the shares may be transferred by delivery.

(2) (a) on the issue of a bearer share the company shall enter in the register the following particulars namely—

(i) the fact of the issue of such bearer shares;

(ii) a statement of the shares distinguishing each share by its number so long as the share has a number; and

(iii) the date of issue of such bearer shares.

(b) the holder of a bearer share shall, subject to the articles of the company, be entitled on surrendering it for cancellation to have his name entered as a member in the register of members.

(c) the company shall be responsible for any loss incurred by any person by reason of the company entering in the register the name of a holder of a bearer share in respect of the shares therein specified without the bearer shares being surrendered and cancelled.

(d) Until the bearer share is surrendered, the particulars specified in subsection (1) shall be deemed to be the particulars required by this Ordinance to be entered in the register of members and on the surrender the date of the surrender must be entered.

(e) Subject to the provisions of this Ordinance, the holder of a bearer share may, if the articles of the company so provide, be deemed to be a member of the company within the meaning of this Ordinance, either to the full extent or for any purposes defined in the articles.

(3) If any person falsely and deceitfully personates any owner of any share or interest in any company or of any bearer share or coupon issued in pursuance of this

Ordinance and thereby obtains or endeavours to obtain any such share or interest or bearer share or coupon, or receives or endeavours to receive any money due to any such owner as if the offender were the true and lawful owner, he shall be guilty of an offence and shall be liable on conviction to imprisonment for ten years or for any term not less than three years.

33.—(1) Where a company issues shares at a premium (whether for cash or otherwise) a sum equal to the aggregate amount or value of the premium on those shares shall be transferred to an account to be called the share premium account and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the share premium account were paid up share capital of the company.

Application of premiums received on issue of shares.

(2) The share premium account may, notwithstanding anything in subsection (1), be applied by the company in paying up unissued shares of the company to be issued to members as fully paid bonus shares, in writing off—

(a) the preliminary expenses of the company;

or

(b) the expenses of, or the commission paid or discount allowed on any issue of shares or debentures of the company;

or in providing for the premiums payable on redemption of any redeemable preference shares or of any debenture of the company.

34.—(1) Subject as provided in this section, it shall be lawful for a company to issue at a discount shares in the company of a class already issued:

Power to issue shares at a discount.

Provided that—

(a) the issue of the shares at a discount must be authorised by resolution passed in general meeting of the company and must be sanctioned by the Court;

(b) the resolution must specify the maximum rate of discount at which the shares are to be issued;

(c) not less than one year must at the date of the issue have elapsed since the date on which the company was entitled to commence business.

(d) the shares to be issued at a discount must be issued within one month after the date on which the issue is sanctioned by the Court or within such extended time as the Court may allow.

(2) Where a company has passed a resolution authorising the issue of shares at a discount, it shall apply to the Court for an order sanctioning the issue, and on any such application the Court, if, having regard to all the circumstances of the case, it thinks proper so to do, may make an order sanctioning the issue on such terms and conditions as it thinks fit.

(3) Every prospectus relating to the issue of the shares must contain particulars of the discount allowed on the issue of the shares or of so much of that discount as has not been written off at the date of the issue of the prospectus. If default is made in complying with this subsection, the company and every officer of the company who is in default, shall be liable to a default fine.

Power to issue  
redeemable  
preference  
shares.

35.—(1) Subject to the provisions of this section a company limited by shares may, if so authorised by its articles, issue preference shares which are, or at the option of the company are to be liable, to be redeemed:

Provided that—

(a) no such shares shall be redeemed except out of profits of the company which would otherwise be available for dividend or out of the proceeds of a fresh issue of shares made for the purposes of redemption;

(b) no such shares shall be redeemable unless they are fully paid;

(c) the premium, if any, payable on redemption, must have been provided for out of the profits of the company or out of the company's share premium account before the shares are redeemed; and

(d) where any such shares are redeemed otherwise than out of the proceeds of a fresh issue,

there shall out of profits which would otherwise have been available for dividend be transferred to a reserve fund, to be called "the capital redemption reserve fund", a sum equal to the nominal amount of the shares redeemed, and the provisions of this Ordinance relating to the reduction of the share capital of a company shall, except as provided in this section, apply as if the capital redemption reserve fund were paid-up share capital of the company.

(2) Subject to the other provisions of this section, the redemption of preference shares thereunder may be effected on such terms and in such manner as may be provided by the articles of the company.

(3) The redemption of preference shares under this section by a company shall not be taken as reducing the amount of the company's authorised share capital.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any preference shares it shall have the power to issue shares up to a nominal amount of the shares redeemed as if those shares had never been issued, and accordingly the share capital of the company shall not for the purpose of any enactments relating to stamp duty or to fees payable on the filing of memorandum of association and articles of association be deemed to be increased by the issue of shares in pursuance of this subsection:

Provided that where new shares are issued before the redemption of the old shares the new shares shall not, so far as relates to stamp duty or to fees payable on the filing of memorandum of association and articles of association be deemed to have been issued in pursuance of this subsection unless the old shares are redeemed within one month after the issue of the new shares.

(5) The capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

36. The subscribers of the memorandum of association of any company shall be deemed to have

Definition of member.

agreed to become members of the company to whose memorandum they have subscribed, and upon the registration of the company shall be entered as members on the register of members hereinafter mentioned and every other person who has agreed to become a member of a company whose name is entered on the register of members shall be deemed to be a member of the company.

Transfer by  
personal  
representative.

37. Any transfer of the share or other interest of a deceased member of a company made by his personal representative, shall notwithstanding that such personal representative may not himself be a member, be of the same validity as if he had been a member at the time of the execution of the instrument of transfer.

Register of  
members.

38.—(1) Every company shall cause to be kept in writing a register of its members at its registered office and there shall be entered therein—

(a) the names and addresses and occupations (if any) of the members of the company with the addition, in the case of a company having a capital divided into shares, of a statement of the shares held by each member, distinguishing, save in the case of shares that are fully paid, each share by its number, and of the amount paid, or agreed to be considered as paid, on the shares of each member;

(b) the date on which the name of any person was entered on the register as a member;

(c) the date on which any person ceased to be a member;

and any company making default in complying with this section shall incur a penalty of twenty-five dollars for every day during which the default continues, and every director, secretary or officer of the company who knowingly or wilfully authorises or permits such contravention, shall incur the like penalty.

Annual list of  
members, and  
return of capital,  
shares etc.

39.—(1) Every company having a capital divided into shares shall make a list of all persons who on the fourteenth day following the day on which the Ordinary General Meeting, or if there is more than one Ordinary General Meeting in each year the first of such Ordinary

General Meetings, is held, are members of the company, and such list shall state the names, addresses and occupations of all the members therein mentioned, and the number of shares held by each of them and shall contain a summary specifying—

(a) the amount of the nominal share capital of the company and the number of shares into which it is divided;

(b) the number of shares issued from the commencement of the company up to the date of the summary and whether issued for cash or other consideration;

(c) the amount of calls made on each share;

(d) the total amount of calls received;

(e) the total amount of calls unpaid;

(f) the total amount of shares forfeited;

(g) the names and addresses of the persons who have ceased to be members since the last list was made, and the number of shares held by each of them; and

(h) the names, addresses and occupations of the directors and secretary of the company.

The above list and summary shall be contained in a separate part of the register of the company and a copy shall be forwarded to reach the Registrar within twenty-eight days after the said Ordinary General Meeting, together with the fee specified in the Fourth Schedule, such copy to be kept by the Registrar in his office with the original memorandum and articles of association:

Fourth Schedule.

Provided however that a company which has failed to forward to the Registrar any copy required to be forwarded in any year shall be deemed not to have made any default in complying with the provisions of this section relating to the time within which such copy is required to be forwarded if the company forwards the copy either—

(a) within such further period, if any, as the Registrar, acting in his discretion, may by notice addressed to the company specify; or

(b) within the period of twelve months next following such Ordinary General Meeting,

whichever be the shorter, together with (in addition to the appropriate fee payable under the foregoing provisions of this section) a late filing fee of five dollars for each day after the last day for making such returns or otherwise such lesser fee as the Registrar may direct.

(2) Save in the case of a company limited by shares with a registered nominal capital of not less than ten thousand dollars any change in the shareholdings in the company or of the members of the company shall be notified to the Registrar within thirty days of such change and details of the new shareholdings or members or directors or secretary whichever, shall be given with such notification.

(3) Any change in the directors or secretary of the company shall be notified to the Registrar within fourteen days of such change and details of the new directors or secretary shall be given with such notification.

Penalty on  
company not  
making returns.

40. Subject to the proviso to section 39 (1), if any company having a nominal share capital divided into shares makes default in complying with the provisions of this Ordinance with respect to forwarding such lists of members or summary as is hereinbefore mentioned to the Registrar, such company shall incur a penalty of fifty dollars for every day during which such default continues and every director, secretary and officer of the company who knowingly or wilfully authorises or permits such default shall incur the like penalty, and such default may be deemed to be reasonable cause for the purposes of section 173.


Certificate of  
shares or stock.

41. A certificate, under the common seal of the company, specifying any shares or stock held by any member of a company, shall be *prima facie* evidence of the title of the member to the shares or stock therein specified and unless endorsed in writing to the contrary, shall be evidence that such shares or stock are fully paid to the respective face value thereof.

Inspection of  
register.

42. The register of members, commencing from the date of the registration of the company, shall be





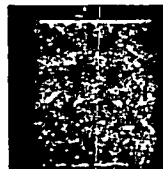
kept at the registered office of the company, hereinafter mentioned. Except when closed as hereinafter provided it shall during business hours (subject to such reasonable restrictions as the company in general meeting may impose, so that not less than two hours in each day be appointed for inspection) be open to the inspection of any member *gratis*, and every such member may receive a copy of such register, or any part thereof, or of such list or summary of members as is hereinbefore provided, on payment of two dollars for every hundred words required to be copied. If such inspection or copy is refused, the company shall incur for each refusal a penalty of ten dollars and a further penalty of ten dollars for every day during which such refusal continues, and every director, manager and officer of the company who knowingly authorises or permits such refusal shall incur the like penalty, and in addition to the above penalty, the Registrar may by order compel an immediate inspection of the register.

43.—(1) Where a company has a nominal share capital divided into shares, whether such shares have or have not been converted into stock, notice of any increase in such capital beyond the registered nominal share capital, and where a company has not a nominal share capital divided into shares, notice of any increase in the number of members beyond the registered number, shall be given to the Registrar, in the case of an increase of nominal share capital within thirty days from the date of the passing of the resolution by which such increase has been authorised; and in the case of an increase of members, within thirty days from the time at which such increase of members has been resolved on or has taken place; and the Registrar shall forthwith record the amount of such increase of capital or members.

Notice of  
increase of  
nominal capital  
and of members  
to be given to  
Registrar.

(2) Upon the filing of notice of increase of nominal share capital of any company the fees specified in the Fourth Schedule shall be paid to the Registrar.

Fourth Schedule.



(3) If such notice is not given within the period aforesaid, the company in default shall incur a penalty of fifty dollars for every day during which such neglect to give notice continues, and every director and secretary of the company who knowingly or wilfully

authorises or permits such default shall incur a like penalty.

Remedy for  
improper entry  
or omission of  
entry in register.

44. If the name of any person is without sufficient cause entered in or omitted from the register of members of any company or if default is made or unnecessary delay takes place in entering on the register the fact of any person having ceased to be a member of the company, the person or member aggrieved or any member of the company or the company itself may apply for an order from the Magistrate that the register be rectified; and the Magistrate may either refuse such application with or without costs, to be paid by the applicant, or he may, if satisfied of the justice of the case, make an order for the rectification of the register, and may direct the company to pay all the costs of such application, and any damages the party aggrieved may have sustained. The Magistrate may in any proceeding under this section decide any question relating to the title of any person who is a party to such proceeding to have his name entered in or omitted from the register, whether such question arises between two or more members or alleged members and the company; and generally, the Magistrate may in any such proceedings decide any question that it may be necessary or expedient to decide for the rectification of the register:

Provided that the Magistrate may direct an issue to be tried on which any question of law may be raised.

Notice to  
Registrar of  
rectification of  
register.

45. Whenever any order has been made rectifying the register, in the case of a company required by this Ordinance to send a list of its members to the Registrar, the Magistrate shall by his order direct that due notice of such rectification be given to the Registrar.

Register to be  
evidence.

46. The register of members shall be *prima facie* evidence of any matter by this Ordinance directed or authorised to be inserted therein.

*Liability of Members.*

47. In the event of a company being wound up, every present and past member of such company shall be liable to contribute to the assets of the company to an amount sufficient for payment of the debts and liabilities of the company, and the costs, charges and expenses of the winding up and for the payment of such sums as may be required for the adjustment of the rights of the contributories amongst themselves, with the qualifications following—

Liability of  
present and past  
members of  
company.

(a) a past member shall not be liable to contribute to the assets of the company if he has ceased to be a member for a period of six months or upwards prior to the commencement of the winding-up;

(b) a past member shall not be liable to contribute in respect of any debt or liability of the company contracted after the time at which he ceased to be a member;

(c) a past member shall not be liable to contribute to the assets of the company unless existing members are able to satisfy the Court that they do not have the financial resources to pay the contributions required to be made by them in pursuance of this Ordinance;

(d) in the case of a company limited by shares, no contribution shall be required from any member exceeding the amount, if any, unpaid on the shares in respect of which he is liable as a present or past member;

(e) in the case of a company limited by guarantee, no contribution shall be required from any member exceeding the amount of the undertaking entered into on his behalf by the memorandum of association;

(f) nothing in this Ordinance shall invalidate any provisions contained in any policy of insurance or other contract whereby the liability of individual members upon any such policy or contract is restricted, or whereby the funds of the company are alone made liable in respect of such policy or contract; and

(g) no sum due to any member of a company

in his character of a member by way of dividends, profits or otherwise shall be deemed to be a debt of the company payable to such member in a case of competition between himself and any other creditor not being a member of the company, but any such sum may be taken into account for the purposes of the final adjustment of the rights of the contributories amongst themselves.

#### PART IV.

#### *Management and Administration of Companies and Associations under this Ordinance.*

##### *Provisions for Protection of Creditors.*

Registered office  
of company.

**48.** Every company shall have a registered office situate within the Islands, to which all communications and notices may be addressed. If any company carries on business without having such an office it shall incur a penalty of twenty-five dollars for every day during which business is so carried on.

Notice of  
situation of  
registered office.

**49.—(1)** Notice of the situation of such registered office and of any change thereof shall be given to the Registrar and recorded by him and shall be published by the company in the *Gazette*. Until such notice is given and forwarded for publication the company shall not be deemed to have complied with the provisions of this Ordinance, with respect to having a registered office.

(2) Any member of the public shall be entitled on payment of a fee of five dollars to be informed by the Registrar, on request, of the location of the registered office of any company or exempted company registered under this Ordinance.

Publication of  
name of a limited  
company.

**50.** Every company, whether limited by shares or by guarantee, shall paint or affix, and shall keep painted or affixed, its name on the outside of every office or place in which the business of the company is carried on, or in any corridor, passage or hallway adjacent or proximate thereto, in a conspicuous posi-

tion, in letters easily legible and shall have its name printed in legible characters in all notices, advertisements and other official publications of such company and in all bills of exchange, promissory notes, endorsements, cheques and orders for money or goods purporting to be signed by or on behalf of such company, and in all bills or parcels, invoices, receipts and letters of credit of the company.

**51.** If any company does not paint or affix, and keep painted or affixed, its name in manner directed by this Ordinance it shall be liable to a penalty of twenty-five dollars for not so painting or affixing its name and for every day during which such name is not so kept painted or affixed, and every director, secretary and officer of the company who knowingly or wilfully authorises or permits such default shall be liable to the like penalty; and if any director, secretary and officer of such company or any person on its behalf uses or authorises the use of any seal purporting to be a seal of the company, whereon its name is not so engraved as hereinafter mentioned or issues or authorises the issue of any notice, advertisement or other official publication of such company or signs or authorises to be signed on behalf of such company any bill of exchange, promissory note, endorsement, cheque or order for money or goods or issues or authorises to be issued any bill, invoice, receipt or letter of credit of the company wherein its name is not set out in the manner aforesaid he shall be liable to a penalty of two hundred dollars and shall further be personally liable to the holder of any such bill of exchange, promissory note, cheque or order for money or goods for the amount thereof unless the same is duly paid by the company.

Penalties on non-publication of name.

**52.—(1)** Every limited company shall keep in writing a register of all mortgages, debentures and charges specifically affecting property of the company and shall enter in such register in respect of each mortgage, debenture or charge a short description of the property mortgaged or charged, the amount of charge created and the names of the mortgagees, debenture holders or persons entitled to such charge.

Register of mortgages.

(2) If any property of a limited company is mortgaged or charged without such an entry as is mentioned in subsection (1) being made, every director and secretary of the company who knowingly or wilfully authorises or permits the omission of such entry, shall incur a penalty of two hundred dollars.

(3) The register of mortgages, debentures and charges required by subsection (1) shall be open to inspection by any creditor or member of the company at all reasonable times; and if such inspection is refused, any officer of the company refusing the same, and every director and secretary of the company authorising or knowingly or wilfully permitting such refusal, shall incur a penalty of fifty dollars for every day during which such refusal continues and in addition to the above penalty, the Magistrate may by order compel an immediate inspection of the register.

Register of  
directors and  
officers.

53. Every company shall keep at its registered office a register containing the names, addresses and the occupations of its directors and secretary.

Penalty on  
company not  
keeping a  
register of  
directors.

54. If any company makes default in keeping a register of its directors and secretary in compliance with the requirements of section 53, or in notifying to the Registrar any change that takes place in such directors or secretary in accordance with section 39 (3) such company shall incur a penalty of twenty-five dollars for every day during which such default continues, and every director and secretary of the company who shall knowingly or wilfully authorise or permit such default shall incur the like penalty.

Penalty for  
carrying on  
business without  
a member.

55. If any company carries on business in contravention of section 4 when it is without a member for a period exceeding six months every person who is a director, secretary or officer of such company during the time it so carries on business shall be severally liable for the payment of the whole of the debts of the company contracted during such time.

*Provision for Protection of Members.*

56. Save for the first general meeting, which shall be held within fifteen months of the date of the certificate of incorporation of the company, a general meeting of every company shall be held at least once in every year at the registered office of the company or such other place as may be determined by the company in general meeting or in the case of the first general meeting at such place as the subscriber or subscribers determine.

General meetings.

57.—(1) Every company shall cause to be kept proper books of accounts including day books of account with respect to—

Accounts.

(a) all sums of money received and expended by the company and the matter in respect of which the receipt and expenditure take place;

(b) all sales and purchases of goods by the company; and

(c) the assets and liabilities of the company.

(2) For the purpose of subsection (1) proper books of accounts shall not be deemed to be kept with respect to the matters aforesaid if there are not kept such books as are necessary to give a true and fair view of the state of the company's affairs and to explain its transactions.

58.—(1) A resolution passed by a company shall be deemed to be special whenever a resolution has been passed by not less than seventy-five *per centum* of such members of the company for the time being entitled, according to the regulations of the company, to vote as may be present, in person or by proxy at any general meeting of which notice specifying the intention to propose such resolution has been duly given.

Definition of special resolution.

(2) At any meeting mentioned in this section, unless a poll is demanded by a member, a declaration of the chairman that the resolution has been carried shall be conclusive evidence of the fact, without proof of the number or proportion of votes recorded in favour of or against the same.

(3) Notice of any meeting shall, for the purposes of this section, be deemed to be duly given and the meeting to be duly held, whenever such notice is given in writing to all members and the meeting held in manner prescribed by the regulations of the company:

Provided such notice is given fourteen clear days before such meeting, unless otherwise waived by all members present in person or by proxy at such meeting.

(4) In computing the majority under this section when a poll is demanded, regard shall be had to the number of votes to which each member is entitled on such a poll. A member shall have one vote for each voting share or, if the company has no provisions for voting shares, for each share held by him in the company.

Provisions where  
no regulations as  
to meetings.

59. In default of any regulations as to voting every member shall have one vote, and in default of any regulations as to summoning general meetings, a meeting shall be held to be duly summoned of which fourteen days clear notice has been served on every member and in default of any regulations as to the persons to summon a meeting, two members shall be competent to summon the same; and in default of any regulations as to who is to be chairman of such meeting, it shall be competent for any person elected by the members present to preside.

Recording of  
special  
resolutions.

60. A copy of any special resolution passed by any company under this Ordinance shall be forwarded within thirty days to the Registrar and shall be recorded by him.

Copies of special  
resolution.

61.—(1) A copy of every special resolution for the time being in force shall be annexed to, or embodied in, every copy of the memorandum and articles of association that may be issued after the passing of such resolution.

(2) If any company makes default in complying with the provisions of this section it shall incur a penalty of fifty dollars for each copy in respect of which such default is made, and every director, secretary and



officer of the company who shall knowingly or wilfully authorise or permit such default shall incur the like penalty.

**62.** The Court may appoint one or more than one competent inspector to examine into the affairs of any company and to report thereon in such manner as the Court may direct—

Appointment of  
inspector to  
report on affairs  
of companies.

(a) in cases of a company having a capital divided into shares, upon the application of members holding not less than fifteen *per centum* of the shares of the company for the time being issued; and

(b) in the case of a company not having a capital divided into shares, upon the application of members being in number not less than one-fifth of the total number of persons for the time being entered on the register of the company as members.

**63.** It shall be the duty of all directors, secretary, officers and agents of the company to produce for examination by an inspector all books, accounts and documents relating to the company, and any inspector may examine upon oath the officers and agents of the company in relation to its business, and may administer such oath accordingly, and any director, secretary, officer or agent who refuses or neglects to produce any book or document hereby directed to be produced, or to answer any question relating to the affairs of the company, shall be guilty of an offence and liable on summary conviction to a fine of four hundred and fifty dollars.

Power of  
Inspectors.

**64.—(1)** Upon the conclusion of the examination the inspectors shall report their opinion to the Court in writing.

Report of  
Inspectors.

(2) Such report shall be filed by the Registrar of the Court, but shall not, unless the Court so directs, be open to public inspection.

(3) All expenses of and incidental to any such examination and report shall be defrayed by the

members upon whose application the inspectors were appointed, unless the Court shall direct the same to be paid out of the assets of the company, which it is hereby authorised to do.

Inspection by  
resolution of the  
company.

**65.** Any company as aforesaid may, by special resolution, appoint inspectors for the purpose of examining the affairs of such company and inspectors so appointed shall have the same powers and perform the same duties as inspectors appointed by the Court, except that instead of making the report to the Court, they shall make the same in such manner and to such persons as the company in general meeting direct, and the directors, secretary, officers and agents of the company shall incur the same penalties in case of any refusal or neglect to produce any book or document hereby required to be produced to such inspectors, or to answer any questions, as they would have incurred if such inspectors had been appointed by the Court.

Inspectors report  
admissible as  
evidence.

**66.** The report of any inspectors appointed under this Ordinance, or any copy thereof certified and signed by the inspectors, shall be admissible in any legal proceeding as *prima facie* evidence of the opinion of the inspectors in relation to any matter contained in such report.

#### *Notices.*

Returns, etc., to  
Registrar.

**67.** Any list, return, notice or information required by this Ordinance to be made, given or supplied to the Registrar shall be in the prescribed form and authenticated by the signature of an officer of the company.

Service of notice  
on Company.

**68.** Any writ, notice, order or other document required to be served upon the company may be served by leaving the same or sending it through the post in a prepaid letter, addressed to the company at its registered office.

Postal service.

**69.** Any document to be served by post on the company shall be posted in such time as to admit to its

being delivered in the due course of delivery within the period (if any) prescribed for the service thereof, and in proving service of such document, it shall be sufficient to prove that such document was properly directed, and that it was put as a prepaid letter into a Post Office.

70. Any summons, notice, order or proceeding requiring authentication by the company may be signed by any director, secretary or other authorised officer of the company, and need not be under the common seal of the company, and may be in writing or in print or partly in writing and partly in print.


Authentication of summons, notices, etc.

71. Every company shall cause minutes of all resolutions and proceedings of general meetings of the company, and of meetings of the directors to be duly kept in writing; and any such minutes as aforesaid, if purporting to be signed by the chairman of the meeting at which such resolution were passed or proceedings had, or by the chairman of the next succeeding meeting, shall be received as *prima facie* evidence in all legal proceedings; and until the contrary is proved, every general meeting of the company, or meeting of the directors in respect of the proceedings of which minutes have been so made, shall be deemed to have been duly held and convened and all resolutions passed thereat, or proceedings had, to have been duly passed and had, and all appointment of directors, secretaries, officers or liquidators shall be deemed to be valid, and all acts done by such directors, secretaries, officers and liquidators shall be valid, notwithstanding any defect that may afterwards be discovered in their appointments or qualifications.

Evidence of proceedings of meetings.

72. Where a company is plaintiff in any action, suit or other legal proceedings any Judge having jurisdiction in the matter, if he is satisfied that there is reason to believe that if the defendant is successful in his defence the assets of the company will be insufficient to pay his costs, may require sufficient security to be given for such costs and may stay all proceedings until such security is given.

Security for costs in actions brought by limited companies.



Declaration in  
action against  
members.

73. In any action or suit brought by the company against any member to recover any call or other money due from such member in his character of member, it shall not be necessary to set forth the special matter, but it shall be sufficient to allege that the defendant is a member of the company and is indebted to the company in respect of a call made or other moneys due whereby a right of action has accrued to the company.

*Arbitration.*

Powers of  
companies to  
refer matters to  
arbitration. No.  
7 of 1974.


74. Any company may from time to time by writing under its common seal agree to refer and may refer to arbitration, in accordance with the provisions of the Arbitration Ordinance, 1974, any existing or future difference, question or other matter whatsoever in dispute between itself and any other company or person; and the companies which are parties to the arbitration may in accordance with the said Ordinance delegate to the person or persons to whom the reference is made power to settle any terms or to determine any matter capable of being lawfully settled or determined by the companies themselves or by the directors or other managing body of such companies.

*General Penalty.*

General penalty.

75.—(1) Where a duty is imposed by this Ordinance on any company, director, secretary or officer of any company and no special penalty or fine has been provided for the breach of such duty then any such company, director, secretary or officer guilty of such breach shall be guilty of an offence and shall be liable on summary conviction to a fine of five hundred dollars and if it is a continuing breach to a fine of fifty dollars for each day of such continuing breach.

(2) All fines recovered under this Ordinance shall be paid into the Consolidated Fund.



*Unlimited Liability of Directors.*

76. The liability of the directors of a company may, if so provided by the articles of association, be unlimited.

Articles of association may provide for unlimited liability of directors.

77. In the event of a company being wound up the provisions of section 47 as respects the contribution to be required from any director whose liability is unlimited by virtue of section 76 shall have effect subject to the following modifications—

Modification of section 47.

(a) subject to the provisions hereinafter contained, any such director, whether past or present shall, in addition to his liability (if any), to contribute as an ordinary member, be liable to contribute as if he were at the date of the commencement of such winding up a member of an unlimited company;

(b) no contribution required from any past director who has ceased to hold such office for a period of one year or upward prior to the commencement of such winding up, shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the company;

(c) no contribution required from any past director in respect of any debt or liability of the company contracted after the time at which he ceased to hold such office shall exceed the amount (if any) which he is liable to contribute as an ordinary member of the company;

(d) subject to the provisions contained in the regulations of the company, no contribution required from any director shall exceed the amount (if any) which he is liable to contribute as an ordinary member, unless the Court thinks it necessary to require such contribution in order to satisfy the debts and liabilities of the company and the costs, charges and expenses of the winding up.

*Association not for profit.*

78.—(1) Where any association is about to be formed as a limited company, if it is proved to the

Circumstances in which the Registrar may licence a company to be registered without "limited" in its name.

satisfaction of the Registrar that it is to be formed for the purpose of promoting commerce, art, science, religion, charity or any other useful object, and that it is the intention of such association to apply the profits (if any) or other income of the association in promoting its objects, and to prohibit the payment of any dividend to the members of the association, the Registrar may by licence under his hand direct such association to be registered with limited liability without the addition of the word "limited" to its name, and such association may be registered accordingly, and upon registration shall enjoy all the privileges and be subject to all the obligations by this Ordinance imposed on companies, except that none of the provisions of this Ordinance that require a company to use the word "limited" as any part of its name, or to publish its name, or to send a list of its members, directors or secretary to the Registrar, shall apply to an association so registered.

(2) The licence aforesaid may be granted upon such conditions and subject to such regulations as the Registrar may think fit to impose, and such conditions and regulations shall be binding on the association, and shall be inserted or endorsed on the memorandum and articles of association.

#### *Contracts.*

Common seal  
and how  
contracts may be  
made.

79.—(1) Every company registered under the provisions of this Ordinance shall have a common seal upon which its name is engraved in legible letters.

(2) Contracts on behalf of any company may be made as follows—

(a) any contract which, if made between private persons, would be by law required to be in writing, and, if made according to English law, to be under seal, may be made on behalf of the company in writing under the common seal of the company;

(b) any contract which, if made between private persons, would be by law required to be in writing and signed by the parties to be charged therewith may be made on behalf of the company in writing, signed by any person acting under the express or implied authority of the company;

(c) any contract which, if made between private persons, would by law be valid although made by parol only and not reduced into writing may be made by parol on behalf of the company by any person acting under the express or implied authority of the company.

(3) Any contract made according to this section may be varied or discharged in the same manner in which it is authorised by this section to be made.

(4) All contracts made according to this section shall be effectual in law and shall be binding upon the company and its successors and all other parties thereto, their heirs, executors, or administrators, as the case may be.

80. A bill of exchange or promissory note shall be deemed to have been made, accepted or endorsed on behalf of a company if made, accepted or endorsed in the name of, or by or on behalf or on account of, the company by any person acting under its authority.

Bills of exchange and promissory notes.

81.—(1) A company may by writing under its common seal empower any person either generally or in respect of any special matters as its attorney to execute deeds on its behalf.

Execution of deeds abroad.

(2) A deed signed by such an attorney on behalf of the company and under his seal shall bind the company and have the same effect as if it were made under its common seal.

82.—(1) A company whose objects require or comprise the transaction of business outside the Islands may, if authorised by its articles, have for use in any territory, district or place not situate in the Islands, an official seal, which shall be a facsimile of the common seal of the company.

Power for company to have official seal for use abroad.

(2) A deed or other document to which an official seal is duly affixed shall bind the company as if it had been sealed with the common seal of the company.

(3) A company having an official seal for use in any such territory, district or place may by writing under its common seal authorise any person appointed

for the purpose in that territory, district or place to affix the official seal to any deed or other document to which the company is party in the territory, district or place.

(4) The authority of any such agent shall, as between the company and any person dealing with the agent, continue during the period (if any) specified in the instrument conferring the authority, or if no period is so specified, then until notice of the revocation or determination of the agent's authority has been given to such person.

(5) The person affixing any such official seal shall by writing under his hand certify on the deed or other instrument to which the seal is affixed the date on which and the place at which it is affixed.

Authentication  
of documents.

**83.** A document or proceeding requiring authentication by a company may be signed by a director, secretary or other authorised officer of the company and need not be under its common seal.

#### *Arrangements and Reconstructions.*

Power to  
compromise with  
creditors and  
members.

**84.—**(1) Where a compromise or arrangement is proposed between a company and its creditors or any class of them, or between the company and its members or any class of them, then the Court may, on the application of the company or of any creditor or member of the company, or, where a company is being wound up, of the liquidator, order a meeting of the creditors or class of creditors, or of the members of the company or class of members, as the case may be, summoned in such manner as the Court directs.

(2) If a majority in number representing seventy-five *per centum* in value of the creditors or class of creditors, or members or class of members as the case may be, present and voting either in person or by proxy at the meeting, agree to any compromise or arrangement, the compromise or arrangement shall, if sanctioned by the Court, be binding on all creditors or the class of creditors, or on the members or class of members, as the case may be, and also on the company or where a company is in the course of being wound up, on the liquidator and contributories of the company.



(3) An order made under subsection (2) shall have no effect until a copy of the order has been delivered to the Registrar for registration, and a copy of every such order shall be annexed to every copy of the memorandum of association of the company issued after the order has been made, or, in the case of a company not having a memorandum, of every copy so issued of the instrument constituting or defining the constitution of the company.

(4) If a company makes a default in complying with subsection (3), the company and every director, secretary and officer of the company who is in default shall be guilty of an offence and liable on summary conviction to a fine of twenty-five dollars for each copy in respect of which default is made.

(5) In this section the expression "company" means any company liable to be wound up under this Ordinance and the expression "arrangement" includes a reorganization of the share capital of the company by the consolidation of shares of different classes or by the division of shares into shares of different classes or by both these methods.

85.—(1) Where an application is made to the Court under section 84 for the sanctioning of a compromise or arrangement proposed between a company and any such persons as are specified in that section, and it is shown to the Court that the compromise or arrangement has been proposed for the purpose of or in connection with a scheme for the reconstruction of any company or companies or the amalgamation of any two or more companies, and that under the scheme the whole or any part of the undertaking or the property of any company concerned in the scheme (in this section referred to as "a transferor company") is to be transferred to another company (in this section referred to as "the transferee company"), the Court may, either by the order sanctioning the compromise or arrangement or by any subsequent order, make provision for all or any of the following matters—

(a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of any transferor company;

Provisions for facilitating reconstruction and amalgamation of companies.

(b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the compromise or arrangement are to be allotted or appropriated by that company to or for any person;

(c) the continuation by or against the transferee company of any legal proceedings pending by or against any transferor company;

(d) the dissolution, without winding up, of any transferor company;

(e) the provision to be made for any person who, within such time and in such manner as the Court directs, dissents from the compromise or arrangement; and

(f) such incidental, consequential and supplemental matters as are necessary to secure that the reconstruction or amalgamation is fully and effectively carried out.

(2) Where an order under this section provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and any such property shall, if the order so directs, be freed from any charge which is by virtue of the compromise or arrangement to cease to have effect.

(3) Where an order is made under this section, every company in relation to which the order is made shall cause a copy thereof to be delivered to the Registrar for registration within seven days after the making of the order, and if default is made in complying with this subsection, the company and every director, secretary and officer of the company who is in default shall be liable to a default fine.

(4) In this section the expression "property" includes property, rights and powers of every description, and the expression "liabilities" includes duties.

Power to acquire  
shares of  
dissentient  
shareholders.

86.—(1) Where a scheme or contract involving the transfer of shares or any class of shares in a company (in this section referred to as "the transferor com-

pany") to another company, whether a company within the meaning of this Ordinance or not (in this section referred to as "the transferee company") has, within four months after the making of the offer in that behalf by the transferee company, been approved by the holders of not less than ninety *per centum* in value of the shares affected, the transferee company may at any time within two months after the expiration of the said four months give notice in the prescribed manner to any dissenting shareholder that it desires to acquire his shares, and where such a notice is given the transferee company shall, unless, on an application made by the dissenting shareholder within one month from the date on which the notice was given, the Court thinks fit to order otherwise, be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders are to be transferred to the transferee company.

(2) Where a notice has been given by the transferee company under this section and the Court has not, on an application made by the dissenting shareholder, ordered to the contrary, the transferee company shall on the expiration of one month from the date on which the notice has been given, or, if an application to the Court by the dissenting shareholder is then pending, after that application has been disposed of, transmit a copy of the notice to the transferor company and pay or transfer to the transferor company the amount or other consideration representing the price payable by the transferee company for the shares which by virtue of this section that company is entitled to acquire, and the transferor company shall thereupon register the transferee company as the holder of those shares.

(3) Any sums received by the transferor company under this section shall be paid into a separate bank account, and any such sums and any other consideration so received shall be held by that company on trust for the several persons entitled to the shares in respect of which the said sums or other consideration were respectively received.

(4) In this section the expression "dissenting shareholder" includes a shareholder who has not assented to the scheme or contract and any shareholder

who has failed or refused to transfer his shares to the transferee company in accordance with the scheme or contract.

PART V.

*Winding up of Companies under this Ordinance.*

*Preliminary.*

"Contributory"  
defined.

87. The term "contributory" means every person liable to contribute to the assets of a company in the event of the same being wound up under this Ordinance; and for the purpose of any proceedings for determining the persons who are to be deemed contributories, and of any proceedings prior to the final determination of such persons, includes any person alleged to be a contributory.

Nature of  
liability of  
contributory.

88. The liability of any person to contribute to the assets of a company in the event of its being wound up shall be taken to create a debt accruing due from such person at the time when his liability commenced, but payable at the time or respective times when calls are made as hereinafter provided for enforcing such liability; and it shall be lawful in case of bankruptcy of any contributory to prove against his estate the estimated value of his liability to future calls, as well as calls already made.

Death of  
contributory.

89. If any contributory dies either before or after he has been placed on the list of contributories hereinafter mentioned, his personal representatives, heirs and devisees shall be liable in due course of administration to contribute to the assets of the company in discharge of his liability, and shall be contributories accordingly.

Bankruptcy of  
contributory.

90. If any contributory becomes bankrupt, either before or after he has been placed on the list of contributories, his assigns shall be deemed to represent such bankrupt for all the purposes of winding up, and shall be deemed to be contributories accordingly, and

may be called upon to admit to proof against the estate of such bankrupt, or otherwise to allow to be paid out of his assets in due course of law, all moneys due from such bankrupt in respect of his liability to contribute to the assets of the company being wound up.

91. If any female contributory marries, either before or after she has been placed on the list of contributories, her husband shall during the continuance of the marriage be liable to contribute to the assets of the company the same sum as she would have been liable to contribute if she had not married, and he shall be deemed to be a contributory accordingly.

Marriage of contributory.

*Winding up by Court.*

92. A company may be wound up by the Court if—

Circumstances in which company may be wound up by Court.

(a) the company has passed a special resolution requiring the company to be wound up by the Court; or

(b) the company does not commence its business within a year from its incorporation or suspends its business, or does not carry on business for a period of six consecutive months; or

(c) there is no member of the company; or

(d) the company is unable to pay its debts; or

(e) the Court is of the opinion that it is just and equitable that the company should be wound up; or

(f) the company, being a financial institution licensed under the Banking Ordinance, or under any enactment repealing or replacing that Ordinance, has had its licence to carry on banking business revoked.

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93. A company shall be deemed to be unable to pay its debts if—

Company, when deemed unable to pay its debts.

(a) a creditor by assignment or otherwise to whom the company is indebted at law or in equity in a sum exceeding five hundred dollars then due, has served on the company by serving or having

served at its registered office a demand under his hand requiring the company to pay the sum so due, and the company has for the space of three weeks succeeding the service of such demand neglected to pay such sum or to secure or compound for the same to the reasonable satisfaction of the creditor; or

(b) execution or other process issued on a judgement, decree or order obtained in the Court in favour of any creditor at law or in equity in any proceedings instituted by such creditor against the company, is returned unsatisfied in whole or in part; or

(c) it is proved to the satisfaction of the Court that the company is unable to pay its debts.

Application for winding up to be made by petition.

**94.** Any application to the Court for the winding up of a company shall be by petition which may be presented by the company, or by any one or more than one creditor or contributory of the company, or by all or any of the above parties, together or separately; and every order which may be made on any such petition shall operate in favour of all creditors and all the contributories of the company in the same manner as if it had been made upon the joint petition of a creditor and a contributory:

Provided that in the case of a company to which the provisions of paragraph (f) of section 92 apply, if no application for winding up has been made to the Court under the provisions of this section by the company or a creditor or contributory, the Attorney General shall apply to the Court under this section for the winding up of the company.

Sitting in chambers.

**95.** The Judge may do in chambers any act which the Court is hereby authorised to do.

Commencement of winding up.

**96.** A winding up of a company by the Court shall be deemed to commence at the time of presentation of the petition for the winding up.

Court may grant injunction.

**97.** The Court may at any time after the presentation of a petition for winding up a company under

this Ordinance and before making an order for winding up the company, upon the application of the company, or any creditor or contributory of the company, or the Attorney General in a case in which he has made the application for the winding up of the company, restrain further proceedings in any action, suit or proceeding against the company upon such terms as the court thinks fit; and the court may also at any time after the presentation of such petition and before the first appointment of liquidators, appoint provisionally an official liquidator of the estate and effects of the company.

98. Upon hearing the petition the Court may dismiss the same with or without costs, may adjourn the hearing conditionally or unconditionally and may make any interim order or any other order that it thinks just, and any such order shall be published in the *Gazette*.

Powers of Court on hearing petition.

99. When an order has been made for winding up of a company no suit, action or other proceedings shall be proceeded with or commenced against the company except with the leave of the Court and subject to such terms as the Court may impose.

Stay of proceedings after order for winding up.

100. When an order has been made for winding up of a company a copy of such order shall forthwith be forwarded by the company to the Registrar, who shall make a minute thereof in his books relating to the company.

Copy of order to be forwarded to Registrar.

101. The Court may at any time after an order has been made for winding up of a company, upon the application by motion of any creditor or contributory of the company, and upon proof to the satisfaction of the Court that all proceedings in relation to such winding up ought to be stayed, make an order staying the same either altogether or for a limited time, on such terms and subject to such conditions as it thinks fit and any such order shall be published in the *Gazette*.

Power of Court to stay any proceedings.

102. When an order has been made for winding up a company limited by guarantee and having a capital

Effect of order on share capital of company limited by guarantee.

divided into shares any share capital that may not have been called up shall be deemed to be assets of the company and to be a debt due to the company from each member to the extent of any sums that may be unpaid on any shares held by him and payable at such time as may be appointed.

Court may have regard to wishes of creditors or contributories.

103. The Court may, as to all matters relating to the winding up, have regard to the wishes of the creditors or contributories, as proved to it by any sufficient evidence, and may, if it thinks it expedient, direct meetings of the creditors or contributories to be summoned, held and conducted in such manner as the Court directs for the purposes of ascertaining their wishes and may appoint a person to act as chairman of any such meeting, and to report to the Court the result of such meeting and regard shall be had, as respects creditors, to the value of the debts due to each creditor, and as respects contributories, to the number of votes conferred on each contributory by the regulations of the company.

#### *Official Liquidators.*

Appointment of official liquidator.

104. For the purpose of conducting the proceedings in winding up a company and assisting the Court therein, there may be appointed one or more than one person to be called an official liquidator or official liquidators; and the Court may appoint to such office such person or persons, either provisionally or otherwise, as it thinks fit, and if more persons than one are appointed to such office, the Court shall declare whether any act hereby required or authorised to be done by the official liquidator is to be done by all or any one or more of such persons. The Court may also determine whether any and what security is to be given by any official liquidator on his appointment; if no official liquidator is appointed, or during any vacancy in such office, all the property of the company shall be in the custody of the Court.

Resignation, removals, filling of vacancies and compensation.

105.—(1) An official liquidator may resign or be removed by the court on due cause shown; and any



vacancy in the office of an official liquidator appointed by the Court shall be filled by the Court.

(2) There shall be paid to the official liquidator such salary or remuneration, by the way of percentage or otherwise, as the Court may direct; and if more liquidators than one are appointed such remuneration shall be distributed amongst them in such proportions as the Court directs.

**106.** An official liquidator shall be described by the style of official liquidator of the particular company in respect of which he is appointed, and not by his individual name; he shall take into his custody or under his control all property, effects and choses in action to which the company is or appears to be entitled and shall perform such duties in reference to the winding up of the company as may be imposed by the Court.

Style and duties  
of official  
liquidator.

**107.** An official liquidator shall have power, with the sanction of the Court—

Powers of official  
liquidator.

(a) to bring or defend any action, suit, prosecution or other legal proceedings, whether civil or criminal, in the name and on behalf of the company;

(b) to carry on the business of the company so far as may be necessary for the beneficial winding up thereof;

(c) to sell the real and personal property, effects and choses in action of the company by public auction or private contract, with power to transfer the whole thereof to any person or company, or to sell the same in parcels;

(d) to do all acts and to execute, in the name and on behalf of the company, all deeds, receipts and other documents; and for that purpose to use, when necessary, the company's seal;

(e) to prove, rank, claim and draw a dividend in the matter of the bankruptcy or insolvency of any contributory for any balance against the estate of such contributory, and to take and receive dividends in respect of such balance, in the matter of bankruptcy or insolvency, as a separate debt

due from such bankrupt or insolvent, and rateably with the other separate creditors;

(f) to draw, accept, make and endorse any bill of exchange or promissory note in the name and on behalf of the company, and from time to time raise upon the security of the assets of the company any requisite sum or sums of money; and the drawing, accepting, making or endorsing of every such bill of exchange or promissory note as aforesaid on behalf of the company shall have the same effect with respect to the liability of such company as if such bill or note had been drawn, accepted, made or endorsed by or on behalf of the company in the course of the carrying on of the business thereof;

(g) to take out in his official name letters of administration to any deceased contributory, and to do in his official name any other act necessary for obtaining payment of any moneys due from a contributory or from his estate which cannot be conveniently done in the name of the company; and in any such case any moneys due shall, for the purpose of enabling him to take such letters or recover such moneys, be deemed to be due to the official liquidator himself; and

(h) to do and execute all such other things as may be necessary for winding up the affairs of the company and distributing its assets.

Discretion of  
official  
liquidator.

**108.** The Court may by any order provide that the official liquidator may exercise any of the powers mentioned in section 107 without the sanction or intervention of the Court, and where an official liquidator is provisionally appointed may limit and restrict his powers by the order appointing him.

Appointment of  
attorney to  
official  
liquidator.

**109.** The official liquidator may with the sanction of the Court appoint an attorney to assist him in the performance of his duties.

#### *Ordinary Powers of Court.*

Collection and  
application of  
assets.

**110.** As soon as may be after making an order for winding up the company, the Court shall settle a list of

contributories and may rectify the register of members in all cases where such rectification is required in pursuance of this Ordinance and shall cause the assets of the company to be collected and applied in discharge of its liabilities.

111. In settling the list of contributories the Court shall distinguish between persons who are contributories in their own right and persons who are contributories as being representatives of or being liable for the debts of others; it shall not be necessary, where the personal representative of any deceased contributory is placed on the list, to add the heirs or devisees of such contributory, nevertheless such heirs or devisees may be added as and when the Court thinks fit.

Provisions as to  
representative  
contributories.

112. The Court may at any time after making an order for winding up of a company require any contributory for the time being on the list of contributories, and any trustee, receiver, banker, agent, director, secretary or officer of the company to pay, deliver, convey, surrender or transfer forthwith, or within such time as the Court directs, to or into the hands of the official liquidator, any sum or balance and any books, papers, estate or effects in his hands to which the company is *prima facie* entitled.

Power to require  
delivery of  
property.

113.—(1) The Court may at any time after making an order for winding up the company make an order on any contributory for the time being on the list of contributories, to pay in manner directed by the order, any moneys due from him or from the estate of the person whom he represents, to the company, exclusive of any moneys payable by him or the estate by virtue of any calls made or to be made by the Court in pursuance of this Part.

Power to order  
payment of debts  
by contributory.

(2) The court, may in making such an order when the company is not limited, allow to the contributory by way of set-off any moneys due to him or the estate which he represents from the company on any independent dealing or contract with the company, but not any moneys due to him as a member of the company in respect of any dividend or profit.

(3) When all the creditors of any company whether limited or unlimited are paid in full, any moneys due on any account whatever to any contributory from the company may be allowed to him by way of set-off against any subsequent call.

Power to make calls.

**114.** The Court may at any time after making an order for winding up of a company and either before or after it has ascertained the sufficiency of the assets of the company, make calls on and order payment thereof by all or any of the contributories for the time being on the list of contributories to the extent of their liability, for payment of all or any sum it thinks necessary to satisfy the debts and liabilities of the company, and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and it may, in making a call, take into consideration the probability that some of the contributories upon whom the call is made may partly or wholly fail to pay their respective portions of the same.

Power to order payment into bank.

**115.** The Court may order any contributory, purchaser or other person from whom money is due to the company to pay the same into a bank to the account of the official liquidator, and such order may be enforced in the same manner as if it had directed payment to the official liquidator.

Regulation of account.

**116.** All moneys, bills, notes and other securities paid and delivered into a bank in the event of a company being wound up by the Court, shall be subject to such order and regulation for the keeping of the account of such moneys and other effects, and for the payment and delivery in or investment and payment and delivery out of the same as the Court may direct.

Default by representative contributory.

**117.** If any person made a contributory as personal representative of a deceased contributory makes default in paying any sum ordered to be paid by him, proceedings may be taken for administering either or both the personal and real estate of such deceased contributory, and of compelling payments thereof of the moneys due.

118. Any order made by the Court in pursuance of this Ordinance upon any contributory shall, subject to any right of appeal, be conclusive evidence that the moneys, if any, thereby appearing to be due, and all other pertinent matters stated in such order are to be truly stated as against all persons, and in all proceedings whatsoever, with the exception of proceedings taken against the real estate of any deceased contributory, in which case such order shall be only *prima facie* evidence for the purpose of charging his real estate, unless his heirs or devisees were on the list of contributories at the time of the making of the order.

Order to be conclusive evidence.

119. The Court may fix a certain day or certain days on or within which creditors of the company are to prove their debts or claims, or to be excluded from the benefit of any distribution made before such debts are proved.

Power to exclude creditors not proving within time fixed.

120. The Court shall adjust the rights of the contributories amongst themselves, and distribute any surplus that may remain amongst parties entitled thereto.

Court to adjust right of contributories.

121. The Court may, in the event of the assets being insufficient to satisfy the liabilities, make an order as to the payment out of the estate of the company of the costs, charges and expenses incurred in winding up any company in such order of priority as the Court thinks just.

Orders as to costs.

122. When the affairs of the company have been completely wound up, the Court shall make an order that the company be dissolved from the date of such order, and the company shall be dissolved accordingly.

Dissolution of company.

123. Any order made under section 122 shall be reported by the official liquidator to the Registrar, who shall make a minute accordingly in his books of the dissolution of such company.

Registrar to record dissolution.

Penalty for not reporting dissolution of company.

**124.** If the official liquidator makes default in reporting to the Registrar, in the case of a company being wound up by the Court, the order that the company be dissolved, he shall be liable on summary conviction to a penalty of twenty-five dollars for every day which he is so in default.

*Extraordinary Powers of Court.*

Powers of Court to summon persons suspected of having property of company.

**125.—(1)** The Court may, after it has made an order for winding up the company, summon before it any director, secretary and officer of the company or person known or suspected to have in his possession any of the estate or effects of the company, or supposed to be indebted to the company, or any person whom the Court may think capable of giving information concerning the trade, dealings, estate or effects of the company; and the Court may require any such director, secretary, officer or person to produce any books, papers, deeds, writings or other documents in his custody or power relating to the company.

(2) If any person so summoned fails to attend, after being tendered a reasonable sum for his expenses to come before the Court at the time appointed, not having a lawful impediment (made known to the Court at the time of its sitting, and allowed by it), the Court may cause such person to be apprehended and brought before the Court for examination; nevertheless, where any person claims any lien on papers, deeds, writings or documents produced by him, such production shall be without prejudice to such lien, and the Court shall have jurisdiction in the winding up to determine all questions relating to such lien.

Examination of parties by Court.

**126.** The Court may examine upon oath, either orally or upon written interrogatories, any person appearing or brought before it in manner aforesaid concerning the affairs, dealings, estate or effects of the company, and may reduce into writing the answers of every person, and require him to subscribe the same.

Power to arrest contributory in certain cases.

**127.** The Court may, at any time before or after it has made an order for winding up a company, upon

proof being given that there is probable cause for believing that any contributory to such company is about to quit the Islands or otherwise abscond, or to remove or conceal any of his goods or chattels, for the purpose of evading payment of calls, or avoiding examination in respect of the affairs of the company, cause such contributory to be arrested, and his books, papers, moneys, securities for moneys, goods and chattels to be seized, and him and them to be kept safely in such manner and until such time as the Court may order.

128. Any powers conferred on the Court by this Ordinance shall be deemed to be in addition to and not in restriction of any other powers subsisting either at law or in equity of instituting proceedings against any contributory or the estate of any contributory or against any debtor of the company for the recovery of any call or sums due from such contributory or debtor or his estate, and such proceedings may be instituted accordingly.

Power of Court cumulative.

#### *Enforcement of Orders.*

129.—(1) All orders made by the Court under this Ordinance may be enforced in the same manner in which orders of such Court made in any suit pending therein may be enforced.

Power to enforce orders.

(2) Appeals from any order or decision made or given in the matter of a winding up of a company before the Judge may be made to the Court of Appeal in the same manner, and subject to the same rules and conditions as an appeal from any order or decision of the Court.

#### *Voluntary Winding Up of Company.*

130. A company may be wound up voluntarily—

(a) when the period, if any, fixed for the duration of the company by the articles of association expires, or the event, if any, occurs, upon the occurrence of which it is provided, by the articles

Circumstances in which company may be wound up voluntarily.

of association that the company is to be dissolved, and the company in general meeting has passed a resolution requiring the company to be wound up voluntarily; or

(b) if the company has passed a special resolution requiring the company to be wound up voluntarily.

Commencement  
of voluntary  
winding up.

**131.** A voluntary winding up shall be deemed to commence at the time of the passing of the resolution authorising such winding up.

Effect of  
voluntarily  
winding up on  
status of  
company.

**132.** When a company is wound up voluntarily the company shall, from the date of the commencement of such winding up, cease to carry on its business, except in so far as may be required for the beneficial winding up thereof, and all transfers of shares except transfers made to or with the sanction of the liquidator or any alteration in the status of the members of the company taking place after the commencement of such winding up shall be void, but its corporate state and all its corporate powers shall (whether otherwise provided by its regulations or not) continue until the affairs of the company are wound up.

Notice of  
resolution to  
wind up  
voluntarily.

**133.** Notice of any special resolution or extraordinary resolution passed for winding up a company shall be published in the *Gazette*.

Consequences of  
voluntary  
winding up.

**134.** The following consequences shall ensue upon the voluntary winding up of a company—

(a) the property of the company shall be applied to satisfaction of its liabilities *pari passu*, and subject thereto, shall, unless it be otherwise provided by the regulations of the company, be distributed amongst the members according to their rights and interests in the company;

(b) a liquidator or liquidators shall be appointed for the purpose of winding up the affairs of the company and distributing the property;

(c) the company in general meeting shall appoint such person or persons as it thinks fit to be



liquidator or liquidators and may fix the remuneration be paid to him or them;

(d) if one liquidator only is appointed, all the provisions shall apply to him;

(e) upon the appointment of liquidators all the powers of the directors and secretary shall cease, except in so far as the company in general meeting or the liquidators may sanction the continuance of such powers;

(f) when several liquidators are appointed, every power hereby given may be exercised by such one or more of them as may be determined at the time of their appointment or in default of such determination by any number not less than two;

(g) the liquidators may without the sanction of the Court exercise any powers conferred by this Ordinance on the official liquidators;

(h) the liquidators may exercise the powers hereinbefore given to the Court of settling the list of contributories of the company, and any list so settled shall be *prima facie* evidence of the liability of the persons named therein to be contributories;

(i) the liquidators may, at any time after the passing of the resolution for winding up the company, and before they have ascertained the sufficiency of the assets of the company, call on all or any of the contributories for the time being on the list of contributories to the extent of their liability to pay all or any sums that the liquidators think necessary to satisfy the debts and liabilities of the company and the costs, charges and expenses of winding it up, and for the adjustment of the rights of the contributories amongst themselves, and the liquidators may in making a call take into consideration the probability that some of the contributories upon whom the same is made may partly or wholly fail to pay their respective portions thereof;

(j) the liquidators shall pay the debts of the company and shall adjust the rights of the contributories amongst themselves.



Effect of winding up on share capital of company limited by guarantee.

135. Where a company limited by guarantee and having a capital divided into shares is being wound up voluntarily, any share capital that may not have been called upon shall be deemed to be assets of the company, and to be a debt due from each member to the company to the extent of any sums that may be unpaid on any shares held by him, and payable at such time as may be appointed by the liquidators.

Power of company to delegate authority to appoint liquidators.

136. A company about to be or in the course of being wound up voluntarily may by an extraordinary resolution delegate to its creditors, or to any committee of its creditors, the power of appointing liquidators or any of them and of filling any vacancies among the liquidators, or may by a like resolution enter into any arrangement with respect to the powers to be exercised by the liquidators and the manner in which they are to be exercised; and any act done shall have the same effect as if it had been done by the company.

Arrangement when binding on creditors.


137. Any arrangement entered into between a company about to be wound up voluntarily and its creditors shall, subject to the right of appeal under section 138, be binding on the company if sanctioned by an extraordinary resolution, and on the creditors if acceded to by seventy-five *per centum* in number and value of creditors.

Right of creditor or contributory to appeal.

138. Any creditor or contributory of a company that has in manner aforesaid entered into any arrangement with its creditors may, within three weeks from the date of the completion of such arrangement, appeal to the Court against such arrangement, and the Court may thereupon amend, vary or confirm the arrangement as it thinks just.

Liquidators or contributories in voluntary winding up may apply to Court.

139. Where a company is being wound up voluntarily the liquidators or any contributory of the company may apply to the Court to determine any question arising in the matter of such winding up, or to exercise, in respect of the enforcement of calls or of any other matter, all or any of the powers which the Court might exercise if the company were being wound up by the Court; and the Court, if satisfied that the deter-



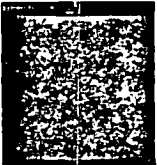
mination of such questions or the required exercise of power will be just and beneficial, may accede, wholly or partially, to such application, on such terms and subject to such conditions as the Court thinks fit, or may make such other order or decree on such application as the Court thinks just.

140. Where a company is being wound up voluntarily the liquidators may, from time to time during the continuance of such winding up, summon general meetings of the company for the purpose of obtaining the sanction of the company by special resolution, or extraordinary resolution, or for any other purposes they think fit; and in the event of the winding up continuing for more than one year, the liquidators shall summon a general meeting of the company at the end of the first year and of each succeeding year from the commencement of the winding up, or as soon thereafter as may be convenient, and shall lay before such meeting an account showing their acts and the manner in which the winding up has been conducted during the preceding year.

Liquidators may call general meetings.

141. If any vacancy occurs in the office of liquidators appointed by the company, by death, resignation or otherwise, the company in general meeting may, subject to any arrangement with its creditors, fill such vacancy, and a general meeting for the purpose of filling such vacancy may be convened by the continuing liquidators, if any, or by any contributory of the company, and shall be deemed to have been duly held if held in manner prescribed by the regulations of the company, or in such other manner as may, on application by the continuing liquidator, if any, or by any contributory of the company, be determined by the Court.

Vacancy among liquidators.



142. If from any cause whatever there is no liquidator acting in the case of a voluntary winding up, the Court may, on the application of a contributory appoint a liquidator or liquidators; and the Court may on due cause shown remove any liquidators and appoint another liquidator to act in the matter of a voluntary winding up.

Power to appoint liquidators.

Liquidators' account on conclusion of winding up.

143. As soon as the affairs of the company are fully wound up, the liquidators shall make up an account showing the manner in which such winding up has been conducted, and the property of the company disposed of; and thereupon they shall call a general meeting of the company for the purpose of having the account laid before them and hearing any explanation that may be given by the liquidator; and the meeting shall be called by notice published in the *Gazette* or otherwise as the Registrar may direct, specifying the time, place and object of such meeting; and such advertisement shall be published in the *Gazette* one month at least before the meeting.

Liquidators to report meeting to Registrar.

144. The liquidators shall make a return to the Registrar of such meeting having been held and of the date at which the same was held, and on the expiration of three months from the date of the registration of such return the company shall be deemed to be dissolved; and if the liquidators make default in making such return to the Registrar they shall be guilty of an offence and liable on summary conviction to a fine of fifty dollars for every day during which such default continues.

Costs of voluntary liquidation.

145. All costs, charges and expenses properly incurred in the voluntary winding up of a company including the remuneration of the liquidators, shall be payable out of the assets of the company in priority to all other claims.

Saving of rights of creditors.

146. The voluntary winding up of a company shall not be a bar to the right of any creditor of such company to have the same wound up in Court, if the Court is of the opinion that the rights of such creditors will be prejudiced by a voluntary winding up.

Power to adopt proceedings of voluntary winding up.

147. Where a company is in course of being wound up voluntarily, and proceedings are taken for the purpose of having the same wound up by the Court the Court may, if it thinks fit, notwithstanding that it makes an order directing the company to be wound up by the Court, provide in such order or in any other

order for the adoption of all or any of the proceedings taken in the course of the voluntary winding up.

*Winding up subject to the supervision of the Court.*

**148.** When a resolution has been passed by a company to wind up voluntarily, the Court may make an order directing that the voluntary winding up should continue, but subject to such supervision of the Court, and with such liberty for creditors, contributories or others to apply to the Court, and generally upon such terms and subject to such conditions as the Court thinks just.

Power to direct voluntary winding up to be subject to supervision.

**149.** A petition praying wholly or in part that a voluntary winding up should continue but subject to the supervision of the Court (which winding up is hereinafter referred to as a winding up subject to the supervision of the Court) shall, for the purpose of giving jurisdiction to the Court over suits and actions, be deemed to be a petition for winding up the Company by the Court.

Petition for winding up subject to supervision.

**150.** The Court, in determining whether a company is to be wound up altogether by the Court or subject to the supervision of the Court, in the appointment of any liquidator, and in all other matters relating to the winding up subject to supervision, may have regard to the wishes of such of the creditors or contributories as proved to it by any sufficient evidence, and may direct meetings of the creditors or contributories to be summoned, held and regulated in such manner as the Court directs, for the purpose of ascertaining their wishes, and may appoint a person to act as Chairman of any such meeting and to report the result of such meeting to the Court, and regard shall be had, as respects creditors, to the value of the debts due to each creditor, and as respects contributories to the number of votes conferred on each contributory by the regulations of the company.

Court may have regard to wishes of creditors.

**151.—(1)** Where an order is made by the Court for a winding up subject to the supervision of the

Power to appoint additional liquidators in winding up subject to supervision.

Court, the Court may, by that or any subsequent order, appoint any additional liquidator or liquidators; and any liquidator so appointed shall have the same powers, be subject to the same obligations, and in all respects stand in the same position as if he had been appointed by the company.

(2) The Court may from time to time remove any liquidator so appointed and fill any vacancy occasioned by such removal or by death or resignation.

Effect of Order  
for winding up  
subject to  
supervision of  
court.

**152.** Where an order is made for a winding up subject to the supervision of the Court, the liquidators appointed to conduct such winding up may, subject to any restriction imposed by the Court, exercise all their powers without the sanction or intervention of the Court in the same manner as if the company were being wound up altogether voluntarily; but, save as aforesaid, any order made by the Court for a winding up subject to the supervision of the Court shall for all purposes (including the staying of actions, suits and other proceedings) be deemed to be an order of the Court for winding up the company by the Court, and shall confer on the Court full authority to make calls or to enforce calls made by liquidators and to exercise all other powers which it might have exercised if an order had been made for winding up the company altogether by the Court, and in any provision of this Ordinance empowering the court to direct any act or thing to be done to or in favour of the official liquidators, the expression "official liquidators" shall be construed as meaning the liquidators conducting the winding up subject to the supervision of the Court.

Appointment in  
certain cases of  
voluntary  
liquidators as  
official  
liquidators.

**153.** Where an order for winding up subject to the supervision of the Court is afterwards superseded by an order directing the company to be wound up compulsorily, the Court may in such last mentioned order or in any subsequent order appoint the voluntary liquidators or any of them, either provisionally or permanently and either with or without the addition of any other persons, to be official liquidators.

*Supplementary provisions.*

154. Where any company is being wound up by the Court or subject to the supervision of the Court all dispositions of the property, effects and choses in action of the company, and every transfer of shares, or alteration in the status of the members of the company made between the commencement of the winding up and the order for winding up shall, unless the Court otherwise orders, be void.

Dispositions after the commencement of the winding up avoided.

155. Where any company is being wound up all books, accounts and documents of the company and of the liquidators shall, as between the contributories of the company, be *prima facie* evidence of the truth of all matters purporting to be therein recorded.

Books of the company to be evidence.

156.—(1) Where any company has been registered under this Ordinance and is about to be dissolved, the books, accounts and documents of the company and of the liquidators may be disposed of—

As to disposal of books, accounts and documents of the company.

(a) where the company has been wound up by or subject to the supervision of the Court in such manner as the Court directs; and

(b) where the company has been wound up voluntarily in such manner as the company by extraordinary resolution directs.

(2) After the lapse of two years from the date of dissolution of the company, no responsibility shall rest on the company, the liquidators or any person to whom the custody of the books, accounts and documents has been committed, by reason that the same, or any of them, cannot be made available to any party or parties claiming to be interested therein.

157. Where an order has been made for winding up a company by the Court or subject to the supervision of the Court, the Court may make such order for the inspection by the creditors and contributories of the company of its books and papers in the possession of the company as the Court thinks just, and any books and papers in the possession of the company may be inspected by creditors or contributories in conformity

Inspection of books.

with the order of the Court, but not further or otherwise.

Power of  
assignee to sue.

**158.** Any person to whom any chose in action belonging to the company is assigned in pursuance of this Ordinance may bring or defend in his own name any action or suit relating to such chose in action.

Depts of all  
descriptions to  
be proved.

**159.** In the event of any company being wound up under this Ordinance, all debts payable on a contingency and all claims against the company, whether present or future, certain or contingent, ascertained or sounding only in damages, shall be admissible to proof against the company, a just estimate being made so far as is possible of the value of all such debts or claims as may be subject to any contingency or sound only in damages, or which for some other reason do not bear a certain value.

Preferential  
payments.

**160.—**(1) Subject to subsection (3) in a winding up there shall be paid in priority to all other debts—

(a) all rates, taxes, assessments or impositions imposed or made under the provisions of any Ordinance applicable to the Islands, and having become due and payable within twelve months next before the relevant date;

(b) all wages or salary of any clerk or servant in respect of services rendered to the company during four months before the relevant date;

(c) all wages of any workman or labourer not exceeding four hundred dollars in respect of services rendered to the company during two months before the relevant date.

(2) The foregoing debts shall—

(a) rank equally amongst themselves and be paid in full, unless the assets are insufficient to meet them, in which case they shall abate in equal proportions; and

(b) so far as the assets of the company available for payment of general creditors are insufficient to meet them, have priority over the claims of holders of debentures under any floating



charge created by the company, and be paid accordingly out of any property comprised in or subject to that charge.

(3) Subject to the retention of such sums as may be necessary for the costs and expenses of the winding up, the foregoing debts shall be discharged forthwith so far as the assets are sufficient to meet them.

(4) Where any payment on account of wages or salary has been made to any clerk, servant, workman or labourer in the employment of a company out of money advanced by some person for that purpose, that person shall in a winding up have a right of priority in respect of the money so advanced and paid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the winding up has been diminished by reason of the payment having been made.

(5) In the event of a landlord or other person distraining or having distrained on any goods or effects of the company within three months next before the date of a winding up order, the debts to which priority is given by this section shall be a first charge on the goods or effects so distrained on, or the proceeds of the sale thereof:

Provided that in respect of any money paid under any such charge the landlord or other person shall have the same rights of priority as the person to whom the payment is made.

(6) Where it appears that there are numerous claims for wages by workmen and others employed by the company, it shall be sufficient if one proof for all such claims is made either by a foreman or by some other person on behalf of all such creditors. There shall be annexed to such proof and form part thereof a schedule setting forth the names of the workmen and others and the amounts severally due to them. Any proof made in compliance with this subsection shall have the same effect as if separate proofs had been made by each of the said claimants.

(7) In this section the expression "relevant date" means—

(a) as respects a company ordered to be wound up compulsorily which had not previously

commenced to be wound up voluntarily, the date of the winding up order; and

(b) in any other case, the date of the commencement of the winding up.

General scheme of liquidation may be sanctioned.

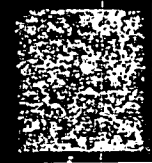
**161.** The liquidator may, with the sanction of the Court where the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company where the company is being wound up altogether voluntarily, pay any classes of creditors in full or make such compromise or other arrangements as the liquidators may think expedient with creditors or persons claiming to be creditors or persons having or alleging themselves to have any claim, whether present or future, certain or contingent, ascertained or sounding only in damages against the company, or whereby the company may be rendered liable.

Power to compromise.

**162.** The liquidators may, with the sanction of the Court where the company is being wound up by the Court or subject to the supervision of the Court, and with the sanction of an extraordinary resolution of the company where the company is being wound up altogether voluntarily, compromise all calls and liabilities capable of resulting in debts, and all claims whether present or future, certain or contingent, ascertained or sounding only in damages, subsisting or supposed to subsist between the company and any contributory or alleged contributory or other debtor or person apprehending liability to the company, and all questions in any way relating to or affecting the assets of the company or the winding up of the company, upon the receipt of such sums, payable at such times and generally upon such terms as may be agreed upon, with power for the liquidators to take securities for the discharge of such debts or liabilities and to give complete discharge in respect of all or any such calls, debts or liabilities.


Liquidators may accept shares, etc. as a consideration for sale of property of company.

**163.—(1)** Subject to subsection (2), where any company is proposed to be or is in the course of being wound up altogether voluntarily, and the whole or a portion of its business or property is proposed to be transferred or sold to another company, the liquidators



of the first mentioned company may, with the sanction of a special resolution of the company by whom they were appointed, conferring on the liquidators either a general authority or an authority in respect of any particular arrangement, receive in compensation or part compensation for such transfer or sale, shares, policies or other like interests in such other company for the purpose of distribution amongst the members of the company being wound up, or may enter into any other arrangement whereby the members of the company being wound up may, in lieu of receiving cash, shares, policies or other like interests or in addition thereto, participate in the profits of or receive any other benefit from the purchasing company; and any sale made or arrangement entered into by the liquidators in pursuance of this section shall be binding on the members of the company being wound up.

(2) Notwithstanding subsection (1) if any member of a company being wound up who has not voted in favour of the special resolution referred to in that subsection expresses his dissent from any such special resolution in writing addressed to the liquidators or one of them, and left at the registered office of the company not later than seven days after the date of the meeting at which such special resolution was passed, such dissentient member may require the liquidators to do such one of the following things as the liquidators may elect, that is to say, either to abstain from carrying such resolution into effect or to purchase the interest held by such dissentient member at a price to be determined in manner hereinafter provided, such purchase money to be paid before the company is dissolved and to be raised by the liquidators in such manner as may be determined by special resolution.



(3) No special resolution shall be deemed invalid for the purpose of this section by reason that it is passed before or concurrently with any resolution for winding up the company or for appointing liquidators; but if an order be made within a year for winding up the company by, or subject to the supervision of the Court, such resolution shall not be of any validity unless it is sanctioned by the Court.

**164.** The price to be paid for the purchase of the interest of any dissentient member may be determined

Mode of  
determining  
price.

No. 7 of 1974.

by agreement, but if the parties dispute the same, such dispute shall be settled by arbitration in accordance with the provisions of the Arbitration Ordinance.

Certain  
attachments and  
executions to be  
void.

**165.** Where any company is being wound up by the Court or subject to the supervision of the Court, any attachment, distress or execution put forth against the estate or effects of the company after the commencement of the winding up shall be void to all intents.

Avoidance of  
preference in  
certain cases.

**166.—(1)** Every conveyance or transfer of property, or charge thereon made, every payment made, every obligation incurred, and every judicial proceeding taken or suffered, by or against any company unable to pay its debts as they become due from its own moneys in favour of any creditor, or of any person in trust for any creditor, with a view to giving such creditor, or any surety or guarantor for the debt due to such creditor, a preference over the other creditors shall, if the company making, taking, paying or suffering the same is wound up under the provisions of this Ordinance within three months after the date of making, taking, paying or suffering the same, be deemed fraudulent and void as against any liquidator in the winding up.

(2) Subject to the other provisions of this Ordinance with respect to the avoidance of preferences, nothing in this Ordinance shall invalidate, in the case of winding up—

(a) any payment by the company being wound up to any of its creditors;

(b) any payment or delivery to the company being wound up;

(c) any conveyance or assignment by the company being wound up for valuable consideration;

(d) any contract, dealing or transaction by or with the company being wound up for valuable consideration:

Provided that both the following conditions are complied with, namely—

(i) that the payment, delivery, conveyance, assignment, contract, dealing or transaction, as the case may be, takes place before the date of the presentation of a petition for winding up the company in the case of a company being wound up by the Court or subject to the supervision of the Court, or a resolution for winding up the company in the case of a voluntary winding up; and

(ii) that the person (other than the company) to, by, or with whom the payment, delivery, conveyance, assignment, contract, dealing, or transaction was made, executed, or entered into, has not, at the time of the payment, delivery, conveyance, assignment, contract, dealing or transaction, notice of the company being unable to pay its debts as they became due from its own moneys before that time.

(3) Any conveyance or assignment made by any company of all its estate and effects to trustees for the benefit of all or any of its creditors shall be void to all intents.

**167.** Where, in the course of the winding up of any company under this Ordinance, it appears that any past or present director, secretary, official or other liquidator or any officer of such company has misapplied or retained in his own hands or become liable or accountable for any moneys of the company or been guilty of any misfeasance or breach of trust in relation to the company the Court may, on the application of any liquidator or any creditor or contributory of the company notwithstanding that the offence is one for which the offender is criminally responsible examine into the conduct of such director, secretary or other officer and compel him to repay any moneys so misapplied or retained or for which he has become liable or accountable together with interest at such rate as the Court thinks just or to contribute such sums of money to the assets of the company by way of compensation in respect of such misapplication, retention, misfeasance or breach of trust as the Court thinks just.

Power to assess damages against delinquent directors and officers.

Penalty on  
falsification of  
books.

**168.** If any director, secretary, officer or contributory of any company wound up under this Ordinance, destroys, mutilates, alters or falsifies any books, papers, writings or securities or makes or is privy to the making of any false or fraudulent entry or the omission of any entry in any register, book of account or other document belonging to the company with intent to defraud or deceive any person, every person so offending shall be guilty of an offence and liable on conviction to a fine of ten thousand dollars and to imprisonment for two years.

Prosecution of  
delinquent  
directors in the  
case of winding  
up by Court.

**169.** If it appears to the Court in the course of winding up by, or subject to the supervision of the Court, that any past or present director, secretary, officer or member of such company has been guilty of an offence in relation to the company for which he is criminally responsible, the Court may on the application of any person interested in such winding up or of its own motion direct the official liquidators or the liquidators (as the case may be) to prosecute the offender and may order the costs and expenses to be paid out of the assets of the company.

Prosecution of  
delinquent  
directors, etc., in  
case of voluntary  
winding up.

**170.** If it appears to the liquidator in the course of a voluntary winding up that any past or present director, secretary, officer or member of such company has been guilty of any offence in relation to the company for which he is criminally responsible the liquidator may, with the previous sanction of the Court, prosecute such offender, and all expenses properly incurred by him in such prosecution shall be payable out of the assets of the company in priority to all other liabilities.

Penalty for  
perjury.

**171.** If any person upon any examination upon oath or affirmation authorised under this Ordinance or in any affidavit, deposition or solemn affirmation in or about the winding up of any company, or otherwise in or about any matters arising under this Ordinance, wilfully and corruptly gives false evidence he shall be guilty of an offence and liable on conviction to a fine of five thousand dollars and to imprisonment for two years.

*Power of Court to make Rules.*

**172.** The Court may, as often as circumstances require, make such rules concerning the mode of proceedings to be had for winding up a company in the Court, as may from time to time seem necessary, but until such rules are made the general practice of the Court, including the practice in use at the commencement of this Ordinance in winding up companies shall so far as the same is applicable and not inconsistent with this Ordinance, apply to all proceedings for winding up a company.

Rules of Court.

PART VI

*Removal of Defunct Companies under this Ordinance.*

**173.** Where the Registrar has reasonable cause to believe that a company is not carrying on business or is not in operation or has not been in operation for a period of six consecutive months, he may strike the company off the register and the company shall thereupon be dissolved.

Company not operating may be struck off register.

**174.** Where a company is being wound up, and the Registrar has reasonable cause to believe either that no liquidator is acting, or that the affairs of the company are fully wound up, he may strike the company off the register and the company shall thereupon be dissolved.

Company being wound up may be struck off register if no liquidator appointed or affairs fully wound up.

**175.** The Registrar shall forthwith publish in the *Gazette* a notice to the effect that the company in question has been struck off the register the date on which it has been struck off and the reason therefor,

Registrar to publish fact of company being struck off register.

**176.** If a company or any member or creditor thereof feels aggrieved by the company having been struck off the register in accordance with the provisions of this Ordinance, the Registrar or the Court, on the application of such company, member or creditor made within two years or such longer period not exceeding ten years as the Registrar may allow from the date on

Company, creditor or member may apply to Registrar to be reinstated.

which the company was so struck off, may if satisfied that the company was at the time of the striking off thereof carrying on business or in operation, or otherwise that it is just that the company be restored to the register, order the name of the company to be restored to the register, on payment by the company of a reinstatement fee equivalent to the original incorporation or registration fee, and on such terms and conditions as to the payment of unpaid annual fees as the Registrar or the Court may determine, and thereupon the company shall be deemed to have continued in existence as if its name had not been struck off; and the Registrar or the Court may by the same or any subsequent order give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.

Liability of members of company to remain.

177. The striking off the register of any company under the provisions of this Ordinance shall not affect the liability (if any) of any director, secretary, officer or member of the company, and such liability shall continue and may be enforced as if the company had not been dissolved.

Registrar not liable for any act performed under this Part.

178. No liability shall attach for any act performed or thing done by the Registrar in accordance with the provisions of this Part of this Ordinance.

Property to be vested in Financial Secretary.

179. Any property vested in or belonging to any company struck off the register under this Ordinance shall after a period of twelve months during which time no person has laid proper claim to the same, vest in the Financial Secretary for the benefit of the Islands, and shall be subject to the disposition of the Governor for the benefit of the Consolidated Fund.


## PART VII

### *Exempted Companies.*

What companies may apply to be registered as exempted companies.

180. Any proposed company limited by shares applying for registration under this Ordinance the





objects of which are to be carried out mainly outside the Islands may apply to be registered as an exempted company.

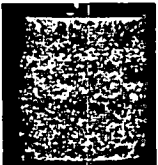
181.—(1) On being satisfied that the provisions of sections 182 to 184 inclusive have been complied with, the Registrar shall register the company as an exempted company, and shall issue a certificate to that effect.

Registration of  
exempted  
companies.

(2) From the date of incorporation specified in the certificate of incorporation, the subscriber or subscribers to the memorandum of association, together with such other persons as may from time to time become members of the exempted company, shall be a body corporate by the name contained in the memorandum of association, and except as specifically prohibited by this Ordinance an exempted company shall be capable forthwith of exercising all of the powers set out in its memorandum of association in doing whatever it is necessary to do with a view to the attainment of the objects stated in its memorandum and whatever else may fairly be regarded as incidental to and consequential on such objects including but without in any wise restricting the generality of the foregoing, those things allowed by this or any other law.

(3) From the date of incorporation specified in the certificate of incorporation, an exempted company shall have perpetual succession and a common seal but with such liability on the part of the members to contribute to the assets of the company in the event of its being wound up as is provided in this Ordinance.

(4) A certificate of incorporation of an exempted company issued under this Ordinance shall be conclusive evidence that compliance has been made with all the requirements of this Ordinance in respect of incorporation and registration.



(5) Every copy of a memorandum of association filed and registered in accordance with this Ordinance or any extract therefrom certified under the hand and seal of the Registrar as a true copy shall be received in evidence in any Court of the Islands without further proof.

Memorandum of  
association of  
exempted  
companies.

**182.** A proposed company applying for registration as an exempted company shall submit to the Registrar a memorandum of association which shall contain the following particulars—

- (a) the name of the proposed company; and
- (b) the address in the Islands at which the registered office of the proposed company is to be situate; and
- (c) the main objects for which the company is to be established; and
- (d) the amount of the capital of the company and the number of shares into which it is divided and the fixed amounts thereof if such shares have a nominal or par value or the aggregate consideration for which the said shares may be issued if they are without nominal or par value; always provided that the above said capital or aggregate consideration referred to, as the case may be, may be expressed in and subscribed for in the currency of any country; and
- (e) a declaration that the liability of members is limited.

Declaration by  
proposed  
company.

**183.** A proposed exempted company applying for registration as an exempted company shall submit to the Registrar a declaration signed by a subscriber to the effect that the operation of the proposed company will be conducted mainly outside the Islands.

• Fee for  
registration of an  
exempted  
company.

**184.** A proposed company applying for registration as an exempted company shall tender such registration fee as is set out in the Fourth Schedule.

Application of  
Parts I to VI.

**185.—**(1) Except as hereinafter provided, the provisions of Parts I to VI of this Ordinance shall apply to exempted companies in relation to transactions taking place in the Islands only.

(2) Exempted companies shall be exempted from the application of the following sections or parts of sections of this Ordinance, that is to say—

- 6 to 8 inclusive, 10, 25 (3)
- (c), 25 (4), 26 (1), 26 (3),
- 36, 37, 38, 39, 40, 42, 44, 45,

46, 52, 53, 54, 56, 92 (c) and  
207 to 217 inclusive.

(3) (a) The shares of an exempted company may be either non negotiable in which case they shall be transferred only on the books of the company, or they may be negotiable or to bearer; provided that no share shall be issued as negotiable or to bearer unless the same shall be fully paid and non assessable.

(b) Negotiable or bearer shares may be exchanged for non negotiable shares and vice versa.

**186.** An exempted company may by special resolution alter its memorandum of association, and shall within one month from the date of such special resolution deliver to the Registrar a certified copy thereof.

Alteration of  
memorandum of  
association.

**187.** In January of each year after the year of its registration each exempted company shall furnish to the Registrar a return which shall be in the form of a declaration that—

Annual return.

(a) since the previous return or since registration, as the case may be, there has been no alteration in the memorandum of association, other than an alteration in the name of the company effected in accordance with section 30 or an alteration already reported in accordance with section 186;

(b) the operations of the exempted company since the last return or since registration of the exempted company, as the case may be, have been mainly outside the Islands; and

(c) the provisions of section 191 to 192 have been and are being complied with.

**188.** Every exempted company shall pay such annual fee as is set out in the Fourth Schedule.

Repealed.  
See page 169.

**189.—**(1) Subject to the provisions herein contained any exempted company which fails to comply with the provisions of section 187 or 188 shall be deemed to be a defunct company, and shall thereupon

Failure to  
comply with  
section 187 or  
188.

be dealt with as such in accordance with the provisions of Part VI, but without prejudice to its being registered again as though it were being registered for the first time; provided that an exempted company may by notice to the Registrar and on payment of a fee of one hundred and fifty dollars elect to be treated as a non exempted company, whereupon, this part of this Ordinance shall cease to apply to such company.

(2) Before taking action under this section the Registrar shall give one month's notice to the defaulting company, and if the default is made good before the expiry of such notice the provisions of sections 187 and 188 shall be deemed to have been complied with.

False statement  
in declaration.

**190.**—(1) If any declaration under section 183 or 187 contains any false statement or misrepresentation of a material matter the company shall on proof thereof be liable to be dissolved immediately and removed from the register, and in such case any fee tendered under section 184 or 188 shall be forfeited and paid into the Consolidated Fund.

(2) Every director and officer of a company who makes or permits the making of any such declaration knowing it to be false shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars and to imprisonment for three months.


Prohibited  
enterprises.

**191.** An exempted company shall not trade in the Islands with any person, firm or corporation except in furtherance of the business of the exempted company carried on outside the Islands or where such trade is of a minor nature:

Provided that nothing in this section shall be construed so as to prevent the exempted company effecting and concluding contracts in the Islands, and exercising in the Islands all of its powers necessary for the carrying on of its business outside the Islands or trading with other exempted companies.

Offices and  
representatives.

**192.**—(1) Every exempted company shall appoint a representative resident in the Islands for the purpose of accepting service of any proceeding.



(2) Every exempted company shall notify the Registrar, within one month of the filing of its memorandum of association, of the name and address in the Islands of its representative and shall notify the Registrar of any change in such name and address within one week of such change.

**193.** An exempted company is prohibited from making any invitation to the public in the Islands to subscribe for any of its shares or debentures.

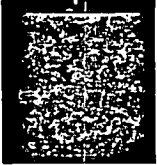
Prohibited sale  
of securities.

**194.** If an exempted company carries on any business in the Islands in contravention of the provisions of this Part, then (without prejudice to any other proceedings that may be taken in respect of the contravention) the exempted company, and every director, secretary and officer of the exempted company who is responsible for the contravention shall be guilty of any offence and may on summary conviction be liable to a fine of one hundred dollars for every day during which the contravention occurs or continues and the exempted company shall be liable to be dissolved immediately and removed from the register.

Penalty for  
carrying on  
business contrary  
to provisions of  
Part VII.

**195.** Every exempted company may purchase, receive, take or otherwise acquire, own and hold, sell, lend, exchange, transfer or otherwise dispose of, pledge, use and otherwise deal in and with its own shares; but no exempted company shall except under the provisions of section 198 use its funds or property for the purchase of its own shares of a capital stock when the capital of the exempted company is impaired or when such use would cause any impairment of the capital of the exempted company, except that it may purchase or redeem out of capital its own preference shares or debentures. Shares of its own capital stock belonging to the exempted company or to another exempted company, if a majority of the shares entitling the holder of such shares to vote in the election of directors of such other exempted company is held by the exempted company, shall neither be entitled to vote nor counted for quorum purposes. Nothing in this section shall be construed as limiting the right of the exempted company to vote its own stock held by it in a fiduciary capacity.

Powers of an  
exempted  
company  
respecting  
ownership, etc.  
of its own shares.



Lack of capacity  
or power; *ultra*  
*vires*.

**196.** No act of an exempted company and no conveyance or transfer of real or personal property to or by an exempted company shall be invalid by reason of the fact that the exempted company was without capacity or power to do such act or to make or receive such conveyance or transfer, but such lack of capacity or power may be asserted—

(a) in proceedings by a member or a director against the exempted company to prevent the doing or continuation of unauthorised acts, or the transfer of real or personal property by or to the exempted company. If the unauthorised acts or transfers sought to be prevented are to be performed pursuant to any contract to which the exempted company is a party, the Court may, if all of the parties to the contract are parties to the proceedings and if it deems the same to be equitable, set aside such contract, and in so doing may allow to the exempted company or the other parties to the contract, as the case may be, compensation for the loss or damage sustained by either of them which may result from the action of the Court in setting aside the contract, but anticipated profits to be derived from the performance of the contract shall not be awarded by the Court as a loss or damage sustained;

(b) in proceedings by the exempted company, whether acting directly or through a liquidator or other legal representative or through shareholders of the exempted company in a representative capacity, against the incumbent or former officers or directors of the exempted company for exceeding their authority; and

(c) in proceedings by the Court to wind up the exempted company, or in proceedings by the Court to restrain the exempted company from performing unauthorised acts, or in any other proceedings instituted by the liquidator.

Governor may  
give  
undertaking.

**197.—(1)** The Governor may give an undertaking to any exempted company that makes application therefor that from the date of incorporation of such a company, no Ordinance which is thereafter enacted in the Islands imposing any tax or duty to be levied on

profits or income or on capital assets, gains or appreciations shall apply to such exempted company or its operations.

(2) Any undertaking given under subsection (1) may provide, in addition, that the aforesaid tax or duty and any tax in the nature of estate duty or inheritance tax shall not be payable on the shares, debentures or other obligations of the exempted company.

(3) An exempted company which is notified that any such undertakings will be granted shall pay an initial fee of five hundred dollars and an annual fee thereafter of one hundred and fifty dollars for the period of the undertakings, but will not be required to pay any increase in annual fees made under this Ordinance after the undertakings are granted.

(4) Any such undertakings as aforesaid may be for any period not exceeding twenty years and may be in such form as the Governor shall determine, but in any event any such period will run from the date of incorporation of the company.

(5) Nothing in this section shall be construed as exempting any person ordinarily resident in the Islands from the provisions of any Ordinance imposing any tax.

**198.—(1)** Subject to the provisions of this section, an exempted company limited by shares may, if so authorised by its articles of association, issue shares which are, or at the option of the company are to be liable, to be redeemed:

Power to issue  
redeemable  
shares.

Provided that no such shares shall be redeemed unless a director, secretary or manager shall first have filed with the Registrar a declaration that the proposed redemption will leave unimpaired capital or other assets of not less than the paid up value of the shares which are not to be redeemed or are not redeemable in addition to such sum as at the date of the proposed redemption would be required to meet the liabilities of the company.

(2) Subject to the provisions of this section, the redemption of shares hereunder may be effected on such terms and in such manner as may be provided by the articles of association of the company.

(3) The redemption of shares under this section by a company shall not be taken as reducing the amount of the company's authorised share capital.

(4) Where in pursuance of this section a company has redeemed or is about to redeem any shares, it shall have power to issue shares up to the nominal amount of the shares redeemed or to be redeemed as if those shares had never been issued.

(5) The capital redemption reserve fund may, notwithstanding anything in this section, be applied by the company in paying up unissued shares of the company to be issued to members of the company as fully paid bonus shares.

## PART VIII

### *Confidential Relationships in Relation to Exempted Companies.*

Interpretation.

No. 1 of 1979.

**199.** In this Part, unless the context otherwise requires—

“bank” and “financial institution” have the meanings ascribed to them in the Banking Ordinance, 1979;

“business of a professional nature” includes the relationship between a professional person and a principal, however the latter may be described;

“confidential information” includes information concerning any property which the recipient thereof is not, otherwise than in the normal course of business, authorised by the principal to divulge;

“criminal” in relation to an offence means an offence contrary to the criminal law of the Islands;

“Governor” means the Governor in Council;

“normal course of business” means the ordinary and necessary routine involved in the efficient carrying out of the instructions of a principal including compliance with such laws and legal process as arises out of and in connection



therewith and the routine exchange of information between licensees;

“principal” means a person who has imparted to another confidential information in the course of the transaction of business of a professional nature;

“professional person” includes a public or government official, a bank, a trust company, an attorney, an accountant, an estate agent, an insurer, a broker and every kind of commercial agent and adviser whether or not answering to the above descriptions and whether or not licensed or authorised to act in that capacity and every person subordinate to or in the employ or control of such person for the purpose of his professional activities;

“property” includes every present, contingent and future interest or claim, direct or indirect, legal or equitable, positive or negative, in any money, moneys worth, realty or personalty, movable or immovable, rights and securities thereover and all documents and things evidencing or relating thereto.

**200.**—(1) Subject to subsection (2), this Part has application to all confidential information with respect to business of a professional nature of an exempted company which arises in or is brought into the Islands and to all persons coming into possession of such information at any time thereafter whether they be within the jurisdiction or thereout.

Application and  
scope.

(2) This Part of this Ordinance has no application to the seeking, divulging or obtaining of confidential information—

(a) in compliance with the directions of the Supreme Court pursuant to section 201;

(b) by or to—

(i) any professional person acting in the normal course of business or with the consent, express or implied, of the relevant principal;

(ii) a police officer of the rank of Inspector or above investigating an offence commit-

ted or alleged to have been committed within the jurisdiction;

(iii) a police officer of the rank of Inspector or above, specifically authorised by the Governor in that behalf, investigating an offence committed or alleged to have been committed outside the Islands, which offence, if it had been committed in the Islands, would have been an offence against its laws;

(iv) the Financial Secretary or, in relation to particular information specified by the Governor, such other person as the Governor may authorise;

(v) a bank or financial institution in any proceedings, cause or matter when and to the extent to which it is reasonably necessary for the protection of the bank's interest, either as against its customers or as against third parties in respect of transactions of the bank or financial institution for or with its customers;

(vi) the relevant professional person with the approval of the Financial Secretary when necessary for the protection of himself or any other person against crime;

(c) in accordance with the provisions of this or any other Ordinance.

Directions regarding the giving in evidence of confidential information.

201.—(1) Whenever a person intends or is required to give in evidence in, or in connection with, any proceeding being tried, inquired into or determined by any Court, tribunal or other authority (whether within or without the Islands) of any confidential information within the meaning of this Part of this Ordinance, he shall before so doing apply for directions and any adjournment necessary for that purpose may be granted.

(2) Application for directions under subsection (1) shall be made to, and be heard and determined by a Judge of the Supreme Court sitting alone and *in camera*. At least seven days' notice of any such application shall be given to the Attorney General and, if the Judge so orders, to any person in the Islands who is a party to the proceedings in question. The Attorney

General may appear as *amicus curiae* at the hearing of any such application and any party on whom notice has been served as aforesaid shall be entitled to be heard thereon, either personally or by counsel.

(3) Upon hearing an application under subsection (2) a Judge shall direct—

(a) that the evidence be given; or

(b) that the evidence shall not be given; or

(c) that the evidence be given subject to conditions which he may specify whereby the confidentiality of the information is safeguarded.

(4) In order to safeguard the confidentiality of a statement, answer or testimony ordered to be given under subsection (3)(c) a Judge may order—

(a) divulgence of the statement, answer or testimony to be restricted to certain named persons;

(b) evidence to be taken *in camera*;

(c) reference to the names, addresses and descriptions of any particular persons to be by alphabetical letters, numbers or symbols representing such persons, the key to which shall be restricted to persons named by him.

(5) Every person receiving confidential information by operation of subsection (2) is as fully bound by the provisions of this Part of this Ordinance as if such information had been entrusted to him in confidence by a principal.

(6) In considering what order to make under this section a Judge shall have regard to—

(a) whether such order would operate as a denial of the rights of any person in the enforcement of a just claim;

(b) any offer of compensation or indemnity made to any person desiring to enforce a claim by any person having an interest in the preservation of secrecy under this Part of this Ordinance; and

(c) in any criminal case, the requirements of the interest of justice.

(7) In this section, unless the context otherwise requires—

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“court” bears the meaning ascribed to it in section 2 of the Evidence Ordinance;

“given in evidence” and its cognates means make a statement, answer an interrogatory or testify during or for the purposes of any proceedings;

“proceeding” means any court proceeding, civil or criminal and includes a preliminary or interrogatory matter leading to or arising out of a proceeding.

Offences and  
penalties.

**202.**—(1) Subject to the provisions of section 200  
(2), whoever—

(a) being in possession of confidential information however obtained;

(i) divulges it; or

(ii) attempts, offers or threatens to divulge it; or

(b) wilfully obtains or attempts to obtain confidential information, shall be guilty of an offence and liable on summary conviction to a fine of five thousand dollars and to imprisonment for two years.

(2) Whoever commits an offence under subsection (1) and receives or solicits on behalf of himself or another any reward for so doing shall be liable to double the penalty therein prescribed and to a further fine equal to the reward received and also to forfeiture of the reward.

(3) Whoever, being in possession of confidential information clandestinely, or without the consent of the principal, makes use thereof for the benefit of himself or another shall be guilty of an offence and on summary conviction liable to the penalty prescribed in subsection (2) and for that purpose any profit accruing to any relevant transaction shall be regarded as a reward.

(4) Whoever being a professional person, entrusted as such with confidential information, the subject of the offence, commits an offence under subsection (1), (2) or (3) shall be liable to double the penalty therein prescribed.

(5) For the removal of doubt it is declared that, subject to subsection (2) of section 200, a bank which

gives a credit reference in respect of a customer without first receiving the authorisation of that customer shall be guilty of an offence under subsections (1) and (4).

**203.** The Governor may make regulations for the administration of this Part of this Ordinance.

Regulations.

**204.** No prosecution shall be instituted under this part of this Ordinance without the consent of the Attorney General.

Attorney  
General's fiat

## PART IX.

### *Transfer of Companies From and To Another Jurisdiction.*

**205.—(1)** Subject to subsection (10) a company incorporated as a company or corporation under the laws of any country other than the Islands, or of any jurisdiction within any such country other than the Islands (in this section referred to as a "foreign company"), may if it appears to the Registrar that there is no provision in the law of that country or jurisdiction preventing such application apply to the Registrar to be registered as being continued in the Islands as if it had been incorporated as an exempted company under this Ordinance.

Continuation in  
the Islands of  
company  
incorporated  
elsewhere.

(2) An application for registration as an exempted company in accordance with subsection (1) shall be made in the manner prescribed in Part II of this Ordinance provided that the requirement that an application be accompanied by the original memorandum of association, if any, shall be deemed to be complied with if the application is accompanied by a certified copy of the charter, statutes or memorandum and articles of the company or other instrument constituting or defining the constitution of the company, and if the instrument is not written in the English language, a certified translation thereof, and shall also be accompanied by such fee as would be payable if the foreign company was being incorporated as an exempted company under Part VII of this Ordinance.

(3) Such application shall in addition be supported by such material as the Registrar may require to satisfy himself—

(a) that such application is not prohibited by the country or jurisdiction in which the foreign company has been incorporated; and

(b) that the consent of such number or proportion of the shareholders, debenture-holders and creditors of the foreign company as may be required by the laws of the country or jurisdiction of incorporation to such application has been obtained.

(4) Subject to the provisions of this Ordinance the Registrar may in his discretion, grant a permit for the registration of such foreign company as one which may be continued as an exempted company in the Islands:

Provided that no such permit for the registration of a foreign company may be granted if—

(a) its winding up has commenced;

(b) a receiver of its property has been appointed;

(c) there is any scheme or order in relation thereto whereby the rights of creditors are suspended or restricted; or

(d) any proceedings for breach of the laws of the country or jurisdiction of incorporation have been commenced against such foreign company, not being proceedings arising out of an event which on the date of the occurrence thereof did not constitute such a breach.

(5) A permit for the registration of a foreign company as one which may be continued as an exempted company in the Islands shall be endorsed on the memorandum submitted to the Registrar and shall be in such form as the Registrar shall determine and such memorandum endorsed with the permit shall as soon as possible be returned to the applicant or the person or persons acting on its behalf.

(6) If such permit is endorsed on the memorandum of a foreign company such company may, within three years after the date of the grant of the permit, file

the memorandum with the Registrar, who before accepting such memorandum for filing shall satisfy himself that it is duly endorsed with a permit and that it conforms with the requirements of this Ordinance.

(7) Upon the due filing of the memorandum the Registrar shall retain and forthwith register the memorandum and the name of the company, specifying that it is registered as an exempted company in a register of foreign companies in the Islands, and shall then forthwith issue under his hand and seal a certificate of continuation in the Islands with the date of registration and its status as an exempted company specified therein and, subject to this section, upon the issue of such certificate of continuation the company shall be deemed thereafter to be a company incorporated under this Ordinance and domiciled in the Islands so, however that it may within a period of six months from the date of registration in writing elect to continue to be subject to the laws of the jurisdiction under which it was constituted, whereupon the company shall continue to be subject to the laws of that jurisdiction as they had effect upon the date of the first application for registration save in so far as those laws upon that date conferred upon the company a right or a power which may not be granted under this Ordinance.

(8) The registration of a company under this section shall not operate—

- (a) to create a new legal entity;
- (b) to prejudice or affect the continuity of the company;
- (c) to affect the property of the company;
- (d) to render defective any legal or other proceedings instituted or to be instituted, by or against the company or any other person.

(9) Upon the registration of a company under this section—

- (a) so much of its constitution as would, if it had been incorporated under this Ordinance, have been required by this Ordinance to be included in its memorandum of association shall be deemed to be the registered memorandum of association of the company; and

(b) so much of its constitution as does not, by virtue of the preceding paragraph, comprise its memorandum of association shall be deemed to be the registered articles of association of the company, and shall be binding on the company and its members accordingly save in so far as the company has after its registration made an election in writing under subsection (7) to continue to be subject to the laws of the jurisdiction under which it was constituted.

(10) No company which could not have been incorporated under this Ordinance shall be registered under this section.

(11) The provisions of Part VII of this Ordinance shall be applied to such foreign company registered as being continued in the Islands.

(12) In this section "company" includes any entity having a legal personality separate and distinct from its members or founders.

Continuation  
outside Islands  
of companies  
incorporated  
under this  
Ordinance.

206.—(1) A company registered under this Ordinance may, where the laws of such country or jurisdiction so allow upon obtaining the consent of the Registrar apply to the proper officer of any country other than the Islands or any jurisdiction within such country for an instrument of continuation permitting such company to continue in being as if it had been incorporated under the laws of that other country or jurisdiction; and on and after the date of the instrument of continuation the company shall become a company under the laws of that other country or jurisdiction and be domiciled therein and shall be subject to such laws as permitted or required (as the case may be) by the laws of that other country or jurisdiction.

(2) No company may apply to the Registrar for his consent under subsection (1) unless—

(a) the holders of not less than three quarters of the debentures of the company, if any, of each class, and where any shares of the company are in existence, holders of not less than three quarters of such shares of each class, have authorised such application; and



(b) the company has caused to be published in the *Gazette* not less than fourteen days before submitting an application to the Registrar a notice of its intention to make such application; and

(c) it lodges with the Registrar an affidavit sworn by a director of the company in which are set out the names and addresses of its creditors and the total amount of its indebtedness to creditors.

(3) The Registrar shall not give his approval to a company applying for its continuation in another country or jurisdiction unless he is satisfied that—

(a) the requirements of subsection (2) have been complied with;

(b) the intended transfer of domicile is unlikely to be detrimental to the rights or proper interests of any of the creditors of the company; and

(c) the company at the time of such application is not in breach of any of its duties or obligations under this Ordinance,

and may make his approval conditional upon provision as he thinks necessary being made by the company to safeguard the rights and proper interests of any member, debenture-holder or creditor of the company or any such class of such members, debenture-holders or creditors or upon the company taking such steps as he considers necessary to remedy any such breach as aforesaid.

(4) Upon an instrument of continuation continuing the company in another country or jurisdiction being executed by the proper officer of that country or jurisdiction, the company shall forthwith notify the Registrar of the particulars of such instrument and the company shall be deemed to have ceased to be a company incorporated in the Islands from the date when its continuation in that other country or jurisdiction takes effect, and the Registrar shall remove its name from the register:

Provided that nothing in this subsection shall—

(a) prevent such a company from being registered in the Islands as a foreign company at any time after it has ceased to be a company incorporated in the Islands; or

(b) take away or affect the jurisdiction of any court in the Islands to hear and determine any proceedings commenced therein by or against the company before it ceased to be a company registered in the Islands.

(5) For the purposes of this section—

(a) a person who has, in the Islands or elsewhere, commenced proceedings against a company, other than proceedings to recover a debt alleged to be owed by the company to the taxation or revenue authority of any country or jurisdiction, or has counterclaimed against a company in proceedings commenced by the company shall be deemed to be a creditor of the company.

(b) no person shall be deemed to be a creditor of a company in respect of any debt owed to the taxation or revenue authority of any country or jurisdiction.

## PART X

### *Companies Incorporated Outside the Islands Carrying on Business within the Islands.*

Definition of  
foreign  
companies.

207. This Part shall apply to all foreign companies, that is to say, all bodies corporate incorporated outside the Islands which after the commencement of this Ordinance establish a place of business, or commence carrying on business (which expression in this Part includes, without limiting its generality, the sale by or on behalf of a foreign company of its shares or debentures) within the Islands, and all bodies corporate incorporated outside the Islands which before the commencement of this Ordinance established a place of business, or carried on business within the Islands and continues to carry on or have an established place of business within the Islands at the date of commencement of this Ordinance.

Documents etc.  
to be delivered  
to Registrar by  
foreign  
companies.

208.—(1) Every foreign company shall within one month after becoming a foreign company as herein defined, deliver to the Registrar for registration—

(a) a copy, certified under the public seal of the country, city, place or Registrar under the laws

of which the foreign company has been incorporated, of its charter, statutes or memorandum and articles of association or other instrument constituting or defining its constitution and if the instrument is not written in the English language a certified translation thereof;

(b) a list of its directors containing such particulars with respect to the directors as are by this Ordinance required to be contained with respect to directors in the register of the directors of a company;

(c) the names and addresses of some one or more than one person resident in the Islands authorised to accept on its behalf service of process and any notices required to be served on it; and

(d) shall pay to the Registrar a fee of two hundred and fifty dollars upon registration and thereafter a similar fee upon each anniversary of such registration.

**209.** A foreign company which has delivered to the Registrar the documents, particulars and fees specified in section 208 shall have the same power to hold land in the Islands as if it were a company registered in the Islands.

Power of foreign companies.

**210.—(1)** Upon compliance with the provisions of section 208, the Registrar shall issue a certificate under his hand and seal of office that the company is registered under this Ordinance.

Registration of foreign companies incorporated in a foreign country.

(2) A certificate of registration of a company issued under this section shall be conclusive evidence that compliance has been made with all the requirements of this Ordinance in respect of registration.

**211.** If in the case of any foreign company any alteration is made in—

(a) its charter, statutes or memorandum and articles of association or any such instruments as aforesaid; or

(b) the names or addresses of the persons authorised to accept service on its behalf;

Return to be delivered to Registrar where documents, etc., altered.

the foreign company shall within twenty-one days after the date on which particulars of the alterations could, in due course of post and if dispatched with due diligence, have been received in the Islands from the place where the foreign company is incorporated, deliver to the Registrar for registration a return containing the particulars of the alteration.

Obligation to state name of company, whether limited, and country where incorporated.

212. (a) Every foreign company shall state the country in which the foreign company is incorporated in every prospectus inviting subscriptions for its shares or debentures in the Islands;

(b) Every foreign company shall—

(i) conspicuously exhibit on every place where it carries on business in the Islands the name of the foreign company or company incorporated in a foreign country and the country in which it is incorporated; and

(ii) cause the name of the foreign company or company incorporated in a foreign country and of the country in which it is incorporated to be stated in legible characters on all its bill heads, letter paper, notices, advertisements and other official publications; and

(iii) if the liability of the members of the foreign company or company incorporated in a foreign country is limited, cause notice of that fact to be stated in legible characters in every such prospectus as aforesaid and on all its bill heads, letter paper, notices, advertisements and other official publications in the Islands, and to be affixed on every place where it or its agents carries on its business in the Islands.

Service on foreign company to which Part XI applies.

213. Any process or notice required to be served on a foreign company or company incorporated in a foreign country shall be sufficiently served if addressed to any person whose name has been delivered to the Registrar under the provisions of paragraph (c) of section 208 or paragraph (b) of section 211 and left at or sent by post to the address which has been so delivered:

Provided that—

(a) where any such foreign company or company incorporated in a foreign country makes default in delivering to the Registrar the name and address of a person resident in the Islands who is authorised to accept on behalf of the foreign company or company incorporated in a foreign country service of process or notices; or

(b) if at any time all the persons whose names and addresses have been so delivered are dead or have ceased to reside, or refuse to accept service on behalf of the company, or for any reason cannot be served, a document may be served on the foreign company or company incorporated in a foreign country by leaving it at or sending it by post to any place of business established in the Islands by the foreign company.

214.—(1) Any deed of any foreign company which may be executed out of the Islands may be registered in the Islands if executed under the common seal of such foreign company in the presence of one witness at least; and that the execution of such deed, and the seal thereto affixed is the common seal of the foreign company, and that the same was affixed thereto by the authority of the board of directors or officers of such foreign company and in conformity with the articles of association such foreign company, and signature of the directors, secretary or officers to any such deed (where such signatures are required by the charter, statutes, memorandum or articles of association of such foreign company) and the signatures to such deed of the directors, secretary or officers by whom such seal may have been affixed, may be proved by the affidavit or solemn declaration of one of such witnesses or of the directors, secretary, or other officers affixing such seal, to be sworn or made before a notary public.

Deeds executed  
out of and within  
the Islands.

(2) Every deed made in the Islands on behalf of any such foreign company and executed under the hand of any person empowered by instrument in writing under the common seal of such foreign company either generally or in respect of any specified matters, as its attorney to execute deeds on its behalf in the Islands, shall be binding on such foreign company and shall

have the same effect as if it were under the common seal of the foreign company.

Removing  
company's name  
from register.

**215.** If any foreign company ceases to have a place of business in the Islands it shall forthwith give notice of the fact to the Registrar, and as from the date on which notice is so given the obligation of the foreign company to deliver any document to the Registrar shall cease:

Provided that where the Registrar is satisfied by any other means that the foreign company has ceased to carry on or have a place of business in the Islands he may close the file of the foreign company and thereupon the obligations of the foreign company to deliver any document to the Registrar shall cease.

Penalties for  
failing to comply  
with provisions  
of Part X.

**216.** If any foreign company or company incorporated in a foreign country fails to comply with any of the foregoing provisions of this Part, the foreign company or company incorporated in a foreign country and every officer or agent of the foreign company or company incorporated in a foreign country shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars or in the case of a continuing offence to a fine of fifty dollars for every day during which default continues.

Interpretation of  
Part X.

**217.** For the purpose of this Part—

“director”, in relation to a foreign company, includes any person in accordance with whose directions or instructions the directors of the foreign company are accustomed to act; and  
“place of business” includes a share transfer or registration office.

## PART XI.

### *Application of Ordinance to Companies Formed or Registered in the Islands Prior to this Ordinance.*

Application to  
existing  
companies.

**218.** In the application of this Ordinance to existing companies, it shall be the same manner—

(a) in the case of a limited company, other

than a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by shares;

(b) in the case of a company limited by guarantee, as if the company had been formed and registered under this Ordinance as a company limited by guarantee; and

(c) in the case of a company other than a limited company, as if the company had been formed and registered under this Ordinance as an unlimited company.

**219.** A reference express or implied, to the date of incorporation of an existing company shall be construed as a reference to the date on which the company was incorporated and recorded under the provisions of Chapter 92 of the Laws of the Turks and Caicos Islands (1951 Edition) or Ordinance Number 5 of 1971.

Date of  
incorporation.

Cap. 92 and 5 of  
1971.

**220.** The articles of association of an existing company shall so far as the same are not contrary to any express provisions of this Ordinance remain in force until altered or rescinded:

Articles of  
association  
remain.

Provided that an existing company which has not registered articles of association within six months of the coming into operation of this Ordinance shall be deemed to have registered the articles of association contained in Table A in the Second Schedule hereto so far as the same or any part of the same are not within that time specifically excluded therefrom.

**221.—(1)** A company incorporated before the date of the commencement of this Ordinance whose objects are carried out mainly outside the Islands may within a period of twelve months from such date elect to be treated as an exempted company under this Ordinance on payment of the fee prescribed in the Fourth Schedule and upon such election and payment as aforesaid shall be so registered and all documents filed prior to the commencement of this Ordinance which are not applicable to exempted companies shall be returned to the registered office of the company so electing.

Existing  
companies may  
elect to be  
exempted  
companies.

(2) A company which elects in accordance with subsection (1) of this section shall on compliance with those provisions be deemed to be for all purposes an exempted company and shall thenceforth comply with the provision of Part VII of this Ordinance.

## PART XII

### *General.*

Power of Registrar to prohibit sale of securities.

**222.** The Registrar may at any time and from time to time prohibit the sale of any shares or debentures of any foreign company or exempted company in the Islands or any invitation in the Islands to subscribe for any shares or debentures of a foreign company or exempted company and in the event of any violation by a foreign company or exempted company of such prohibition the foreign company or exempted company and each of its directors and officers shall be guilty an offence and liable on summary conviction to a fine of one thousand dollars and also in respect of an offence by any director or officer to imprisonment for three months.

Power of Registrar to examine registers.

**223.** The Registrar may at any time between 10:00 a.m. and 12:00 noon, and 2:00 p.m. and 4:00 p.m. on any business day (Saturday, Sundays, and any Public Holidays excluded) at the registered office of any company examine the certificate of incorporation, the register of members, the register of mortgages and the register of directors of that company and any person, without excuse, the burden of proof of which shall be on that person, hindering the Registrar from or in his examination shall be guilty of an offence and liable upon summary conviction to a fine of two hundred dollars and to imprisonment for two months.

Amendment of fees.

**224.** The Governor may from time to time by Regulation amend the fees prescribed by this Ordinance.

Repeals,  
No. 5 of 1971,  
No. 15 of 1980.

**225.** The Companies Ordinance 1971 and the International Company Registration and Certification Authority Ordinance, 1980 are repealed.



226. Nothing in this Ordinance shall be construed so as to relieve any company of its obligation under any other Ordinance to apply for, obtain and observe the conditions of any licence required by any such Ordinance as a condition for the carrying on of any particular kind of business.

Requirement as  
to licences.

#### FIRST SCHEDULE.

#### POWERS OF AN EXEMPTED COMPANY WHICH MAY BE INCORPORATED BY REFERENCE IN ITS MEMORANDUM OF ASSOCIATION.

The objects for which the company is established are:—

1. To carry on all or any of the businesses as advisers, consultants, specialists, and experts on all matters relating to recruitment, selection, remuneration and employment of executives, specialists, experts, technicians, clerical and manual workers, and other personnel and employees of all kinds and grades, executive search specialists, proprietors of employment bureaux, secretarial bureaux, hirers and letters-out on hire of personnel, staff, executives and specialists of all kinds, advisers and consultants on industrial relations, profit-sharing and incentive schemes, investment, finance, legal, commercial, property, foreign exchange, accountancy, trade, scientific and technical matters, tax planning, insurance, estate management, marketing, advertising, sales promotion, publishing, public relations, staff recruitment, business efficiency and computer technology; to act (either alone or as partner or associate with others) as investment advisers and managers, fund managers, fund advisers, property managers and advisers, company promoters and estate agents, architects, engineers, builders, developers, contractors, pension scheme specialists, information and data specialists, researchers, commission and general agents, brokers, registrars, secretaries, directors of companies, secretaries of companies, trustees, nominees and factors.

2. To carry on the business of distributors, importers, exporters, manufacturers, wholesalers, retailers, designers, agents for the sale and purchase of and general merchants, dealers, traders, marketeers, suppliers and distributors of merchandise of every and any description; to carry on the business of owners, managers, proprietors and operators of factories, warehouses, shops and stores of every and any description and to carry on business of dealers in merchandise of every description and to carry on any other trade which can in the opinion of the Board of Directors be conveniently or advantageously carried on in connection with or ancillary to all or any of the above businesses or

is calculated directly or indirectly to enhance the value of any of the company's business, property, rights or assets and to carry on the aforesaid business either together as a single business or as a separate and distinct business in any part of the world.

3. (i) To carry on the business of an investment company and for that purpose to acquire and hold, either in the name of the company or in that of any nominee, shares, stocks, debentures, debenture stocks, bonds, notes, obligations and securities issued or guaranteed by any company or by an individual person, association or partnership, whether with limited or unlimited liability, constituted or carrying on business in any part of the world or by any government, sovereign, ruler, commissioners, public body or authority, supreme, municipal, local or otherwise in any part of the world and any rights and interests in any of the foregoing and from time to time to sell, exchange, vary or dispose of any of the foregoing.

(ii) To acquire any such units, participations, shares, stocks, debentures, debenture stock, bonds, notes, obligations, mortgages, certificates of deposits, securities, rights or interests by original subscription, tender, purchase, exchange or otherwise, to enter into underwriting and similar contracts with respect thereto and to exercise and enforce all rights and powers conferred by or incidental to the ownership of any such shares, stock, obligations or other securities, including without prejudice to the generality of the foregoing all such powers, veto or control as may be conferred by virtue of the holding by the company of some special proportion of the issued or nominal amount thereof and to provide managerial and other executive, supervisory and consultants service for or in relation to any company in which the company is interested upon such terms as may be thought fit.

4. To carry on business as money brokers, factors, concessionaires, commercial agents, mortgage brokers, financial and technical advisers, consultants and agents.

5. To acquire by purchase, lease, exchange, hire or otherwise, land and property of any tenure or any interests therein.

6. To erect and construct houses, buildings or works of every description on any land of the company or upon any other land or property and to pull down, rebuild, enlarge, alter and improve existing houses, buildings or works thereon, to convert and appropriate any such land into and for roads, streets, squares, gardens and pleasure grounds and any other convenience and to act as structural engineers or supervisors of construction works of all and every kind.

7. To purchase or otherwise acquire, hold, sell, lease, let, deal in or mortgage or otherwise dispose of or grant contingent reversionary rights over or upon real or personal property of any kind whatsoever.

8. To undertake or direct the management of personal and real property, buildings, lands and estate (of any tenure or kind) of any persons, whether members of the company or not in the capacity of stewards or receivers or trustees or otherwise anywhere in the world.

9. To purchase and sell for any persons, freehold or other house property, buildings, or lands, or any share or shares, interest or interests therein and to transact on commission or otherwise conduct the general business of a land agent.

10. To receive money on deposit or loan and to borrow money and to secure or discharge any debt or obligation of or binding on the company in any manner and to secure the payment of any money borrowed, raised or owing by mortgage, charge, pledge, or lien upon the whole or any part of the company's assets and to deposit any money of the company with any bank or other company.

11. To advance money, negotiate loans and lend money for any purpose with or without security, to negotiate, contract for, grant or procure the grant of public or private loans, credit and other facilities and without prejudice to the generality of the foregoing, to finance and procure other parties to finance the issue, acquisition or disposal, mortgage, leasing, hire, hire purchase, insurance of and dealing with real and personal property and execution of contracts and obligations and to give indemnities, warranties and bonds.

12. To make advances to customers and others with or without security and upon such terms as the company may approve, and to guarantee the dividends, interest and capital of the shares, stock or securities of any company of or in which this company is a member or is otherwise interested.

13. To deal in all securities and negotiable investments being the property of the company or on behalf of others.

14. To hold by way of investment, buy, sell or deal in gold and silver coins, precious metals generally, precious stones and semi-precious stones, works of art or any other item of value and objets d'art.

15. To supply to any person, firm or corporation, government or local or other authority, the services of personnel of every grade including those possessed of professional, technical or other specialist qualifications.

16. To act as nominee, agent or attorney, either solely or jointly with others for any person or persons, company, corporation, government, state or province or for any municipal or other authority or public body.

17. To undertake, transact, or carry on all kinds of trust

agency or brokers business and to undertake the management, supervision or control of the operation of any company or undertaking or participate therein.

18. To undertake and carry on the office or offices and duties of trustee, custodian trustee, company director, company secretary, executor, administrator, liquidator, receiver, attorney or nominee of or for any person, company, corporation, association, scheme, trust fund, government, state, municipal or other public body, politic or corporate either solely or jointly with others. To undertake and execute any trust or discretion, the undertaking whereof may seem desirable and the distribution amongst the beneficiaries, pensioners, or other persons entitled thereto of any income capital or annuity, whether periodically or otherwise and whether in money or specie, in furtherance of any trust direction, discretion or obligation or permission.

For the purposes aforesaid to hold, deal with, manage, direct the management of, buy, sell, exchange, mortgage, charge, lease, dispose of, or grant any right or interest in or over upon any real or personal property of any kind whatsoever including contingent and reversionary interest in any property and to undertake and carry on any business undertaking or transaction. For the purposes aforesaid to apply for and acquire and hold any charters, privileges, monopolies, licences, concessions, patents or other rights, powers or orders, from the government of the Turks and Caicos Islands or from any other government or state or any local or other authority in any part of the world and to exercise, carry on and work any powers, right or privileges so obtained and to constitute or incorporate the Company as an anonymous or other society in a foreign country or state.

19. To undertake and carry on the business of accident, employer's liability, fidelity guarantee, third party, burglary or theft, fire, life, marine, storm, vehicle, professional, plate glass, and mortgage investment or other insurance or any of them and to transact all or any other kinds of insurance and to carry on all or any class of insurance or re-insurance business.

20. To re-insure or counter-insure any of the risks undertaken by the Company.

21. To apply for or otherwise acquire in any part of the world any patent, patent rights, brevets d'intention, licences, protections, royalties and concessions and to register any such privileges in any part of the world and to use and manufacture under or grant licences or privileges in respect of the same, and to expend money in experimenting upon and testing and importing or seeking to improve any patents, inventions or rights which the Company may acquire or propose to acquire.

22. To carry on business as proprietors of shops, offices, garages, storerooms, restaurants, clubs of any and every descrip-

tion, hotels, licensed premises and other business premises of all descriptions and as proprietors of houses, furnished and unfurnished flats and apartments and to provide for the tenants and occupiers thereof all or any of the conveniences which the company may think directly or indirectly conducive to these objects.

23. To purchase or acquire for any estate or interest, any mineral rights of any and every description or other substances and for the company to work and develop the same. To sink wells and shafts and to make, build and construct, lay down, acquire and maintain factories, engines, machinery, tramways, docks, quays, reservoirs, culverts, mains and other pipes, plant and appliances, and to execute and do all other works and things necessary or convenient for working, obtaining, storing, selling, manufacturing and conveying any minerals and any other chemical products, or otherwise for the purpose of the company. To work, use, render marketable, and dispose of any minerals on the property of the company.

24. To carry on the trade or businesses of wholesale warehousemen, removers, storers, packers and carriers of personal property of every description. To issue warrants to persons warehousing goods for the company and to lend money upon the security of such goods and/or grant credit with or without security.

25. To carry on the business or businesses whether together or separately of proprietors, managers and renters of cinemas, theatres, music halls, concert and dance halls, discotheques and other places of amusement and entertainment of every kind, film producing studios, recording studios and radio and television studios.

26. To carry on the business of exhibiting cinematograph films and of organising the production and management and performance of plays, dramas, comedies, operas, operettas, burlesques, pantomimes, revues, musical and other pieces, ballets, shows, radio and television entertainments, son et lumiere, and other amusement and entertainment of every kind and of organising, managing and holding concerts, recording sessions and dances.

27. To carry on the business of film producers, film renters, film hirers and distributors. To purchase hire or otherwise acquire any photographic, recording and other apparatus in connection with cinematograph shows and exhibitions and radio and television entertainment and to manufacture film and other appliances and machines in connection with mechanical or electrical representation or transmission of pictures, music and radio.

28. To carry on in all parts of the world the business of making, producing, exhibiting, distributing, renting, letting on hire, and otherwise exploiting, cinematograph, video and televi-

sion films and motion pictures and film subjects of all kinds and to act as agents for the purchase, sale, hiring and exploitation thereof and generally to manufacture, buy, hire, sell, let on hire, produce or otherwise deal in cinematograph, television and other films and photographic or other apparatus, articles, plant, machines and accessories, capable of being used in connection therewith or in connection with cinematograph or television shows or video films, exhibitions and entertainment, or useful for the purpose of such shows, exhibitions and entertainment. To employ persons to write, compose, adapt or arrange plays, cinematograph, video and moving pictures, plays, sketches, songs, music, dances, and any other theatrical, musical or variety compositions and to enter into agreement with authors, composers and lyric writers or other persons for the dramatic or other rights of operas, stage plays, operettas, revues, burlesques, vaudevilles, ballets, pantomimes, spectacular pieces, musical composition, cinematograph, video and motion picture plays, scenarios and other musical and dramatic performances and entertainments or for the representation thereof in any part of the world. To engage, provide and employ, or to act as agents in the engaging, providing and employing or artists, actors, singers, musicians, dancers, variety performers, sportsmen and any other person which the company may think directly or indirectly conducive to these objects.

29. To acquire and dispose of copyrights, rights of representation, licences and any other rights or interests in any book, paper, drama, play, poem, song, composition (musical or otherwise) picture, drawing, work of art or photograph, and to print, publish or cause to be printed or published anything of which the company has a copyright or right to print or publish, and to sell, distribute and exploit and deal with any matters so printed or published in any such manner as the company may think fit and to grant licences or rights in respect of any property of the company to any person, firm or company.

30. To acquire and carry on a club or clubs and to provide, equip, maintain and carry on a clubhouse or clubhouses with all usual or suitable accommodations and conveniences. To carry on the business of proprietors of clubs, gaming rooms, card-rooms and billiard-rooms and generally as amusement caterers and organisers, promoters, providers and managers of all kinds of entertainment, amusement, recreations, games, sports, competition and generally to deal with food, drink and refreshments, wine and spirit dealers, tobacco and cigar dealers, printers, publishers, magazine and periodical proprietors and book-sellers, and any other trade or business whatsoever which can, in the opinion of the Directors, be advantageously carried on by the company in connection with or auxiliary to these objects.

31. To carry on all or any of the business of entertainment promoters, sports promoters, artists managers and artists personal

representatives in all or any sphere of entertainment and sport and to enter into any contracts, acquire any copyrights, print any documents and employ any persons which the company may think directly or indirectly conducive to these objects.

32. To carry on the business of farming in all its branches.

33. To carry on the business of arable and fruit farmers, millers and manufacturers of cereal products and sale by wholesale or retail of flour, fruit and all cereal or farm products.

34. To carry on the business of poultry farmers including the erection or purchase of broiler houses and the sale by wholesale or retail of live and dead poultry and of eggs.

35. To acquire or erect glasshouses and any other premises for the promotion of speedy growth of crops, vegetables, fruit or flowers and to sell the produce thereof by wholesale or retail.

36. To carry on the business of live stock breeders of every variety of animals whether bred as pedigree stock or for the purpose of its sale as meat, poultry, hides or fur.

37. To carry on the business of horticulturists and seed merchants.

38. To promote companies and ventures for any purpose whatsoever and to undertake and assist in financial operations of every description.

39. To carry on any other trade or business whether manufacturing or otherwise.

40. To vest any real or personal property, rights or interests, acquired or belonging to the company in any person or company on behalf of or for the benefit of the company with or without any declared trust in favour of the company.

41. To enter into any arrangements with any governments or authorities, municipal, local or otherwise, or any country and to obtain from any such government, country or authorities all rights, concessions, and privileges that may seem conducive to the company objects or any of them.

42. To take part in the formation, management, supervision or control of the business or operation of any company or undertaking and for that purpose to appoint and remunerate any directors, accountants, lawyers or experts or agents.

43. To employ experts to investigate and to examine the conditions, prospects, value, character and circumstances of any business concerns and undertakings and generally of any assets, property or rights.

44. To establish or promote or concur in establishing or promoting any other company whose objects shall include the

acquisition or taking over of all or any of the assets or liabilities of the company or the promotion of which shall be in any manner calculated to advance directly or indirectly the objects or interests of the company and to acquire, hold, dispose of shares, stocks or securities issued by or any other obligation of any such company.

45. To draw, make, accept, endorse, negotiate, discount and execute promissory notes, bills of exchange, warrants, debentures and other negotiable instruments.

46. To invest and deal with moneys of the company not immediately required for the purpose of the business of the company in or upon such investment and in such manner as the company may approve.

47. To pay for any property or rights acquired by the company either in cash or fully or partly paid-up shares, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or by any securities which the company has power to issue, or partly in one mode and partly in another and generally on such terms as the company may determine.

48. To accept payment for any property or rights sold or otherwise disposed of or dealt with by the company, either in cash, by instalments, or otherwise, or in fully or partly paid-up shares or stock of any company or corporation, with or without preferred or deferred or special rights or restrictions in respect of dividend, repayment of capital, voting or otherwise, or in debentures or mortgages or other securities of any company or corporation or partly in one mode and partly in another and generally on such terms as the company may determine and to hold, dispose of or otherwise deal with any shares, stock or security as acquired.

49. To enter into any partnership or joint personal arrangement or arrangements for sharing profits, union of interests or cooperation with any company, firm or person, carrying on or proposing to carry on any business within the objects of this company and to acquire and hold, sell, deal with or dispose of shares, stocks and securities in any such company and to guarantee the contracts or liabilities of or the payment of the dividends, interest or capital of any shares, stock or securities of and to subsidise or otherwise assist any such company.

50. To purchase or otherwise acquire, take over, and undertake all or any part of the business, property, liabilities and transactions of any person, firm or company, carrying out any business, the carrying on of which is calculated to benefit this company or to advance its interest, or possessed of property suitable for the purpose of the company.

51. To sell, improve, manage, develop, turn to account, exchange, let or rent assets of any description, or share profits or



otherwise, grant licences, easements and other rights in or over and in any other manner deal with or dispose of the undertaking and all or any of the property and assets for the time being of the company for such consideration as the company may think fit.

52. To carry on business which the company is authorised to carry on by means or through the agency of any subsidiaries and to enter into any agreements with any such subsidiary for taking the profits and bearing the losses of any business as carried on for financing any such subsidiary or guaranteeing its liabilities or to make any other arrangement which may seem desirable, with reference to any business so carried on, including power at any time and either temporarily or permanently to close any such business.

53. To adopt such means of making known the businesses or any of them or the products of the company as may seem expedient and in particular by advertising in the Press, by circulars, by purchase and exhibition of works of art or interest by publication in books and periodicals and by granting prizes, rewards and donations and to carry out and conduct prize and competition schemes or any schemes or arrangement of any kind either alone or in conjunction with any other person, firm or company, whereby the above business or any of them may be promoted or developed or whereby the company's services or product may be more extensively advertised and made known.

54. To procure the company to be registered or recognised in any part of the world outside the Turks and Caicos Islands.

55. To aid in the establishment and support of, or subscribe to any charitable or public objects, institution, society or club; to give pensions, gratuities, or charitable aid to any person who has served the company or its predecessors in business or any subsidiary, allied or associated company or to their wives, children or other relatives or dependents of such person; to make payment towards insurance and to form and contribute to the provident and benefit funds for the benefit of any directors or officers or persons employed by the company or of or by its predecessors in business or of or by any subsidiary, allied or associated company and to subsidise or assist any association of employers or employees or any trade association.

56. To aid in the establishment and support of any school and any educational, scientific, literary, religious or charitable institution or trade societies, whether such institutions or societies be solely connected with the business carried on by the company or its predecessors in business or not, and to institute and maintain any club or other establishment.

57. To pay all costs, charges, and expenses incurred or sustained in or about the promotion or establishment of the

company or which the company shall consider to be in the nature of a preliminary expense.

58. To distribute among the members in specie any property of the company or any proceeds of sale or disposal of any property of the company but so that no distribution amounting to a reduction of capital be made except with the sanction (if any) for the time being required by law.

59. To carry on in any part of the world any other business which may seem to the company capable of being conveniently carried on in connection with the before mentioned objects or calculated directly or indirectly to render more profitable any of the company's assets.

60. To apply for any provisional order or Ordinance or Act of any government anywhere in the world in order to enable the company to extend its objects or carry them into effect.

61. To do all such things as may be deemed incidental or conducive to the attainment of the above objects or any of them including (where necessary) the application for all requisite licences and governmental or other consents under any relevant ordinance or regulation thereunder in force from time to time.

## SECOND SCHEDULES

### TABLE "A"

Regulations for the operation and management of a Company which may be incorporated by reference in its Articles of Association.

1.—(1) In these Regulations "the Ordinance" means the Companies Ordinance 1981.

(2) Where any provision of the Ordinance is referred to, the reference is to that provision as modified by any Ordinance for the time being in force.

### *Interpretation.*

2. In these Regulations unless there be something in the subject or context inconsistent therewith—

"Auditor" means the person for the time being performing the duties of auditor of the company and includes any individual or partnership;

"the Company" means the Company for which these Articles are approved and confirmed;

"Debenture" means debenture stock, mortgages, bonds and

any other such securities of the Company whether constituting a charge on the assets of the Company or not;

"Directors" means the directors for the time being of the company;

"Member" means the person or corporation or body corporate or partnership registered in the Register as the holder of shares in the Company and, when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register as one of such holders;

"Month" means calendar month;

"Notice" means written notice unless otherwise specifically stated;

"Paid-up" means paid up and credited as paid-up;

"Register" means the register of members to be kept pursuant to section 38 of the Ordinance;

"Registered Office" means the registered office for the time being of the Company;

"The Seal" means the common seal of the company;

"Secretary" means the person appointed to perform the duties of Secretary of the Company and includes any Assistant or Acting Secretary;

"Special resolution and ordinary resolution" has the meaning assigned thereto by the Ordinance;

"Written and In Writing" shall unless the contrary intention appears, be construed as including printing, lithography, photography, reproduction and other modes of representing words in a visible form;

Words importing the singular number only include the plural number, and vice versa;

Words importing the masculine gender only include the feminine gender;

Words importing persons include corporations;

3. The business of the Company may be commenced as soon after the incorporation of the Company as the Directors shall think fit, and notwithstanding that only part of the shares may have been allotted.

4. The Directors may pay out of the capital or other monies of the Company, all expenses incurred in or about the formation and establishment of the Company including the expenses of registration.

5. None of the funds of the Company shall be used for the purchase of or as a loan on the security of any of the shares of the Company.

*Shares.*

6. The shares shall be under the control of the Directors who may allot or otherwise dispose of the same to such persons, on such terms and conditions, and at such times as the Directors think fit.

7. Subject to the provisions, if any, in that behalf of the Memorandum of Association and to regulation 18 hereof or to any direction that may be given by the Company in general meeting and without prejudice to any special rights previously conferred on the holders of existing shares, any share may be issued with such preferred, deferred or other special rights, or such restrictions, whether in regard to dividend, voting, return of share capital or otherwise as the company may from time to time by special resolution determine.


8. The Company shall maintain a register of its members and every person whose name is entered as a member in the register of members shall be entitled without payment to receive within two months after allotment or lodgement of transfer (or within such other period as the conditions of issue shall provide) one certificate for all of his shares or several certificates each for one or more of his shares. Every certificate shall be under the seal and shall specify the shares to which it relates and the amount paid thereon. Provided that in respect of a share or shares held jointly by several persons the Company shall not be bound to issue more than one certificate and delivery of a certificate for a share to one of the several joint holders shall be sufficient delivery to all such holders.

9. Save as herein otherwise provided, the Company shall be entitled to treat the registered holder of any share as the absolute owner thereof, and accordingly shall not, except as ordered by a court of competent jurisdiction, or as by any Ordinance, be bound to recognise any equitable or other claim to or interest in such share on the part of any other person.

*Certificate for Shares.*

10. Every person whose name is entered as a member in the register of members shall, without payment, be entitled to a certificate under the seal of the company and signed by a Director and countersigned by the Secretary or another Director specifying the share or shares held by him and the amount paid up thereon:

Provided that in respect of a share or shares held jointly by several persons the company shall not be bound to issue more than one certificate and delivery of a certificate for a share to one of several joint holders shall be sufficient delivery to all.



11. If any certificate be worn out or defaced, then upon production thereof to the Directors, they may order the same to be cancelled, and may issue a new certificate in lieu thereof; and if any certificate be lost or destroyed, then upon proof thereof to the satisfaction of the Directors, and on such indemnity as the Directors seem adequate being given, a new certificate in lieu thereof may be given to the party entitled to such lost or destroyed certificate.

*Transfer of Shares.*

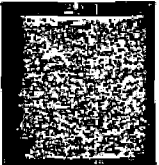
12. The instrument of transfer shall be in a form approved by the Board of Directors, and shall be executed by or on behalf of both the transferor and transferee, and the transferor shall be deemed to remain the holder of a share until the name of the transferee is entered in the Register in respect thereof.

13. The Directors may decline to register a transfer of any share on which the Company has a lien. They may also decline to register a transfer of any share to any person of whom they do not approve and they may also decline to register a transfer of any share without assigning any reason therefor; provided that if the Directors refuse to register a transfer they shall notify the transferee within two months of such refusal.

14. The Directors may decline to recognise any instrument of transfer unless it is accompanied by the certificate of the shares to which it relates, and by such other evidence as the Directors may reasonably require to show the right of the transferor to make the transfer.

15. The joint holders of a share may transfer such share to any one or more of such joint holders, and the joint holders of two or more shares may transfer such shares or any or either of them to one or more of such joint holders, and the surviving holder or holders of any share or shares previously held by them jointly with a deceased Member may transfer any such share to the executors or administrators of such deceased Member.

*Transmission of Shares.*



16. The personal representatives of a deceased registered Member (not being one of several joint holders) shall be the only person or persons recognised by the Company as having any title to the shares registered in the name of such deceased Member, and in case of the death of any one or more of the joint registered holders of any registered share, the survivors shall be the only persons recognised by the Company as having any title to or interest in such shares.

17. Any person becoming entitled to a share in consequence of the death or bankruptcy of a Member shall, upon such evidence being produced as may from time to time be properly required by the Directors, have the right either to be registered as a Member in respect of the share or, instead of being registered himself, to make such transfer of the share as the deceased or bankrupt person could have made; but the Directors shall, in either case, have the same right to decline or suspend registration as they would have in the case of a transfer of the share by the deceased or bankrupt person before the death or bankruptcy.

*Redeemable Shares.*

18. Subject to the provisions of the Memorandum of Association, shares may be issued on the terms that they may, or at the option of the Company may, be redeemed on such terms and in such manner as the Company, before issue of the shares, may determine.

*Bearer Shares.*

19. The Company may issue bearer shares, and the Directors may accordingly, with respect to any shares which are fully paid up (in any case in which they shall in their discretion think fit so to do), upon an application in writing signed by the person registered as the holder of such shares and authenticated by such affidavit, statutory declaration or other evidence (if any) as the Directors may from time to time require as to the identity of the person signing the request, and upon receiving the share certificate, issue under seal at the expense in all respects of the person applying for the same bearer shares duly stamped stating that the bearer is entitled to the shares therein specified, and may, in any case in which such shares are so issued, provide by coupons or otherwise for the payment of the future dividends or other money on the shares.

20. Subject to the provisions of these presents the bearer shall be deemed to be a Member of the Company and shall be entitled to the same privileges and advantages as he would have had if his name had been included in the Register as the holder of the shares.

21. No person shall, as the holder of bearer shares, be entitled (1) to sign a requisition for calling a meeting or to give notice of intention to submit a resolution to the meeting or (2) to attend or vote by himself or his proxy, or exercise any privilege as a member at a meeting, unless he shall in case (1) before or at the time of lodging such requisition or giving such notice of intention as aforesaid, or in case (2) three days at least before the day fixed

for the meeting have deposited at the Registered Office the bearer shares in respect of which he claims to act, attend or vote as aforesaid, and unless the bearer shares shall remain so deposited until after the meeting or any adjournment thereof shall have been held.

Not more than one name shall be received as that of the holder of a bearer share.

*Note. There is no regulation 22 in the Ordinance as enacted.*

23. To any person so depositing a bearer share there shall be delivered a certificate stating his name and address, and describing the shares included in bearer shares so deposited, and bearing the date of issue of the certificate, and such certificate shall entitle him, or his proxy duly appointed, as hereinafter provided to attend and vote at any general meeting held within three months from the date of the certificate in the same way as if he were the registered holder of the shares specified in the certificate.

24. Upon delivery of the certificate to the Company the bearer of the certificate shall be entitled to receive the bearer shares in respect of which the certificate was given.

25. The holder of bearer shares shall not, save as aforesaid, be entitled to exercise any right as a Member, unless (if called upon by any Director or the Secretary so to do) he produces his bearer shares and states his name and address.

26. The Director may from time to time make regulations as to the terms upon which, if they in their discretion think fit, all new bearer shares or coupons may be issued and in any case in which a bearer share or coupon may have been worn out, defaced or destroyed.

27. The shares included in any bearer share shall be transferred by the delivery of the share certificate without any written transfer and without registration, and to shares so included the provisions hereinbefore contained with reference to the transfer of and to the lien of the Company on shares shall not apply.

28. Upon surrender of his bearer share certificate to the Company for cancellation, the holder shall be entitled to have his name entered as a Member in the Register in respect of the shares included in the bearer's share certificate, but the Company shall in no case be responsible for any loss or damage incurred by any person by reason of the Company entering in the Register upon the surrender of the bearer share certificate the name of any person not the true and lawful owner of the bearer shares surrendered.

#### *Variation of Rights.*

29. If at any time share capital is divided into different classes of shares, the rights attached to any class (unless otherwise

provided by the terms of issue of the shares of that class) may be varied with the consent in writing of the holders of three-fourths of the issued shares of that class, or with the sanction of a special resolution passed at a separate general meeting of the holders of the shares of the class. To every such separate general meeting the provisions of these regulations relating to general meeting shall *mutatis mutandis* apply, but so that the necessary quorum shall be two persons at least holding or representing by proxy one-third of the issued shares of the class and that any holder of shares of the class present in person or by proxy may demand a poll.

30. The rights conferred upon the holders of the shares of any class issued with preferred or other rights shall not, unless otherwise expressly provided by the terms of issue of the shares of that class, be deemed to be varied by the creation or issue of further shares ranking *pari passu*, therewith.

#### *Lien on Shares.*

31. The Company shall have a first and paramount lien and charge on all shares (whether fully paid-up or not) registered in the name of a member (whether solely or jointly with others) for all debts, liabilities or engagements to or with the company (whether presently payable or not) by such person or his estate, either alone or jointly with any other person, whether a member or not but the Directors may at any time declare any share to be wholly or in part exempt from the provisions of this Article. The registration of a transfer of any such share shall operate as a waiver of the Company's lien (if any) thereon. The Company's lien (if any) on a share shall extend to all dividends or other monies payable in respect thereof.

32. The Company may sell, in such manner as the Directors think fit, any shares on which the Company has a lien, but no sale shall be made unless a sum in respect of which the lien exists is presently payable, nor until the expiration of fourteen days after notice in writing stating and demanding payment of such part of the amount in respect of which the lien exists as is presently payable, has been given to the registered holder or holders for the time being of the share, or the person, of which the Company has notice, entitled thereto by reason of his death or bankruptcy.

33. To give effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof. The purchaser shall be registered as the holder of the shares comprised in any such transfer, and he shall not be bound to see to the application of the purchase money, nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings in reference to the sale.

34. The proceeds of such sale shall be received by the Company and applied in payment of such part of the amount in



respect of which the lien exists as is presently payable and the residue, if any, shall (subject to a like lien for sums not presently payable as existed upon the shares before the sale) be paid to the person entitled to the shares at the date of the sale.

*Call on Shares.*

35. (a) The Directors may from time to time make calls upon the Members in respect of any monies unpaid on their shares (whether on account of the nominal value of the shares or by way of premium or otherwise) and not by the conditions of allotment thereof made payable at fixed terms, provided that no call shall exceed one-fourth of the nominal value of the share or be payable at less than one month from the date fixed for the payment of the last preceding call, and each member shall (subject to receiving at least fourteen days notice specifying the time or times of payment) pay to the Company at the time or times specified the amount called on the shares. A call may be revoked or postponed as the Directors may determine. A call may be made payable by instalments.

(b) A call shall be deemed to have been made at the time when the resolution of the Directors authorising such call was passed.

(c) The joint holders of a share shall be jointly and severally liable to pay all calls in respect thereof.

36. If a sum called in respect of a share is not paid before or on a day appointed for payment thereof, the person from whom the sum is due shall pay interest on the sum from the day appointed for payment thereof to the time of actual payment at such rate not exceeding ten *per centum* per annum as the Directors may determine, but the Directors shall be at liberty to waive payment of such interest either wholly or in part.

37. Any sum which by the terms of issue of a share becomes payable on allotment or at any fixed date, whether on account of the nominal value of the share or by way of premium or otherwise, shall for the purpose of these Articles be deemed to be a call duly made; notified and payable on the date on which by the terms of issue of the same becomes payable and in the case of non-payment all the relevant provisions of these Articles as to payment of interest forfeiture or otherwise shall apply as if such sum had become payable by virtue of a call duly made and notified.

38. The Directors may, on the issue of shares, differentiate between the holders as to the amount of calls or interest to be paid and the times of payment.

39. (a) The Directors may, if they think fit, receive from any Member willing to advance the same, all or any part of the

monies uncalled and unpaid upon any shares held by him, and upon all or any of the monies so advanced may (until the same would but for such advances, become payable) pay interest at such rate not exceeding (unless the company in general meeting shall otherwise direct) seven *per centum per annum*, as may be agreed upon between the Directors and the member paying such sum in advance.

(b) No such sum paid in advance of calls shall entitle the member paying such sum to any portion of a dividend declared in respect of any period prior to the date upon which such sum would, but for such payment, become presently payable.


*Forfeiture of Shares.*

40. (a) If a Member fails to pay any call or instalment of a call or to make any payment required by the terms of issue on the day appointed for payment thereof, the Directors may, at any time thereafter during such time as any part of the call, instalment or payment remains unpaid, give notice requiring payment of so much of the call, instalment or payment as is unpaid, together with any interest which may have accrued and all expenses that have been incurred by the Company by reason of such non-payment. Such notice shall name a day (not earlier than the expiration of fourteen days from the date of giving of the notice) on or before which the payment required by the notice is to be made, and shall state that, in the event of non-payment, at or before the time appointed, the shares in respect of which such notice was given will be liable to be forfeited.

(b) If the requirements of any such notice as aforesaid are not complied with, any share in respect of which the notice has been given may at any time thereafter, before the payment required by the notice has been made, be forfeited by a resolution of the Directors to that effect. Such forfeiture shall include all dividends declared in respect of the forfeited share and not actually paid before the forfeiture.

(c) A forfeited share may be sold or otherwise disposed of on such terms and in such manner as the Directors think fit and at any time before a sale or disposition the forfeiture may be cancelled on such terms as the Directors think fit.

41. A person whose shares have been forfeited shall cease to be a Member in respect of the forfeited shares, but shall, notwithstanding, remain liable to pay the Company all monies which, at the date of forfeiture, were payable by him to the Company in respect of the shares together with interest thereon, but his liability shall cease if and when the Company shall have received payment in full of all monies whenever payable in respect of the shares.



42. A certificate in writing under the hand of one Director and the Secretary of a Company that a share in the Company has been duly forfeited on a date stated in the declaration shall be conclusive evidence of the fact therein stated as against all persons claiming to be entitled to the share. The Company may receive the consideration given for the share on any sale or disposition thereof and may execute a transfer of the share in favour of the person to whom the share is sold or disposed of and he shall thereupon be registered as the holder of the share and shall not be bound to see to the application of the purchase money, if any, nor shall his title to the share be affected by any irregularity or invalidity in the proceedings in reference to forfeiture, sale or disposal of the share.

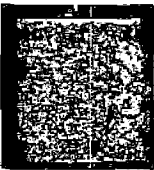
43. The provisions of these regulations as to forfeiture apply in the case of non-payment of any sum which, by the terms of issue of a share, becomes payable at a fixed time, whether on account of the nominal value of the share or by way of premium as if the same had been payable by virtue of a call duly made and notified.

*Conversion of Shares into Stock.*

44. The Company may by ordinary resolution convert any paid-up shares into stock and re-convert any stock into paid-up shares of any denomination.

(b) The holders of stock may transfer the same, or any part thereof, in the same manner, and subject to the same regulations as and subject to which, the shares from which the stock arose might previously to conversion have been transferred or as near thereto as circumstances admit; the Directors may from time to time fix the minimum amount of stock transferable, but so that such minimum shall not exceed the nominal amount of shares from which the stock arose.

(c) The holders of stock shall, according to the amount of stock held by them have the same right, privileges and advantages as regards dividends, voting at meetings of the Company and other matters as if they held the shares from which the stock arose, but no such privilege or advantage (except participation in the dividends and profits of the company and in assets on winding up) shall be conferred by an amount of stock which would not if existing in shares have conferred that privilege or advantage.



45. Such of these presents as are applicable to paid up shares shall apply to stock and the words "share" and "shareholder" herein shall include "stock" and "stockholder".

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AMENDMENT OF MEMORANDUM OF ASSOCIATION, CHANGE OF  
LOCATION OF REGISTERED OFFICE AND ALTERATION OF  
CAPITAL.

46. (a) Subject to and in so far as permitted by the provisions of the Ordinance, the Company may from time to time by ordinary resolution alter or amend its Memorandum of Association otherwise than with respect to its name and objects and may, without restricting the generality of the foregoing—

(i) increase the share capital by such sum to be divided into shares of such amount or without nominal or par value as the resolution shall prescribe and with such rights, priorities and privileges annexed thereto, as the Company in general meeting may determine;

(ii) consolidate and divide all or any of its share capital into shares of larger amount than its existing shares;

(iii) sub-divide its shares, or any of them, into shares of smaller amount than is fixed by the Memorandum of Association subject to the provisions of the Ordinance, and so that as between the holders of the resulting shares one or more of such shares may by the resolution by which the sub-division is affected be given any preference or advantage as regards dividend, capital, voting or otherwise over the others or any other such shares;

(iv) cancel any shares which at the date of the passing of the resolution in that behalf have not been taken or agreed to be taken by any person or which have been forfeited, and diminish the amount of its share capital by the amount of the shares so cancelled.

(b) Subject to the provisions of the Ordinance the Company may by Special Resolution change its name or alter its objects.

(c) Subject to the provisions of the Ordinance the Company may by Special Resolution redeem any of its shares, or reduce its share capital, any capital Redemption Reserve Fund, or any share Premium Account.

(d) Subject to the provisions of the Ordinance the Company may by resolution of the Directors change the location of its registered office.

47. The Company may from time to time by Special Resolution reduce its share capital in any manner authorised and with and subject to any incident prescribed or allowed by law.

48. Anything done in pursuance of either of the last two preceding regulations shall be done in manner provided and subject to any conditions imposed by the Ordinance so far as they shall be applicable, and, so far as they shall not be applicable, in accordance with the terms of the resolution authorising the same, and, so far as such resolution shall not be applicable, in such

manner as the Directors deem most expedient. Whenever on any consolidation Members shall be entitled to any fractions of shares the Directors may sell all or any of such fractions and shall distribute the net proceeds thereof amongst the Members entitled to such fractions in due proportions. In giving effect to any such sale the Directors may authorise some person to transfer the shares sold to the purchaser thereof and the purchaser shall be registered as the holder of the shares comprised in any such transfer and he shall not be bound to see to the application of the purchase money nor shall his title to the shares be affected by any irregularity or invalidity in the proceedings relating to the transfer.

*Borrowing Powers.*

49. The Directors may exercise all the powers of the Company to borrow, raise or secure money and to mortgage or charge its undertaking, property and uncalled capital, and to issue debentures and other securities, whether outright or as collateral security for any debt, liability or obligation of the Company or of any third party.

*General Meetings.*

50. A general meeting shall be held once in every calendar year at such time (not being more than fifteen months after the holding of the last preceding general meeting or the date of the certificate of incorporation of the Company in respect of the first meeting) and place as may be resolved by the Company in general meeting, or, in default, at such time in the third month following that in which the anniversary of the Company's incorporation occurs, and at such place as the Directors shall appoint. In default of a general meeting being so held, a general meeting shall be held in the month next following, and may be convened by any two members in the same manner as nearly as possible as that in which meetings are to be convened by the Directors.

51. The above-mentioned general meeting shall be called the ordinary general meeting; all other general meetings shall be called extraordinary general meetings.

52. The Directors may when ever they think fit, and they shall on the requisition of members of the Company holding at the date of the deposit of the requisition not less than one-tenth of such of the paid-up capital of the Company at the date of the deposit carries the right to voting at general meetings of the company, proceed to convene a general meeting of the Company.

53. When all the members in person or by proxy sign the minutes of an ordinary or extraordinary general meeting the same

shall be deemed to have been duly held notwithstanding that the members have not actually come together or that there may have been technical defects in the proceedings, and a resolution in writing in one or more parts signed by all the members shall be as valid and effectual as if it had been passed at a meeting of the members duly called and constituted.

*Notice of General Meetings.*

54. Subject to the provisions of the Ordinance relating to special resolutions, seven days' notice at the least (exclusive of the day on which the notice is served or deemed to be served, but inclusive of the day for which notice is given) specifying the place, the day and the hour of meeting and, in case of special business, the general nature of that business shall be given in manner hereinafter provided, or in such other manner (if any) as may be prescribed by the company in general meeting, to such persons as are, under the regulations of the company, entitled to receive such notices from the company; but with the consent of all the members entitled to receive notice of some particular meeting, that meeting may be convened by such shorter notice and in such manner as those members may think fit.

55. The accidental omission to give notice of a general meeting to, or the non-receipt of notice of a meeting by any person entitled to receive notice shall not invalidate the proceedings of that meeting.

*Proceedings at General Meeting.*

56. Save as provided by regulation 53 no business shall be transacted at any general meeting unless a quorum of members is present at the time when the meeting proceeds to business: save as herein otherwise provided, two members personally or by proxy present together representing personally the majority of the issued share capital of the company shall be a quorum.

57. Save as provided by regulation 53 if within half an hour from the time appointed for the meeting a quorum is not present, the meeting, if convened upon the requisition of members, shall be dissolved: in any other case it shall stand adjourned to the same day in the next week, at the same time and place, and if at the adjourned meeting a quorum is not present within half an hour from the time appointed for the meeting the members present shall be a quorum.

58. Save as provided by regulation 53 the Chairman, if any, of the Board of Directors shall preside as Chairman at every



general meeting of the Company or if there is no such Chairman, or if he shall not be present within fifteen minutes after the time appointed for the holding of the meeting, or is unwilling to act, the Directors present shall elect one of their number to be Chairman of the meeting.

59. The Chairman may, with the consent of any general meeting duly constituted hereunder, and shall if so directed by the meeting, adjourn the meeting from time to time and from place to place, but no business shall be transacted at any adjourned meeting other than the business left unfinished at the meeting from which the adjournment took place. When a general meeting is adjourned for thirty days or more notice of the adjourned meeting shall be given as in the case of an original meeting; save as aforesaid it shall not be necessary to give any notice of an adjournment or of the business to be transacted at an adjourned general meeting.

60. Save as provided by regulation 53 at any general meeting meeting a resolution put to the vote of the meeting shall be decided on a show of hands, unless a poll is (before or on the declaration of the result of the show of hands) demanded by at least three members present in person or by proxy entitled to vote or by one member or two members so present and entitled, if that member or those members together hold not less than fifteen *per centum* of the paid-up capital of the company, and, unless a poll is so demanded, a declaration by the Chairman that a resolution has, on a show of hands, been carried, or carried unanimously, or by a particular majority, or lost, and an entry to that effect in the book of the proceedings of the company, shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour of, or against, that resolution.

61. If a poll is demanded as aforesaid, it shall be taken in such manner and at such time and place as the Chairman of the meeting directs and either at once, or after an interval or adjournment, or otherwise, and the results of the poll shall be deemed to be the resolution of the meeting at which the poll was demanded. The demand for a poll may be withdrawn. In case of any dispute as to the admission or rejection of a vote, the Chairman shall determine the same, and such determination made in good faith shall be final and conclusive.

#### *Votes of Members.*

62. Subject to any rights or restrictions for the time being attached to any class or classes of shares, on a show of hands every member present, in person at a general meeting shall have one vote and on a poll every member shall have one vote for each share registered in his name in the register.

63. Votes may be given either personally or by proxy.

64. In the case of joint holders the vote of the senior who tenders a vote, whether in person or by proxy, shall be accepted to the exclusion of the votes of the other joint holders; and for this purpose seniority shall be determined by the order in which the names stand in the register of members.

65. A member of unsound mind, or in respect of whom an order has been made by any court, having jurisdiction in lunacy, may vote, whether on a show of hands or on a poll, by his committee, receiver or legal representative, or other person in the nature of a committee, receiver or legal representative appointed by that court, and any such committee, receiver, legal representative or other person may on a poll, vote by proxy.

66. No member shall be entitled to vote at any general meeting unless he is registered as a shareholder of the Company on the date of such meeting nor unless all calls or other sums presently payable by him in respect of shares in the Company have been paid.

67. No objection shall be raised to the qualification of any voter except at the general meeting or adjourned general meeting at which the vote objected to is given or tendered and every vote not disallowed at such general meeting shall be valid for all purposes. Any such objection made in due time shall be referred to the Chairman of the general meeting whose decision shall be final and conclusive.

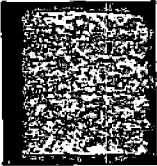
#### *Proxies.*

68. The instrument appointing a proxy shall be in writing and shall be executed under the hand of the appointer or of his attorney duly authorised in writing, or if the appointer is a corporation, either under seal, or under the hand of an officer or attorney duly authorised in that behalf. A proxy need not be a member of the Company.

69. The instrument appointing a proxy and the power of attorney or other authority, if any, under which it is signed or a notarially certified copy of that power or authority, shall be deposited at the Registered Office of the Company or at such other place as is specified for that purpose in the notice convening the general meeting not less than two hours before the time for holding the meeting, or adjourned meeting.

70. The instrument appointing a proxy may be in any usual or common form and may be expressed to be for a particular meeting or any adjournment thereof or generally until revoked. An instrument appointing a proxy shall be deemed to include the power to demand or join or concur in demanding a poll.





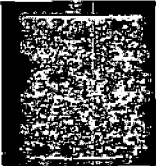
71. A vote given in accordance with the terms of an instrument or proxy shall be valid notwithstanding the previous death or insanity of the principal or revocation of the proxy or of the authority under which the proxy was executed or the transfer of shares in respect of which the proxy is given provided that no intimation in writing of such death, insanity, revocation or transfer as aforesaid shall have been received by the Company at the office before commencement of the general meeting, or adjourned general meeting, at which it is sought to use the proxy.

72. Any corporation which is a member of the Company may in accordance with its Articles or in the absence of such provisions by resolution of its Directors or other governing body authorise such person as it thinks fit to act as its representative at any meeting of the company or of any class of members of the Company, and the person so authorised shall be entitled to exercise the same power on behalf of the corporation which he represents as the corporation could exercise if it were an individual member of the Company.

*Directors.*

73. There shall be a Board of Directors consisting of not less than one or more than ten persons (exclusive of Alternate-Directors) provided however that the Company may from time to time by ordinary resolution increase or reduce the limits in the number of Directors but so that there shall not be less than one.

74. The Directors of the Company shall be elected at the first ordinary meeting of the Company after incorporation, and in every subsequent year at the first ordinary meeting of the year. They shall be elected for a year but shall hold office until their successors are duly elected or until the office is vacated as provided by regulation 95. A Director shall not require any qualification by way of holding any shares or other securities of the Company.



75. The remuneration to be paid to the Directors shall be such remuneration as the Directors shall determine. Such remuneration shall be deemed to accrue from day to day. The Directors shall also be entitled to be paid their travelling, hotel and other expenses properly incurred by them in going to, attending and returning from meetings of the Directors, or any committee of the Directors, or general meetings of the Company, or otherwise in connection with the business of the Company, or to receive a fixed allowance in respect thereof as may be determined by the Directors from time to time, or a combination partly of one such method and partly the other.

76. No person shall be disqualified from the office of Director or Alternate Director or prevented by such office from

contracting with the Company, either as vendor, purchaser or otherwise, nor shall any such contract or any contract or transaction entered into by or on behalf of the Company in which any Director or Alternate Director shall be in any way interested or be liable to be avoided, nor shall any Director or Alternate Director so contracting or being so interested be liable to account to the company for any profit realised by any such contract or transaction by reason of such Director holding office or of the fiduciary relation thereby established. A Director (or his Alternate Director in his absence) shall be at liberty to vote in respect of any contract or transaction in which he is so interested as aforesaid PROVIDED HOWEVER that the nature of the interest of any Director or Alternate Director in any such contract or transaction shall be disclosed by him or the Alternate Director appointed by him at or prior to its consideration and any vote thereon.

77. A general notice that a Director or Alternate Director is a shareholder of any specified firm or company and is to be regarded as interested in any transaction with such firm or company shall be sufficient disclosure under regulation 76 and after such general notice it shall not be necessary to give special notice relating to any particular transaction.

*Alternate Directors.*

78. Any Director may at any time appoint any other Director or any other person approved by the Directors to be an Alternate Director of the Company, and may at any time remove any Alternate Director so appointed by him. An Alternate Director so appointed shall not be entitled to receive any remuneration from the company, nor be required to hold any qualification but shall otherwise be subject to the provisions of these presents with regard to Directors. An Alternate Director shall (subject to his giving to the company an address in the Islands at which notices may be served upon him) be entitled to receive notice of all meetings of the board and to attend and vote as Director at any such meeting at which the Director appointing him is not personally present and where he is a Director to have a separate vote at meetings of Directors on behalf of each Director he represents in addition to his own vote and generally shall be entitled to perform all the functions of his appointer as a Director in the absence of such appointer. An Alternate Director shall *ipso facto* cease to be an Alternate Director if his appointer ceases for any reason to be a Director, provided that if any Director retires but is re-elected by the meeting at which such retirement took effect any appointment made by him pursuant to this regulation which was in force immediately prior to his retirement shall continue to operate after his re-election as if he had not so retired. All appointments and removals of Alternate Directors shall be

effected by writing under the hand of the Director making or revoking such appointment left at the Registered Office.

*Powers and Duties of Directors.*

79. The business of the Company shall be managed by the Directors who may exercise all such powers of the Company as are not, by the Ordinance or these regulations, required to be exercised by the company in general meeting, subject, nevertheless, to any regulations, being not inconsistent with the aforesaid regulations or provisions as may be prescribed by the Company in general meeting but no regulation made by the Company in general meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

80. The Directors may from time to time and at any time by power of attorney appoint any company, firm person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purpose and with such powers, authorities and discretions (not exceeding those vested in or exerciseable by the Directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for the protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney as the Directors may think fit to delegate all or any of the powers, authorities and discretions vested in him.

81. The Directors may from time to time appoint one or more of their body to the office of Managing Director or manager for such terms and at such remuneration (whether by way of salary or commission or participation in profits, or partly in one way and partly in another) as they may think fit but his appointment shall be subject to determination *ipso facto* if he ceases from any cause to be a Director, or if the Company in general meeting resolves that his tenure of the office of Managing Director or manager be determined.

82. All cheques, promissory notes, drafts, bills of exchange and other negotiable instruments and all receipts for monies paid to the Company shall be signed, drawn, accepted, endorsed or otherwise executed as the case may be in such manner as the Directors shall from time to time by resolution determine.

83. The Directors shall cause minutes to be made in books provided for the purpose—

- (a) of all appointments of officers made by the Directors;
- (b) of the names of the Directors present at each meeting of the Directors and of any committee of the Directors;

(c) of all resolutions and proceedings at all meetings of the Company, and of the Directors and of committees of Directors; provided that any minutes of such meetings if purporting to be signed by the Chairman thereof or by the Chairman of the next succeeding meeting, shall be sufficient evidence of the proceedings without any further proof of the facts therein stated.

*Local Management.*

84. (a) The Directors may from time to time provide for the management of the affairs of the Company abroad in such manner as they shall think fit and the provisions contained in the three next following paragraphs shall be without prejudice to the general powers conferred by this paragraph.


(b) The Directors from time to time and at any time may establish any committee, local board or agency for managing any of the affairs of the Company abroad and may appoint any persons to be members of such committee or local board or any managers or agents and may fix their remuneration.

(c) The Directors from time to time and at any time may delegate to any such committee, local board, manager or agent any of the powers, authorities and discretions for the time being vested in the Directors and may authorise the members for the time being of any such local board, or any of them to fill any vacancies therein and to act notwithstanding vacancies and any such appointment or delegation may be made on such terms and subject to such conditions as the Directors may think fit; the Directors may at any time remove any person so appointed and may annul or vary any such delegation, but no person dealing in good faith and without notice of any such annulment or variation shall be affected thereby.

(d) Any such delegates as aforesaid may be authorised by the Directors to sub-delegate all or any of the powers, authorities, and discretions for the time being vested in them.

*Proceedings of Directors.*

85. Save as provided by regulation 87 the Directors shall meet together for the dispatch of business, convening, adjourning and otherwise regulating their meetings as they think fit. Questions arising at any meeting shall be decided by a majority of votes of the Directors and Alternate Directors present at a meeting at which there is a quorum; the vote of an Alternate Director not being counted if his appointor be present at such meeting. In case of an equality of votes, the Chairman shall have a second or casting vote.



86. A Director or Alternate Director may, and the Secretary on the requisition of a Director or Alternate Director shall, at any time summon a meeting of the Directors by at least five days' notice in writing to every Director and Alternate Director (to which the regulation relating to a notice to members of a general meeting shall apply) unless notice is waived by all the Directors (or their Alternates) either at before or after the meeting is held and PROVIDED FURTHER if notice is given in person, by telegram, telex, cablegram or wireless the same shall be deemed to have been given on the day it is delivered to the directors or transmitting organisation as the case may be.


87. Save as provided by regulation 87 the quorum necessary for transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall, when the number of Directors exceeds three, be at least half the number of Directors and when the number of Directors does not exceed three, be one Director.

88. When a majority of the Directors sign the minutes of a meeting of the Directors the same meeting shall be deemed to have been duly held at the date and time stated notwithstanding that the Directors have not actually come or that there may have been technical defects in the proceedings and any resolution in writing in one or more parts, contained in the said minutes, signed by those Directors shall be as valid and effectual as if the resolution had been passed at a meeting of the Directors duly called and constituted.

89. (a) A Director may be represented at any meetings of the Board of Directors by a proxy appointed by him in which event the presence or vote of the proxy shall for all purpose be deemed to be that of the Director.

(b) The provisions of regulations 68, 69, and 70 shall *mutatis mutandis* apply to the appointment of proxies by Directors.

90. The continuing Directors may act notwithstanding any vacancy in their body, but, if and so long as their number is reduced below the number fixed by or pursuant to the regulations of the Company as the necessary quorum of Directors, the continuing Directors may act for the purpose of increasing the number of Directors to that number or of summoning a general meeting of the company, but for no other purpose.



91. The Directors may delegate any of their powers to a committee consisting of such member or members of their body as they think fit: any committee so formed shall in the exercise of the powers so delegated conform to any regulations that may be imposed on it by the Directors.

92. The Directors may elect a chairman of their meetings and determine the period for which he is to hold office, but if no such chairman is elected, or if at any meeting the chairman is not

present within five minutes after the time appointed for holding the same, the Directors present may choose one of their number to be chairman of the meeting.

93. A committee may elect a chairman of its meetings; if no such chairman is elected, or if at any meeting the chairman is not present within five minutes after the time appointed for holding the same, the members present may choose one of their number to be chairman of the meeting.

94. A committee may meet and adjourn as it thinks proper. Questions arising at any meeting shall be determined by a majority of votes of the members present and in case of an equality of votes the Chairman shall have a second or casting vote.

95. All acts done by any meeting of the Directors or of a committee of Directors, or by any person acting as a Director, shall notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

#### *Vacation of Office of Director.*

96. The office of a Director shall be vacated:

(a) if he gives notice in writing to the Company that he resigns the office of Director;


(b) if he absents himself (without being represented by proxy or an Alternate Director appointed by him) from three consecutive meetings of the Board of Directors without special leave of absence from the Directors, and they pass a resolution that he has by reason of such absence vacated office;

(c) if he dies, becomes bankrupt or makes any arrangement or composition with his creditors generally;

(d) if he is found a lunatic or becomes of unsound mind.

#### *Retirement of Directors.*

97. At the first and every subsequent Annual General Meeting of the Company all of the Directors constituting the Board of Directors immediately prior to such meeting shall be automatically retired from office and a new Board of Directors shall be elected. All Directors so retired from office automatically shall be eligible for election as Directors at the Annual General Meeting.



98. The Company, at the Annual General Meeting at which a Director is automatically retired in the manner aforesaid, may fill the vacated office by electing a person thereto, and in default the retiring Director shall, if offering himself for re-election, be deemed to have been re-elected unless at such Annual General Meeting it is expressly resolved not to fill such vacated office or unless a resolution for the re-election of such Director shall have been put to the Annual General Meeting and lost.

99. The Directors shall have power at any time and from time to time to appoint any person to be a Director, either to fill a casual vacancy or as an addition to the existing Directors but so that the total amount of Directors (exclusive of Alternate Directors) shall not at any time exceed the number fixed in accordance with these regulations. Any Director appointed under this regulation shall hold office only until the next following Annual General Meeting and then shall be eligible for re-election.

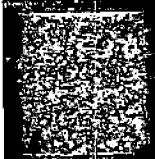
100. The Company may by Ordinary Resolution remove any Director before the expiration of his period of office and may by Ordinary Resolution appoint another person in his stead; the person so appointed shall be subject to retirement at the same time as if he had become a Director on the day on which the Director in whose place he is appointed was last elected a Director.

*Officers.*

101. The Company may have a President and shall have a Secretary who may be an individual ordinarily resident in the Islands, or body corporate whose registered office is situated in the Islands appointed by the Directors who may also from time to time appoint such other officers as they consider necessary, all for such terms, at such remuneration and to perform such duties, and subject to such provisions as to disqualification and removal as the Directors from time to time prescribe.

102. A provision of the Ordinance or these regulations requiring or authorising a thing to be done by a Director and an officer shall not be satisfied by its being done by the one person acting in the dual capacity of Director and officer.

*Presumption of Assent.*



103. A Director of the Company who is present at a meeting of the Board of Directors at which action on any Company matter is taken shall be presumed to have assented to the action taken unless his dissent shall be entered in the Minutes of the meeting or unless he shall file his written dissent from such action with the person acting as the Secretary of the Meeting before the

adjournment thereof or shall forward such dissent by registered mail to the Secretary of the Company immediately after the adjournment of the meeting. Such right to dissent shall not apply to a Director who voted in favour of such action.

*Seal.*

104. The Seal shall only be used by the authority of the Directors or a committee of Directors authorised by the Directors in that behalf and every instrument to which the Seal has been affixed shall be signed by one person who shall be a Director and countersigned by another person who shall be either the Secretary or another Director or some person appointed by the Directors for the purpose, but no instrument may be validly signed if bearing only the signatures of a Director and an Alternate Director appointed by him: Provided that the Company may have for use in any territory district or place not in the Islands an official seal which shall be a facsimile of a common seal of the company:

Provided further that a Director, Secretary or other officer may affix the Seal of the Company over his signature alone to any document of the Company required to be authenticated by him under seal.


*Authentication of Deeds and Documents.*

105. All deeds executed on behalf of the Company may be in such form and contain such powers, provisos, conditions, covenants, clauses and agreements as the Directors, or the Company in general meeting, shall think fit, and, in addition to being sealed with the seal, shall be signed by a Director or such other person as the Directors or the Company in general meeting shall from time to time to appoint, and countersigned by the Secretary or an Assistant Secretary or such other person as the Directors or the Company in general meeting shall from time to time appoint.

*Indemnity.*

106. The Directors, Secretary and other officers for the time being of the Company and the Trustee for the time being acting in relation to any of the affairs of the Company and their heirs, executors, administrators and personal representatives respectively shall be indemnified out of the assets of the Company from and against all actions, proceedings, costs, charges, losses, damages and expenses which they or any of them shall or may incur or sustain by reason of any act done or omitted in or about the execution of their duty in their respective offices or trusts, except





such (if any) as they shall incur or sustain by or through their own wilful neglect or default respectively and no such officer or trustee shall be answerable for the acts, receipts, neglects or defaults of any other officer or trustee or for joining in any receipt for the sake of conformity or for solvency or honesty of any bankers or other persons with whom any monies or effects belonging to the Company may be lodged or deposited for safe custody or for any insufficiency of any security upon which any monies of the Company may be invested or for any other loss or damage due to any such cause as aforesaid or which may happen in or about the execution of his office or trusts unless the same shall happen through the wilful neglect or default of such officer or trustee.

*Dividends and Reserve.*

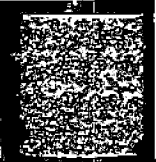
107. Subject to the right of persons (if any) entitled to shares with special rights as to dividend, the profits of the company which it shall be determined to distribute shall be divisible among the members holding shares in proportion to the capital paid up on such shares held by them respectively.

108. Subject to the Ordinance, the Directors may from time to time declare dividends on shares of the Company outstanding and authorise payment of the same out of the funds of the Company: PROVIDED HOWEVER that the Directors may from time to time pay to the members such interim dividends as appear to the Directors to be justified by the profits of the Company.

109. No dividend shall be payable except out of the profits of the Company.

110. Subject to the rights of persons, if any, entitled to shares with special rights as to dividends, if dividends are to be declared on a class of shares they shall be declared and paid rateably on the shares of such class outstanding: PROVIDED HOWEVER that dividends so payable on partly paid shares shall be applied on the purchase price and shall not, except to the extent of any excess, be paid to the holder of such shares, but no amount paid or credited as paid on a share in advance of calls shall be treated for the purposes of this regulation as paid on the shares.

111. The Directors may deduct from any dividend payable to any member all sums of money (if any) presently payable by him to the Company on account of calls or otherwise.



112. The Directors may declare that any dividend or bonus be paid wholly or partly by the distribution of specific assets and in particular of paid up shares, debentures, or debenture stock of itself or of any other company or in any one or more of such ways and where any difficulty arises in regard to such distribution the Directors may settle the same as they think expedient and in

particular may issue fractional certificates and fix the value for the distribution of such specific assets or any part thereof and may determine that cash payments shall be made to any members upon the footing of the value so fixed in order to adjust the rights of all members and may vest any such specific assets in trustees as may seem expedient to the Directors.

113. Unless otherwise directed any dividend, interest or other monies payable in cash in respect of shares may be paid by cheque or warrant sent through the post directed to the registered address of the holder thereof, and in case of joint holders, to the holder who is first named on the register of members or to such person and to such address as such holder or joint holders may in writing direct. Every such cheque or warrant shall be made payable to the order of the person to whom it is sent. Any one of two or more joint holders may give effectual receipts for any dividends, bonuses, or other monies payable in respect of the share held by them as joint holders.

114. No dividend shall bear interest against the Company.

115. The Directors may, before recommending any dividend, set aside, out of the profits of the Company, such sums as they think proper as a reserve fund to meet contingencies, or for equalising dividends, or for special dividends or bonuses, or for repairing, improving, and maintaining any of the property of the company, and for such other purposes as the Directors shall in their absolute discretion think conducive to the interest of the Company; and may invest the several sums so set aside upon such investments (other than shares of the Company) as they may think fit, and from time to time deal with and vary such investments, and dispose of all or any part thereof for the benefit of the Company, and may divide the reserve fund into such special funds as they think fit and employ the reserve fund or any part thereof in the business of the company, and that without being bound to keep the same separate from the other assets.

*Capitalisation of Profits and Reserves.*

116. The Company in general meeting may, upon the recommendation of the Directors, resolve that it is desirable to capitalise the whole or any part of the amount for the time being standing to the credit of any of the Company's reserve accounts, or to the credit of the profit and loss account, otherwise available for distribution, and accordingly that such sum be set free for distribution amongst the members who would have been entitled thereto if distributed by way of dividend and in the same proportions on condition that the same be not paid in cash but be applied either in or towards paying up any accounts for the time being unpaid on any shares held by such members respectively, or

paying up in full unissued shares or debentures of the Company to be allotted and distributed, credited as fully paid up, to and amongst such members in the proportion aforesaid, or partly in the one way and partly in the other, and the Directors shall give effect to such resolution.

117. Whenever such a resolution as aforesaid shall have been passed, the Directors shall make all appropriations and applications of the undivided profits resolved to be capitalised thereby, and all allotments and issues of fully paid shares, debentures or securities, if any, and generally shall do all acts and things required to give effect thereto, with full power to the Directors to make such provision by the issue of fractional certificates or by payment in cash or otherwise and as they think fit in the case of shares, debentures or securities becoming distributable in fractions, and also to authorise any person to enter on behalf of all the members interested into an agreement with the Company providing for the allotment to them respectively, credited as fully paid up, of any further shares, debentures or securities to which they may be entitled upon such capitalisation, or as the case may require, for the payment up by the Company on their behalf, by the application thereto of their respective proportions of the profits resolved to be capitalised, of the amounts or any part of the amounts remaining unpaid on their existing shares, and any agreement made under such authority shall be effective and binding on all such members.

*Accounts.*

118. The Directors shall cause proper books of accounts to be kept with respect to:—

- (a) all sums of money received and expended by the Company; and the matters in respect of which the receipt or expenditure takes place;
- (b) all sales and purchases of goods by the Company;
- (c) the assets and liabilities of the Company.

Proper books shall not be deemed to be kept if there are not kept such books of account as are necessary to give a true and fair view of the state of the Company's affairs and to explain its transactions.

119. The books of account shall be kept at the registered office of the Company, or at such other place or places as the Directors think fit, and shall always be open to the inspection of the Directors.

120. The Directors shall from time to time determine whether and to what extent and at what times and places and under what conditions or regulations the accounts and books of

the company or any of them shall be open to the inspection of members not being Directors, and no member (not being a Director) shall have any right of inspecting any account or book or document of the company except as conferred by law or authorised by the Directors or by the company in general meeting.

121. Once at the least in every year the Directors shall, unless waived by a resolution of the members in general meeting, lay before the company in general meeting a statement of the income and expenditure for the past year, made up to a date not more than six months before such meeting.

122. Unless waived by a resolution of the members in general meeting, a balance sheet shall be prepared in every year, and laid before the company in general meeting, and such balance sheet shall contain a summary of the property and liabilities of the company.

*Audit.*

123. Unless waived by a resolution of the members in general meeting, the Directors shall make all necessary arrangements for an annual audit of the books and accounts of the company.

124. The Company may at any Annual General Meeting appoint an auditor or auditors of the Company who shall hold office until the next Annual General Meeting and may fix his or their remuneration.

125. The Directors may before the first Annual General Meeting appoint an auditor or auditors of the company who shall hold office until the first Annual General Meeting unless previously removed by a resolution of the shareholders at that meeting. The Directors may fill any casual vacancy in the office of auditor but while any such vacancy continues the surviving or continuing auditor or auditors, if any, may act. The remuneration of any auditor appointed by the Directors under this Article may be fixed by the Directors.

126. Every auditor of the Company shall have a right of access at all times to the books and accounts and vouchers of the Company and shall be entitled to require from the Directors and Officers of the Company such information and explanation as may be necessary for the performance of the duties of the auditors.

127. The Auditors shall at the next Annual General Meeting following their appointment and at any other time during their term of office, upon request of the Directors or any general meeting of the shareholders, may make a report on the accounts of the company in general meeting during their tenure of office.

*Notice.*

128. Notices shall be in writing and may be given by the Company to any member either personally or by sending it by post, cable or telex to him or to his address as shown in the register of members such notice to be forwarded airmail if the address be outside the Turks and Caicos Islands.

129. (a) Where a notice is sent by post, service of the notice shall be deemed to be effected by properly addressing, pre-paying and posting a letter containing the notice, and to have been effected at the expiration of sixty hours after the letter containing the same is posted as aforesaid.

(b) Where a notice is sent by cable or telex, service of the notice shall be deemed to be effected by properly addressing, pre-paying and sending through a transmitting organisation the notice, and to have been effected at the expiration of forty-eight hours after the same is sent as aforesaid.

130. A notice may be given by the company to the joint holders of record of a share by giving the notice to the joint holder first named on the register of members in respect of their shares.

131. A notice may be given by the Company to the person or persons which the Company has been advised are entitled to a share or shares in consequence of the death or bankruptcy of a member by sending it through the post as aforesaid in a pre-paid letter addressed to them by name, or by the title of representatives of the deceased, or trustee in bankruptcy, or by any like description at the address supplied for that purpose by the persons claiming to be so entitled, or at the option of the company by giving the notice in any manner in which the same might have been given if the death or bankruptcy had not occurred.

132. Notice of every general meeting shall be given in any manner hereinbefore authorised to—

(a) every person shown as a member in the register of members as of the date for such meeting except that in the case of joint holders the notice shall be sufficient if given to the joint holder first named in the register of members;

(b) every person upon whom the ownership of a share devolves by reason of his being a legal personal representative or a trustee in bankruptcy of a member where the member but for his death or bankruptcy would be entitled to receive notice of the meeting; and

(c) the Company's auditors for the time being, if any.

No other person shall be entitled to receive notices of general meetings.

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*Winding up.*

133. If the Company shall be wound up the Liquidator may, with the sanction of a special resolution of the company and any other sanction required by the Ordinance, divide amongst the members in specie or kind the whole or any part of the assets of the Company (whether they shall consist of property of the same kind or not) and may for such purpose set such value as he deems fair upon any property to be divided as aforesaid and may determine how such division shall be carried out as between the members or different classes of members. The Liquidators may with the like sanction, vest the whole or any part of such assets in trustees upon such trusts for the benefit of the contributories as the Liquidator, with the like sanction, shall think fit, but so that no member shall be compelled to accept any shares or other securities whereon there is any liability.

134. If the Company shall be wound up, and the assets available for distribution amongst the members as such shall be insufficient to repay the whole of the paid-up share capital, such assets shall be distributed so that, as nearly as may be, the losses shall be borne by the members in proportion to the capital paid-up, or which ought to have been paid up, at the commencement of the winding up, on the shares held by them respectively. And if in a winding up the assets available for distribution amongst the members shall be more than sufficient to repay the whole of the capital paid up at the commencement of the winding up, the excess shall be distributed amongst the members in proportion of their share holdings respectively. This regulation is without prejudice to the rights of the holders of shares issued upon special terms and conditions.

*Amendment of Regulations.*

135. Subject to the Ordinance, the company may at any time and from time to time by Special Resolution alter or amend these Regulations in whole or in part.

*Table "B"*

Regulations for the operation and management of an exempted company which may be incorporated by reference in its Articles of Association.

(1) In these Regulations the following words and expressions shall, where not inconsistent with the context, have the following meanings respectively:—

“Members” means the person, body corporate or partnership registered in the Register of Members as the holder of shares in the Company, and when two or more persons are so registered as joint holders of shares, means the person whose name stands first in the Register of Members as one of such joint holders;

“Notice” means written notice unless otherwise specifically stated;

“the Ordinance” means the Companies Ordinance 1981;

“the Company” means the Company for which these Articles are approved and confirmed;

“Secretary” means the person appointed to perform the duties of Secretary of the Company and includes any Assistant or Acting Secretary;

• “Auditor” includes any individual or partnership.

(2) In these Regulations, unless there be something in the subject or context inconsistent with such construction, words importing the plural number shall be deemed to include the singular number.

(3) Expressions referring to writing shall, unless the contrary intention appears, be construed as including printing, lithography, photography and other modes of representing words in a visible form.

(4) Unless the context otherwise requires, words or expressions contained in these Regulations shall bear the same meaning as in the Ordinance or any statutory modification thereof in force for the time being.

(5) Shares may be issued on the terms that they may, or at the option of the Company may, be redeemed on such terms and in such manner as the Company before issue of the shares, may determine and the Company may issue bearer shares in such form and in such manner as the Directors think fit.

(6) Where joint holders are registered holders of a share or shares then in the event of the death of any joint holder or holders the remaining joint holder or holders shall be absolutely entitled to

the said shares and the Company shall recognize no claim in respect of the estate of any joint holder except in the case of the last survivor of such joint holders.

(7) Every Member shall be entitled to a certificate under the Seal of the Company specifying the shares held by him and that the same are fully paid up. If any such certificate shall be proved to the satisfaction of the Directors to have been worn out, lost, mislaid or destroyed the Directors may cause a new certificate to be issued, and request an indemnity for the lost certificate if they see fit.

(8) All shares shall be fully paid and non-assessable.

*Registration of Members.*

(9) The Company shall keep in one or more books a Register of its Members and shall enter therein the following particulars, that is to say—

(a) the name and address of each Member, the number of shares held by him and the amount paid or agreed to be considered to be paid on such shares;

(b) the date on which each person was entered in the register of Members; and

(c) the date on which any person ceased to be a Member.

*Transfer of Shares.*

(10) Except in the case of bearer shares the instruments of transfer shall be in a form or as near thereto as circumstances admit as Form A hereunder. The transferor shall be deemed to remain the holder of such share until the same has been transferred to the transferee in the Register of Members.

“Form A

*Transfer of a Share or Shares.*

FOR VALUE RECEIVED (fill in amount for purposes of stamp duty) (name in full of transferor) hereby sell, assign and transfer unto (name in full of transferee) of (address) share(s) or stock represented by the within certificate.

Dated:

\_\_\_\_\_  
(Transferor)

.....  
(Transferee) ”



(11) The Directors may decline to register the transfer of a share without assigning any reason therefor.

(12) The Directors may decline to recognise any instrument of transfer unless it is accompanied by the certificate of the shares to which it relates, and by such other evidence as the Directors may reasonably require, to show the right of the transferor to make the transfer.

(13) The joint holder of a share may transfer such share to any one or more such joint holders, and the joint holders of two or more shares may transfer such shares or any or either of them to one or more of such joint holders, and the surviving holder or holders of any share or shares previously held by them jointly with a deceased Member may transfer any such share to the executors or administrators of such deceased Member.

*Transmission of Shares.*

(14) The executors or administrators of a deceased Member shall except as provided hereafter be the only person recognized by the Company as having any title to his shares, but this shall not apply in the case of one or more joint holders of a share or shares, except in the case of the last survivor of such joint holders. On production of evidence of the death of a joint holder of a share or shares the remaining holder or holders shall automatically become entitled to the issue of a new certificate in the name of the remaining holder or holders.

(15) Any person entitled to a share in consequence of the death of any Member, may be registered as a Member upon such evidence as the Directors may deem sufficient, or may, instead of being registered himself, elect to have some person named by him registered as a transferee of such share.

*Meetings.*

(16) The Directors may convene a Special Meeting of the Company whenever in their judgement such a Meeting is necessary upon fourteen days notice in writing to each of the Members, mailed to each Member at his address as registered in the Register of Members by air mail (if appropriate) and such notice shall state the time place and as far as practicable the objects of the Meeting.

(17) The accidental omission to give notice of a meeting to, or the non-receipt of notice of a meeting by, any person entitled to receive notice shall not invalidate the proceedings at that meeting.

(18) Members holding not less than one-tenth part in value of the shares of the Company shall at all times have the right by

requisition to the Secretary of the Company, to require a Special Meeting to be called for the transaction of any business specified in such requisition, such Meeting shall be called within two months after such requisition.

(19) A meeting of the Company shall, notwithstanding that it is called by shorter notice than that specified in these Regulations, be deemed to have been properly called if it is so agreed by all the members entitled to attend and vote thereat.

(20) (a) At any General Meeting of the Company one or more members present in person and representing in person or by proxy in excess of 50% of the outstanding voting shares of the capital stock of the Company shall form a quorum for the transaction of business; if within half an hour from the time appointed for the meeting a quorum is not present, the meeting shall stand adjourned to the following day at the same time and place or to such other day and such other time as the Directors may determine.

(b) The Chairman may, with the consent of any meeting at which a quorum is present (and shall if so directed by the meeting), adjourn the meeting from time to time and from place to place, and only the business left unfinished at the meeting from which the members present in person or represented by proxy have adjourned shall be dealt with. It shall not be necessary to give any notice of the adjourned meeting or of the business to be transacted at the adjourned meeting; save and except for a meeting adjourned *sine die*, when notice of the adjourned meeting shall be given as in the case of an original meeting.

(21) (1) Subject to any rights or restrictions lawfully attached to any class of shares, at any General Meetings of the Company each registered Member shall be entitled to one vote for each share held by him and such vote may be given in person or by proxy.

(2) At any General Meeting of the Company any question proposed for the consideration of the members shall be decided on a simple majority of the votes of such Member and such majority shall be ascertained in accordance with the provisions of these regulations.

(3) At any General Meeting of the Company a declaration by the Chairman that a question proposed for consideration has, on a show of hands, been carried, or carried unanimously or by a particular majority or lost and an entry to that effect in a book containing the Minutes of the proceedings of the Company shall, subject to the provisions of subparagraph (4), be conclusive evidence of that fact without proof of the number or proportion of the votes recorded in favour of or against such question.

(4) Notwithstanding the provisions of subparagraph (3), at any General Meeting of the Company, it shall be lawful, in respect of any question proposed for the consideration of the Members (whether before or on the declaration of the result of a show of hands as provided for in subparagraph (3), for a poll to be demanded by any of the following persons:

- (a) the Chairman of such Meeting; or
- (b) at least three Members present in person or represented by proxy; or
- (c) any Member or Members present in person or represented by proxy and holding between them not less than one-tenth of the total voting rights of all the members having the right to vote at such Meetings.

(5) Where, in accordance with the provisions of subparagraph (4), a poll is demanded, and subject to any rights or restrictions for the time being lawfully attached to any class of shares, every Member present in person at such Meeting shall have one vote for each share of which he is the holder or for which he holds a proxy and such vote shall be counted in such manner as the Chairman may direct and the result of such poll shall be deemed to be the resolution of the Meeting at which the poll was demanded and shall replace any previous resolution upon the same matter which has been the subject of a show of hands.

(6) A poll demanded, in accordance with the provisions of subparagraph (4), for the purpose of electing a Chairman, or on a question of adjournment shall be taken forthwith and a poll demanded on any other question shall be taken at such Meeting as the Chairman may direct.

(22) When a vote is taken by ballot each Member entitled to vote shall be furnished with a ballot paper on which he shall record his vote in such manner as shall be determined at the Meeting having regard to the nature of the question on which the vote is taken; and each ballot paper shall be signed or initialled or otherwise marked so as to identify the voter. At the conclusion of the ballot the ballot paper shall be examined by the Chairman with assistance of a Member appointed for the purpose, and the result of the ballot shall be declared by the Chairman.

(23) An instrument appointing a proxy shall be in writing under the hand of the Member or his attorney duly authorised in writing or, if the Member is a corporation either under seal or under the hand of an officer or attorney of the corporation duly authorised, and shall be in the Form B hereunder or such other form as the Directors may from time to time approve:—

"FORM B

..... LIMITED

PROXY

I/WE .....

of .....

the holder of ..... shares in the above  
named Company.

hereby appoint ..... of .....

or failing him ..... of .....

or failing him ..... of .....

as my/our proxy to vote on my/our behalf at the .....

General Meeting of the Company to be held on the ..... day of

..... 19 , and at any adjournment thereof.

Dated this ..... day of ..... 19

Signed by the above named

.....

in the presence of

.....

Witness

..... "

(24) Any corporation which is a Member of the Company  
may by resolution of its Directors authorise such person as it  
thinks fit to act as its representative at any Meeting of the  
Members of the Company and the person so authorised shall be  
entitled to exercise the same powers on behalf of the corporation  
which he represents as that corporation could exercise if it were an  
individual Member of the Company.

*Minutes.*

(25) The Directors shall cause Minutes to be duly entered in books provided for the purpose—

(a) of all elections and appointments of Officers;

(b) of the names of the Directors or their Alternates present at each Meeting of the Directors and of any Committee of the Directors;

(c) of all resolutions and proceedings of each General Meeting of the Members, Meetings of the Directors and Meetings of Committees of the Directors, provided that any minute of such Meetings, if purporting to be signed by the Chairman thereof or by the Chairman of the next succeeding Meeting, shall be sufficient evidence of the proceedings without any further proof of the facts therein stated, and further provided that when all the Members in person or by proxy sign the Minutes of an ordinary or extraordinary general meeting, and when a majority of the Directors sign the minutes of a meeting of the Directors, the same shall be deemed to have been duly held, notwithstanding that the Members or Directors have not actually come together or that there may have been technical defects in the proceedings, and a resolution in writing in one or more parts signed by all the Members or a majority of the Directors shall be as valid and effectual as if it had been passed at a meeting duly called and constituted.

*Directors.*

(26) The business of the Company shall be managed and conducted by a Board of Directors consisting of not less than one and such number in excess thereof as the members may from time to time determine who shall hold office until their successors are elected or appointed and any General Meeting may authorise the Board of Directors to fill any vacancy in their numbers.

(27) The Directors may meet for the transaction of business, adjourn and otherwise regulate their Meetings as they see fit.

(28) (a) A meeting of the Directors may be convened by the Secretary or by any Director. The Secretary shall convene a Meeting of the Directors of which notice may be given by telephone or otherwise whenever he shall be required so to do by any Director.

(b) The members of the Board of Directors may participate in a meeting by means of a conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear each other at the same time. Participation by such means shall constitute presence in person at a meeting.

(c) The Directors may pass a resolution without holding a meeting if a consent in writing setting out the resolution required by all of the Directors or filed in the minutes of the proceedings of the Board. Such consent shall have the same effect as an unanimous vote.

(29) The quorum necessary for the transaction of the business of the Directors may be fixed by the Directors, and unless so fixed shall be a majority.


(30) Any Director, or his firm, partner or company may act in a professional capacity for the Company, and he shall be entitled to remuneration for professional services as if he were not a Director; provided that nothing herein contained shall authorise a Director or his firm to act as auditor of the company.

(31) All acts done by any Meeting of the Directors or of a Committee of Directors or by any person acting as a Director shall, notwithstanding that it be afterwards discovered that there was some defect in the appointment of any such Director or person acting as aforesaid, or that they or any of them were disqualified, be as valid as if every such person had been duly appointed and was qualified to be a Director.

#### *General Powers of Directors.*

(32) (a) The business of the Company shall be managed by the Directors, who may pay all expenses incurred in promoting and incorporating the company, and may exercise all such powers of the Company as are not, by this Ordinance or by these regulations required to be exercised by the Company in General Meeting, subject, nevertheless, to any of these regulations, to the provision of any Ordinance and to any regulations made thereunder, being not inconsistent with these regulations or provisions, as may be prescribed by the Company in General Meeting; but no regulations made by the Company in General Meeting shall invalidate any prior act of the Directors which would have been valid if that regulation had not been made.

(b) The Directors may from time to time and at any time by power of attorney appoint any company, firm or person or body of persons, whether nominated directly or indirectly by the Directors, to be the attorney or attorneys of the Company for such purposes and with such powers, authorities and discretions (not exceeding those vested in or exercisable by the Directors under these regulations) and for such period and subject to such conditions as they may think fit, and any such powers of attorney may contain such provisions for protection and convenience of persons dealing with any such attorney as the Directors may think fit and may also authorise any such attorney to delegate all or any of the powers, authorities and discretions so vested in the attorney.



(c) The Directors may appoint, suspend and remove the managers, secretary, clerks, agents and servants of the Company, and may fix their remuneration and determine their duties, and the securities (if any) to be taken from them respectively, and may appoint and remove the attorney and brokers of the Company.

(33) The Directors may delegate any of their powers to a committee consisting of two or more of the Directors, but every such committee shall conform to such directions as the Directors shall impose on them.

*Officers.*

(34) The officers of the Company shall consist of a Secretary and such additional officers as the Directors shall from time to time determine.

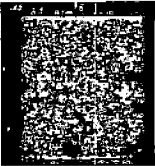
(35) The Secretary and additional officers, if any, shall be appointed or elected by the Directors and shall hold office during the pleasure of the Directors.

(36) The Secretary shall attend all Meetings of the Company and of the Directors and shall keep correct minutes of such Meetings and enter the same in proper books provided for the purpose. He shall perform such duties as are prescribed by the Ordinance or these regulations, or as shall be prescribed by the Directors. The Secretary shall receive such salary as the Directors shall from time to time determine.

(37) The Directors shall exercise a general supervision over the financial affairs of the Company, and shall be responsible for correct keeping of the books, and for safe keeping of all moneys and securities of the Company, and shall submit their accounts and vouchers to the auditor whenever required so to do.

*Dividends.*

(38) The Directors may declare a dividend to be paid to the Members, in proportion to their shares, out of the surplus or profits from the business of the Company, and such dividend may be paid wholly or partly in specie in which event the sanction of the Company in General Meeting shall be obtained.



(39) The Directors may from time to time before declaring a dividend set aside out of surplus or profits of the Company such sums as they think proper as a reserve fund to be used to meet contingencies or for equalising dividends or for any other special purpose.

(40) The Directors are authorised and empowered to lend to any officer, Director or Member of the Company any sum or sums

of money without restriction as to amount upon such terms and conditions as they in their absolute discretion may determine.

*Accounts and Financial Statements.*

(41) The Directors shall cause true accounts to be kept of all transactions of the Company in such manner as to show the assets and liabilities of the Company for the time being.

(42) The financial year end of the company shall be determined by resolution of the Directors and failing such resolution the financial year end shall be 31st December.

(43) As and when requested by the Members of the Company, a balance sheet made up for the financial year containing a summary of the assets and liabilities of the Company under convenient heads and a statement of income and expenditure for the period requested by the Members shall be laid before the Members in General Meeting.

(44) An independent representative of the Members may be appointed by them as Auditor of the Accounts of the Company and such Auditor shall hold office until the Members shall appoint another Auditor. Such Auditor may be a Member but no Director or Officer of the Company shall during his continuance in office be eligible as an auditor of the Company.

(45) The duties and remuneration of the Auditor shall be fixed by the Company in General Meeting or in such manner as the Shareholders may determine.

*Notices.*

(46) Unless otherwise herein or by law expressly provided, a notice may be served by the Company on any Member either personally or by telex or cable to his registered address or by sending it using air mail (if appropriate) through the post prepaid in an envelope addressed to such Member at his address as registered in the Register of Members.

(47) Any notice required to be given to the Members shall with respect to any shares held jointly by two or more persons be given to all such persons.

(48) Any notice shall be deemed to have been served at the time when the same would be delivered in the ordinary course of transmission, and in proving such service it shall be sufficient to prove that the notice was properly addressed and prepaid, if posted, and the time when it was posted or transmitted by telex or to the cable company as the case may be.



*Seal of the Company.*

(49) The Seal of the Company shall not be affixed to any instrument except over the signature of a Director and the Secretary or any two Directors or by some person appointed by the Directors: provided that the Secretary may affix the Seal of the Company over his signature only to any authenticated copies of these regulations, the Memorandum of Association, the minutes of any meetings or any other document required to be authenticated by him and to any instrument which a Meeting of the Directors has specifically approved beforehand.

*Indemnity.*

(50) The Directors, Auditors, Secretary and other officers for the time being of the Company and the Trustees (if any) for the time acting in relation to any of the affairs of the Company and every of them, and every of their heirs, executors and administrators, shall be indemnified and secured harmless out of the assets and profits of the Company from and against all actions, costs, charges, losses, damages and expenses which they or any of them, their or any of their heirs, executors or administrators, shall or may incur or sustain by or by reason of any act done, concurred in or omitted in or about the execution of their duty, or supposed duty, in their respective offices or trusts except such (if any) as they shall incur or sustain by or through their wilful neglect or default respectively and none of them shall be answerable for the acts, receipts, neglects or defaults of the other or others of them or for joining in any receipt for the sake of conformity, or for any bankers or other persons with whom any moneys or effects belonging to the Company shall or may be lodged or deposited for safe custody, or for insufficiency or deficiency or of any security upon which any moneys of or belonging to the Company shall be placed or invested, or for any other loss, misfortune or damage which may happen in the execution of their respective offices or trusts, or in relation thereto, unless the same shall happen by or through their own wilful neglect or default respectively.

*Alteration of Regulations.*

(51) No Regulation shall be rescinded, altered or amended, and no new Regulation shall be made until the same has been proposed and passed at a Meeting of the Directors and confirmed at a subsequent General Meeting of Members.

## THIRD SCHEDULE.

*Part I.*

## RULES GOVERNING THE ISSUE OF A PROSPECTUS.

(1) A prospectus issued by or on behalf of a company or in relation to an intended company shall be dated, and that date shall, unless the contrary is proved, be taken as the date of publication of the prospectus.

(2) Subject to the provisions of paragraphs 9 and 10, every prospectus issued by or on behalf of a company, or by or on behalf of any person who is or has been engaged or interested in the formation of a company, must state the matters specified in Part II of this Schedule.

(3) A condition requiring or binding an applicant for shares in or debentures of a company to waive compliance with any requirement of this Part or purporting to affect him with notice of any contract, document or matter not specifically referred to in the prospectus, shall be void.

(4) Subject to the provisions of paragraph 9 and 10, it shall not be lawful to issue any form of application for shares in or debentures of a company unless the form is issued with a prospectus which complies with the requirements of this Part:

Provided that this paragraph shall not apply if it is shown that the form of application was issued either—

(a) in connection with a *bona fide* invitation to a person to enter into an underwriting agreement with respect to the shares or debentures; or

(b) in relation to shares or debentures which were not offered to the public.

(5) If any person acts in contravention of the provisions of paragraph 4 he shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

(6) In the event of non-compliance with or contravention of any of the requirements of paragraphs 2 to 6 inclusive, a director or other person responsible for the prospectus shall not incur any liability by reason of the non-compliance or contravention, if—

(a) as regards any matter not disclosed, he proves that he was not cognisant thereof;

(b) he proves that the non-compliance or contravention arose from an honest mistake of fact on his part; or

(c) the non-compliance or contravention was in respect of matters which in the opinion of the court dealing with the case were immaterial or was otherwise such as ought, in the opinion of

that court, having regard to all the circumstances of the case, reasonably to be excused:

Provided that, in the event of failure to include in a prospectus a statement with respect to the matters specified in paragraph 16 of Part II of this Schedule, no director or other person shall incur any liability in respect of the failure unless it be proved that he had knowledge of matters not disclosed.

(7) Paragraphs 2 to 6 inclusive shall not apply—

(a) to the issue to existing members or debenture holders of a company of a prospectus or form of application relating to shares in or debentures of the company, whether an applicant for shares or debentures will or will not have the right to renounce in favour of other persons; or

(b) to the issue of a prospectus or form of application relating to shares or debentures which are or are to be in all respects uniform with shares or debentures previously issued; but subject as aforesaid, this paragraph shall apply to a prospectus or a form of application whether issued with reference to the formation of a company or subsequently.

(8) Nothing in paragraph 2 to 7 inclusive, shall limit or diminish any liability which any person may incur under the general law or this Ordinance apart from this Part of this Schedule.

(9) Where it is proposed to offer any shares in or debentures of a company to the public by a prospectus issued generally (that is to say, issued to persons who are not existing members or debenture holders of the company) there may, on the request of the applicant, be given by or on behalf of the Financial Secretary a certificate of exemption, that is to say, a certificate that having regard to the proposals (as stated in the request) as to the size and other circumstances of the issue of shares or debentures and to any limitations on the number and class of persons to whom the offer is to be made, compliance with requirements of Part II of this Schedule would be unduly burdensome.

(10) If a certificate of exemption is given, and if the proposals aforesaid are adhered to, then—

(a) a prospectus giving the particulars and information aforesaid in the form in which they are so required to be published shall be deemed to comply with the requirements of Part II of this Schedule; and

(b) paragraph 9 shall not apply to any issue, after the permission applied for is granted, of a prospectus or form of application relating to the shares or debentures.

(11) A prospectus inviting persons to subscribe for shares in or debentures of a company and including a statement purporting to be made by an expert shall not be issued unless—

(a) he has given and has not, before delivery of a copy of the prospectus for registration, withdrawn his written consent to the issue thereof with the statement included in the form and context in which it is included; and

(b) a statement that he has given and has not withdrawn his consent as aforesaid appears on the prospectus.

(12) If any prospectus is issued in contravention of paragraph 11 the company and every person who is knowingly a party to the issue thereof shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

(13) No prospectus shall be issued by or on behalf of a company or in relation to an intended company unless, on or before the date of its publication, there has been delivered to the registrar of companies for registration a copy thereof signed by every person who is named therein as a director or proposed director of the company, or by his agent authorised in writing, and having endorsed thereon or attached thereto—

(a) any consent to the issue of the prospectus required by paragraph 11 from any person as an expert; and

(b) in the case of a prospectus issued generally, also a copy of any contract required by paragraph 14 of Part II of this Schedule to be stated in the prospectus or in the case of a contract not reduced into writing, a memorandum giving full particulars thereof, or if in the case of a prospectus deemed by virtue of a certificate granted under paragraph 9 to comply with the requirements of Part II a contract or a copy thereof or a memorandum of a contract is required to be available for inspection in connection with the application made under that paragraph to the Financial Secretary a copy or, as the case may be, a memorandum of that contract.

(14) Where a prospectus issued after the commencement of this Ordinance includes any untrue statement, any person who authorised the issue of the prospectus shall be liable—

(a) on conviction, to a fine of one thousand dollars and to imprisonment for two years; or

(b) on summary conviction, to a fine of two hundred dollars and to imprisonment for three months,

unless he proves either that the statement was immaterial or that he had reasonable ground to believe and did, up to the time of issue of the prospectus, believe that the statement was true.

(15) A person shall not be deemed for the purposes of paragraph 14 to have authorised the issue of a prospectus by reason only of his having given the consent required by paragraph 10 to the inclusion therein of a statement purporting to be made by him as an expert.

*Part II.*

MATTERS TO BE SPECIFIED IN PROSPECTUS

(1) The number of founders or management or deferred shares, if any, and the nature and extent of the interest of the holders in the property and profits of the company.

(2) The number of shares, if any, fixed by the articles as the qualification of a director, and any provisions in the articles as to the remuneration of the directors.

(3) The names, descriptions and addresses of the directors or proposed directors.

(4) Where shares are offered to the public for subscription, particulars as to—

(a) the minimum amount which, in the opinion of the directors must be raised by the issue of those shares in order to provide the sums, or, if any part thereof is to be defrayed in any other manner, the balance of the sums, required to be provided in respect of each of the following matters:—

(i) the purchase price of any property purchased or to be purchased which is defrayed in whole or in part out of the proceeds of the issue;

(ii) any preliminary expenses payable by the company, and any commission so payable to any person in consideration of his agreeing to subscribe for, or of his procuring or agreeing to procure subscriptions for, any shares in the company;

(iii) the repayment of any moneys borrowed by the company in respect of any of the foregoing matters;

(iv) working capital; and

(b) the amounts to be provided in respect of the matters aforesaid otherwise than out of the proceeds of the issue and the sources out of which those amounts are to be provided.

(5) The time of the opening of the subscription lists.

(6) The amount payable on application and allotment of each share, and, in the case of a second or subsequent offer of shares, the amount offered for subscription on each previous allotment made within the two preceding years, the amount actually allotted, and the amount, if any, paid on the shares so allotted.

(7) The number, description and amount of any share in or debenture of the company which any person has, or is entitled to be given, an option to subscribe for, together with the following particulars of the option, that is to say—

(a) the period during which it is exercisable;

(b) the price to be paid for shares or debentures subscribed for under it;

(c) the consideration (if any) given or to be given for it or for the right to it;

(d) the names and addresses of the persons to whom it or the right to it was given or if given to existing shareholders or debenture holders as such, the relevant shares or debentures.

(8) The number and amount of shares and debentures which within the two preceding years have been issued, or agreed to be issued, as fully or partly paid up otherwise than in cash and in the latter case the extent to which they are so paid up, and in either case the consideration for which those shares or debentures have been issued or are proposed or intended to be issued.

(9)—(1) As respects any property to which this paragraph applies—

(a) the name and addresses of the vendors;

(b) the amount payable in cash, shares or debentures to the vendor and, where there is more than one separate vendor, or the company is a sub-purchaser, the amount so payable to each vendor;

(c) short particulars of any transaction relating to the property completed within the two preceding years in which any vendor of the property to the company or any person who is, or was at the time of the transaction, a promoter or a director or proposed director of the company had any interest direct or indirect.

(2) The property to which this paragraph applies is property purchased or acquired by the company or proposed so to be purchased or acquired, which is to be paid for wholly or partly out of the proceeds of the issue offered for subscription by the prospectus or the purchase or acquisition of which has not been completed at the date of the issue of the prospectus, other than property—

- (a) the contract for the purchase or acquisition whereof was entered into in the ordinary course of the company's business, the contract not being made in contemplation of the issue nor the issue in consequence of the contract; or

(b) as respects which the amount of the purchase money is not material.

(10) The amount, if any, paid or payable as purchase money in cash, shares or debentures for any property to which the last foregoing paragraph applies, specifying the amount, if any, payable for goodwill.

(11) The amount, if any, paid within the two preceding years, or payable as commission (but not including commission to sub-underwriters) for subscribing or agreeing to subscribe, or procuring or agreeing to procure subscription, for any shares in or debentures of the company, or the rate of any such commission.

(12) The amount or estimated amount of preliminary expenses and the persons by whom any of those expenses have been paid or are payable, and the amount or estimated amount of the expenses of the issue and the persons by whom any of those expenses have been paid or are payable.

(13) Any amount or benefit paid or given within the two preceding years or intended to be paid or given to any promoter, and the consideration for the payment or the giving of the benefit.

(14) The dates of, parties to and general nature of every material contract, not being a contract entered into in the ordinary course of the business carried on or intended to be carried on by the company or a contract entered into more than two years before the date of issue of the prospectus.

(15) The names and addresses of the auditors, if any, of the company.

(16) Full particulars of the nature and extent of the interest, if any, of every director in the promotion of, or in the property proposed to be acquired by, the company, or where the interest of such a director consists in being a partner in a firm, the nature and extent of the interest of the firm, with a statement of all sums paid or agreed to be paid to him or to the firm in cash or shares or otherwise by any person either to induce him to become, or to qualify him as, a director, or otherwise for services rendered by him or by the firm in connection with the promotion or formation of the company.

(17) If the prospectus invites the public to subscribe for shares in the company and the share capital of the company is divided into different classes of shares, the right of voting at meetings of the company conferred by, and the rights in respect of capital and dividends attached to, the several classes of shares respectively.

(18) In the case of a company which has been carrying on business, or of a business which has been carried on for less than three years, the length of time during which the business of the company or the business to be acquired, as the case may be, has been carried on.

## FOURTH SCHEDULE

(Sections 25(4), 39(1), 43(2), 184 and 188)

## FEES

## FEES PAYABLE BY COMPANIES OTHER THAN EXEMPTED COMPANIES

The fees payable by a company other than an exempted company shall be as follows:

1. upon the filing of the memorandum and articles of association of the company (section 25(4)) —
  - (a) where the nominal share capital does not exceed \$50,000 .....\$275
  - (b) where the nominal share capital exceeds \$50,000 but does not exceed \$100,000 .....\$450
  - (c) where the nominal share capital exceeds \$100,000 but does not exceed \$750,000 .....\$550
  - (d) where the nominal share capital exceeds \$750,000 but does not exceed \$2,000,000 ..... \$1,050
  - (e) where the nominal share capital exceeds \$2,000,000 ..... \$2,050
2. upon the filing of the annual list of members (section 39(1)).....\$250



FEES PAYABLE BY PROPOSED EXEMPTED COMPANIES AND EXEMPTED  
COMPANIES

The fees payable by proposed exempted companies and exempted  
companies shall be as follows:

1. upon applying for registration as an exempted company  
(section 184) —
  - (a) where the nominal share capital  
does not exceed \$5,000 .....\$325
  - (b) where the nominal share capital  
exceeds \$5,000 but does not  
exceed \$50,000 ..... \$325 and one  
*per centum* of  
the amount by  
which the nom-  
inal share capital  
exceeds \$5,000
  - (c) where the nominal share capital  
exceeds \$50,000 but does not  
exceed \$100,000 ..... \$775 and one  
half of one *per*  
*centum* of the  
amount by  
which the nom-  
inal share capital  
exceeds \$50,000
  - (d) where the nominal share capital  
exceeds \$100,000 ..... \$1,050 and one-  
tenth of one *per*  
*centum* of the  
amount by  
which the nom-  
inal share capital  
exceeds  
\$100,000
2. annual fee (section 188) .....\$300

**FEE PAYABLE BY ALL COMPANIES**

There shall be paid by any company, upon the filing of a notice of increase of the amount of the amount of its nominal share capital, a fee of such amount as is equivalent to the difference between —

(a) in the case of a company other than an exempted company —

- (i) the fee which would have been payable by the company under subsection (4) of section 25 had the memorandum of association of the company, showing the amount of its nominal share capital as increased, been filed on the date on which the notice was filed; and
- (ii) the fee which would have been payable by the company under that subsection had the memorandum of association of the company, showing the amount of its nominal share capital before the increase, been filed on the date on which the notice was filed;

(b) in the case of an exempted company —

- (i) the fee which would have been payable under section 184 by the company, as proposed, upon application for registration as an exempted company, had the application been made on the date on which the notice was filed and the memorandum of association of the company, as proposed, shown, on that date, the amount of its nominal share capital as increased; and
- (ii) the fee which would have been payable under that section by the company, as proposed, upon application for registration as an exempted company, had the application been made on the date on which the notice was filed and the memorandum of association of the company, as proposed, shown, on that date, the amount of its nominal share capital before the increase (section 43(2)).

THE COMPANIES (AMENDMENT) ORDINANCE  
1985

(No. 9 of 1985.)

*(Effective date: 4th October 1985)*

AN ORDINANCE TO AMEND THE COMPANIES ORDINANCE  
1981. ENACTED BY THE LEGISLATURE OF THE TURKS  
AND CAICOS ISLANDS.

1.—(1) This Ordinance may be cited as the Com-  
panies (Amendment) Ordinance 1985.

Short title and  
commencement.

(2) This Ordinance shall be deemed to have come  
into force on the first day of January, nineteen hundred  
and eighty-five.

2. Section 188 of the Companies Ordinance 1981  
is repealed and replaced by the following section—

Section 188 of the  
principal Ordinance  
repealed and  
replaced.  
No. 11 of 1981.

“188. Every exempted company shall, in January  
of each year, pay such fee as is specified in the  
Fourth Schedule in relation to this section.”



## THE CASINOS ORDINANCE 1978.

(No. 13 of 1978.)

AN ORDINANCE TO PROVIDE FOR THE LICENSING AND CONTROL OF PREMISES USED FOR GAMING, FOR LEVYING TAXES ON GAMING AND FOR OTHER PURPOSES CONNECTED THEREWITH.

[27th March, 1979.]

L.N. 15/1979.  
Commencement:  
see s. 1.

## PART I.

*Preliminary.*

1. This Ordinance may be cited as the Casinos Ordinance 1978, and shall come into operation on a date to be appointed by Government Notice.

Short title and  
commencement.

2.—(1) In this Ordinance, unless the context otherwise requires—

Interpretation.

“application” means an application for a licence;

“casino” means any gaming-house kept and managed for gain by the occupier or any person acting with his authority or consent, and operated under a licence;

“chips” means any tokens prescribed for use in a casino to represent sums of money as stakes in gaming;

“Commission” means a commission of inquiry, whether comprising one or more persons, appointed under section 6 or 7;

“drop” means the money which players in a casino exchange for chips to enable them to take part in gaming, otherwise than by means of a gaming machine;

“game of chance” does not include any athletic game or sport, but (subject to subsection (4)) includes a game of chance and skill combined and a pretended game of chance or of chance and skill combined;

"gaming" means playing for winnings in money, or for other stakes, any game of chance or betting whether or not any person playing the game or betting is at risk of losing any money or other stakes;

"gaming house" means any house, room or premises, enclosure or place to which any person may resort for the purpose of gaming;

"gaming machine" means a gaming machine as defined in the Gaming Machines Ordinance 1976;

"inspector" means an inspector appointed under section 26;

"licence" means a licence to operate a casino granted under section 13, and grammatical variations and cognate expressions shall be construed accordingly;

"Minister" means the Minister for the time being charged with responsibility for the administration of this Ordinance;

"tax" means a tax payable under the provisions of section 27 or 28, as the context requires.

(2) Notwithstanding the provisions of subsection (1), the keeping of premises for gaming by means only of a gaming machine, when such premises are licensed under the Gaming Machines Ordinance 1976, shall not constitute the keeping of a gaming house for the purposes of this Ordinance and such premises shall not require to be licensed as a casino:

Provided that this exemption shall not apply to any premises upon which the number of gaming machines (either upon the same premises or upon adjacent premises under the same ownership, management or control) exceeds three or such other number as may be prescribed by the Governor by order; and any such premises so excluded from this exemption shall be deemed to be a casino and be licensed accordingly, but shall not be subject to the provisions of the Gaming Machines Ordinance 1976.

(3) Where the playing of a game of chance would constitute gaming and also constitute a lottery, then if—

(a) in so far as it is a lottery which is declared not to be unlawful under any other law for the time being in force relating to gaming and lotteries; and

(b) each winner of a prize is ascertained by reference to not more than three determining factors, each of those factors being either the result of a draw (or other determination) or the outcome of an event,

the playing of the game shall not constitute gaming for the purposes of this Ordinance.

(4) In determining for the purposes of this Ordinance whether a game which is played otherwise than against one or more other players is a game of chance and skill combined, the possibility of superlative skill eliminating the element of chance shall be disregarded.

3. Subject to the provisions of this Ordinance and of the Gaming Machines Ordinance 1976, and of any other law for the time being in force relating to gaming or lotteries, all gaming is illegal unless conducted on premises licensed under this Ordinance and in conformity with the provisions of this Ordinance.

Illegality of  
unlicensed gam-  
ing:  
No. 1 of 1976.

## PART II.

### *Licensing of Casinos.*

4.—(1) An application for a licence shall be made in writing to the Minister in such form and containing such particulars as may be prescribed or as the Minister may direct, and shall be accompanied by a deposit of twenty-five thousand dollars, which may be used by the Government to defray expenses incurred in making any enquiries which the Minister or the Commissioner of Police considers to be desirable for the purpose of establishing the circumstances and suitability or otherwise of the applicant or, if the applicant is a company, of the persons having the control or management thereof, and of any other person likely to be involved or employed in connection with any casino proposed to be operated if the application is granted:

Application for  
licence.

Provided that any balance of the deposit remaining

after the determination of the application shall be forthwith repaid to the applicant.

(2) Not later than seven days after the date on which the application is made, the applicant shall send a copy of the application to the Commissioner of Police, who shall within three months of the date of receipt of the application advise the Minister in writing if he has any objection to the grant of the licence, and the grounds therefor, or of any other recommendation which he desires to make in respect of the application:

Provided that, on application made to the Minister by the Commissioner of Police certifying that an extension of the said period of three months is required to permit the completion of police enquiries conducted outside the Islands, the Minister shall extend the said period of three months, for such further period, not exceeding six months, as he considers necessary in the circumstances of the case.

Advertisement  
of application.

5.—(1) Not later than fourteen days after the date on which the application is made, the applicant shall cause a notice of the making of the application to be published by means of an advertisement in the *Gazette* which shall be published and broadcast in the Islands.

(2) A notice published under subsection (1) shall specify the name of the applicant and the location of the premises in respect of which the application is made, and shall state that any person who desires to object to the grant of the licence shall send to the Minister before such date (not being earlier than fourteen days after the publication of the advertisement) as may be specified in the notice, two copies of a brief statement in writing of the grounds of his objection.

(3) Such notice as aforesaid shall not include any matter which is not required by subsection (1) or (2) to be included in it.

(4) Not later than seven days after the publication of the advertisement required by this section, the applicant shall send to the Minister a copy of the *Gazette* containing the advertisement; and no action shall be taken for the consideration of the application earlier than fourteen days after the date specified in the advertisement.

6. If no objection to the grant of a licence is received from the Commissioner of Police or any other person, within the times respectively provided by sections 4 and 5, the Minister shall refer the application to the Governor who shall appoint a suitable person or persons to be a Commission to hold an inquiry into the application and to report thereon to the Governor.

Procedure if no  
objection to  
application.

7.—(1) If any objection is made to the grant of a licence, a copy of such objection shall be sent to the applicant who, within fourteen days of the receipt of the same, may in writing to the Minister reply to the objection or submit any proposal for the amendment of his application for the purpose of meeting the objection and shall send a copy of such reply or proposal to the objector who (if he so desires) may withdraw his objection by notice in writing to the Minister.

Procedure if  
objection made.

(2) After any objection made to an applicant has been dealt with as provided by subsection (1), the application and all documents relating to any such objection, whether or not such objection has been withdrawn by the objector, shall be referred by the Minister to the Governor who shall appoint a Commission to inquire into the application as provided by section 6.

8.—(1) A Commission shall have the same powers to summon and enforce the attendance of witnesses, to compel the production of documents, to administer oaths and to examine witnesses on oath and to make orders for the payment of witnesses' expenses, as are conferred upon a Commissioner appointed under the Commissions of Enquiry Ordinance, and may make such order as it thinks fit for the payment of costs—

Proceedings at  
an enquiry.

(a) by the applicant to any person who made an objection which was not withdrawn before the date when the application was referred to the Governor under section 7(2); or

(b) by any such person to the applicant.

Cap. 107.

(2) On the holding of an inquiry, the applicant and any person who has made an objection, which has not been withdrawn, shall be entitled to be heard: either in person or by an attorney; and the Commission shall also hear any representations made by or on

behalf of the Commissioner of Police. Any person who is entitled to be heard by the Commission shall also be entitled to call evidence in support of his case, and to cross-examine any witness called by any other party:

Provided that neither the Commissioner of Police nor any other police officer or any person called as a witness by or on behalf of the Commissioner of Police shall be required to disclose the identity of any person, who is not called as a witness at the inquiry, whose information has assisted the police in carrying out enquiries for the purposes of this Ordinance.

(3) A Commission shall hold the inquiry in public, and may from time to time adjourn the proceedings as it considers necessary:

Provided that a Commission, on the application of the applicant for a licence, or of any objector or any person called to give evidence at an inquiry, may direct that evidence of any particular matter or the evidence of any particular person shall be heard in camera, and shall so direct, upon such application being made, in respect of evidence to be given of the results of police enquiries as to character of individuals, unless the individual whose character is at issue consents to such evidence being given in public.

(4) Notwithstanding any rule of evidence or law to the contrary, a Commission may admit in evidence reports of investigations made by a person ordinarily resident outside the Islands, without the person making such a report being called as a witness, if, after hearing any argument on the matter by the applicant and any objector or their attorneys, the Commission is satisfied that in the circumstances it is reasonable so to do.

9.—(1) Upon the conclusion of an enquiry the Commission shall report in writing to the Governor through the Minister, and shall make a recommendation as to whether or not the application should be granted:

Provided that the Commission shall not recommend that the application be granted unless it is satisfied that—

(a) a substantial demand already exists on the part of prospective players for gaming facilities of

Commission to submit report to the Governor.

the kind proposed to be provided by the applicant; and

(b) having regard to all the circumstances surrounding gaming in the Islands, it is in the public interest that the application should be granted.

(2) If the Commission recommends that the application should be granted, it may also recommend what conditions, if any, should be attached to any licence granted in order to meet any points raised by persons who have objected to the granting of the application.

(3) Upon transmitting to the Governor the report and recommendations of a Commission made under this section, the Minister may add any recommendations which he desires to make thereon, but subject to the provisions of section 10.

10. In making a recommendation to the Governor under section 9(3), the Minister shall not recommend that a licence be granted to the applicant unless he is satisfied—

Matters for consideration by the Minister.

(a) that, having regard to the lay-out, character, condition or location of the relevant premises, or any premises proposed to be altered or erected, those premises are suitable, or will be suitable, for the purposes of gaming;

(b) that the applicant is not disqualified from holding a licence under the provisions of section 11, and is in all respects a fit and proper person and of appropriate financial standing to be the holder of a licence;

(c) that if the licence is granted, the premises concerned, if not to be managed personally by the applicant, would be managed by a person who would himself be a fit and proper person to be the holder of a licence, and who has given an undertaking to be ordinarily resident in the Islands during such time as he manages such premises;

(d) that the Commissioner of Police and the Commission, have been given all reasonable facilities to inspect any premises referred to in the application or to study the plans prepared for the alteration or erection of any premises concerned.



Persons not qualified to hold a licence.

11.—(1) A licence shall not be granted—

(a) to any individual who is under twenty-one years of age; or

(b) to any individual or company if the Minister is satisfied that the individual or, as the case may be, any director or officer of that company, has ever been convicted, and has not successfully appealed against that conviction, of any offence, whether committed within the Islands or elsewhere, involving fraud, dishonesty or violence, or has been convicted (whether within or without the Islands) of any other criminal offence punishable by imprisonment for six months or longer without the option of a fine; or

(c) to any company of which more than five per centum of the issued share capital is represented by bearer securities transferable by delivery only, unless the Minister is satisfied that such company maintains, or has undertaken to maintain, a record of the identity of the persons to whom payments are made in respect of interest or dividends on such securities, and that such record will be available for inspection by any person appointed for the purpose by the Minister.

(2) For the purposes of paragraph (b) of subsection (1) the expression "director" includes any person who occupies the position of a director, by whatever name that position is called, and "officer" includes a director, manager or secretary.

(3) A licence shall not be granted to any body corporate which is not a company incorporated in the Islands under the provisions of the Companies Ordinance 1971 or a foreign company, as defined in section 179 of that Ordinance, registered under the provisions of Part VII of that Ordinance.

No. 5 of 1971.

Grant of licence to be subject to considerations of public interest.

12.—(1) Notwithstanding any other provisions of this Ordinance, a decision to grant a licence shall not be made unless it appears to the Governor to be in the public interest.

(2) A licence may be granted subject to such conditions as may appear necessary in the public interest or

for the protection of the interests of occupiers of premises in the vicinity or desirable on any other grounds.

(3) A licence shall be granted for such term, not exceeding twenty years, as may be specified therein, but may be extended from time to time by the Governor, for periods not exceeding ten years in respect of each such extension, upon application made by the licensee to the Governor through the Minister:

Provided that the Governor shall not extend the term of a licence unless he is satisfied that the licensee has duly performed all his obligations under this Ordinance and the licence, and that the grant of an extension is in the public interest.

(4) A licence may be expressed to confer on the licensee an exclusive right to operate a casino in such part of the Islands as may be specified therein and in such case, notwithstanding any other provisions of this Ordinance, while such exclusive licence is in force no licence shall be granted to any other person in respect of the same part of the Islands.

13.—(1) The Governor, after considering the circumstances relevant to any application for a licence and the recommendations made thereupon under section 9, may approve or refuse the granting of a licence.

Governor may approve or refuse application for licence.

(2) No appeal shall lie from any decision to grant or refuse a licence or from any decision to make a licence subject to any conditions or restrictions.

(3) The granting of a licence by the Governor shall be signified under the hand of the Minister but no licence shall be issued to an applicant except upon payment of the fee payable therefor specified in the First Schedule.

First Schedule.

(4) Notice of the granting of any licence and of any amendment or cancellation of a licence shall be published in the *Gazette*.

14.—(1) A licence shall—

Contents of licence.

(a) state the particulars of the premises to which it relates, the period for which it is to remain in force and, if expressed to confer on the licensee the exclusive right to operate a casino in a particu-

lar part of the Islands, shall specify the area to which such exclusive right relates;

(b) be deemed to include as conditions thereof—

(i) that the licensee authorises every bank (whether within the Islands or elsewhere) at which he conducts an account, whether directly or through any nominee and whether or not jointly with any other person, to make available at any time, upon request made by the Minister, to the Minister, or any public officer authorised in writing by the Minister, full particulars of that account;

(ii) that every alteration in the ownership or control of the premises to which the licence relates, or any part thereof, and every mortgage or charge of whatsoever kind granted over the said premises or any part thereof; and, in the case of a licensee being a company, every alteration in the control of that company or of a holding of the shares representing five *per centum* or more of the capital of the company, shall be notified to the Minister within thirty days of the making of the alteration or the granting of the mortgage or charge, as the case may be; and

(iii) that the approval of the Minister shall be obtained before any change is made with respect to any person appointed to manage the premises to which the licence relates;

(c) if made subject to any conditions or restrictions (other than those referred to in paragraph (b) of this subsection) state those conditions or restrictions;

(d) contain such other provisions as may be required for giving effect to the requirements of this Ordinance and shall be in such form as the Minister may approve.

(2) For the purposes of subparagraph (ii) of paragraph (b) of subsection (1), a company shall be deemed to be controlled by a person or persons if that person,

or those persons, by the exercise of some power by him or by them acting together, can without the consent of any other person appoint or remove all or a majority of the directors of that company; and for the purposes of this provision the expression "director" shall have the same meaning as is assigned to it in subsection (2) of section 11.

15.—(1) The Governor may at any time—

(a) amend a licence—

(i) on the application of the licensee upon such terms and conditions as he thinks fit; or

(ii) in any other case if he is satisfied that the public interest so requires;

(b) subject to the provisions of subsection (2), cancel any licence, in any case where—

(i) he is satisfied that the licence was obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information (whether such information was supplied wilfully or otherwise); or

(ii) there has been a breach of any restrictions; or conditions to which the licence is made subject; or

(iii) the licensee, if an individual, or the person responsible for the management of the premises, in a case where the licensee is a company, has ceased to exercise proper supervision of the premises or has been convicted (whether within or without the Islands) of a criminal offence punishable by imprisonment for six months or longer without the option of a fine; or

(iv) the licensee is in default in paying any fee or tax payable under the provisions of the Ordinance; or

(v) it is deemed to be in the public interest so to do.

(2) Prior to the cancellation of a licence in any particular case under the provisions of subparagraphs

Amendment or  
cancellation of  
licence.

(i), (ii), (iii), or (iv) of paragraph (b) of subsection (1), the Minister shall inform the licensee in writing of the grounds upon which it is considered that that licence ought to be cancelled and shall give the licensee the opportunity to show cause, within a specified time, why the licence should not be cancelled, and any representations made by the licensee in this respect shall be transmitted to the Governor by the Minister before the licence is cancelled. If the licensee fails to make representations within the time specified or if the cause shown is considered to be inadequate or the cancellation is made on the grounds of public interest, the Governor may cancel the licence and in such case notice of the fact in addition to publication in the *Gazette*, shall be sent by the Minister to the licensee by registered post at his last known address.

(3) The amendment or cancellation of a licence by the Governor in exercise of the powers conferred by this section shall be signified under the hand of the Minister and no appeal shall lie from any decision so to do, except upon a point of law or on the grounds of failure to comply with the requirements of this section, in which case an appeal shall lie to the Supreme Court.

Suspension of  
licence.

16.—(1) Without prejudice to any other provisions of this Ordinance, where at any time the Minister is satisfied that it is expedient in the public interest to suspend a licence, he may suspend such licence for a period not exceeding fourteen days:

Provided that a licence which has been suspended under the provisions of this section shall not again be suspended within a period of twelve months of an earlier suspension without the prior approval of the Governor.

(2) A licence which has been suspended under subsection (1) shall, during the period of such suspension, be deemed to be no longer in force.

(3) The Minister shall forthwith serve on the licensee notice of a suspension of a licence effected pursuant to this section.

## PART III.

*Gaming in Casinos.*

17.—(1) No person—

(a) who is under twenty-one years of age; or

(b) who possesses, or has applied for a permit to engage in gainful occupation under the provisions of the Immigration Ordinance 1971; or

(c) who—

(i) is a "belonger" within the meaning of section 2 of the Immigration Ordinance 1971; or

(ii) is ordinarily resident in, or is engaged in any business or profession or employed for gain in, the Islands; or

(iii) is in the public service of the Islands or otherwise in the employment of the Government; or

(d) who is the husband or wife of any such person as is mentioned in paragraph (b) or (c),

shall take part in gaming in any casino, and any such person who takes part in gaming as aforesaid shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars:

Provided that taking part in gaming as aforesaid by any person employed by a licensee to take part in the conduct of gaming shall not constitute an offence under this section when so taking part in gaming is within the course of such employment.

(2) Where gaming such as is referred to in subsection (1) consists of a game which involves playing or staking against a bank, nothing in subsection (1) or in section 19 shall be deemed to prevent the holder of the licence concerned, or a person acting on his behalf, from holding the bank or having a share or interest in it.

18.—(1) In any case in which the Minister, after such enquiry as he considers necessary, is satisfied that the presence of any particular person on the premises of any casino would be undesirable in the public interest, he may by order declare that person to be a prohi-

Categories of  
persons prohi-  
bited from gam-  
ing.

No. 4 of 1971.

Minister may  
ban particular  
persons from  
gaming.

bited gambler and no appeal shall lie from the making of such an order:

Provided that before making any such order he shall give the person concerned an opportunity to show cause why such order should not be made.

(2) Any person who—

(a) enters the premises of any casino after he has been declared a prohibited gambler under subsection (1); or

(b) being a licensee or manager of a casino, knowingly permits a person so declared to be a prohibited gambler to enter or remain on the premises of that casino,

shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Participation in gaming restricted to persons on the premises at the time.

19.—(1) Subject to the provisions of subsection (2) of section 17, no person shall participate in gaming conducted on the premises of any casino—

(a) if he is not present on the premises at the time when the gaming takes place there; or

(b) on behalf of another person who is not present on the premises at the time,

and any person who takes part in gaming contrary to the provisions of this subsection shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars.

(2) For the purposes of this section a person participates in the gaming if—

(a) he takes part in gaming as a player; or

(b) where the game involves playing or staking against a bank, he holds the bank or has a share or interest in it.

Prohibition of winnings in excess of aggregate stakes.

20. No gaming in any casino shall take place in circumstances where the aggregate amount or value of the winnings in respect of any one game exceeds the following amount or value—

(a) where the game involves playing or staking against a bank, the aggregate amount which, in accordance with the rules of the game, the bank is

required to pay to players as winnings in respect of that game; or

(b) in any other case, the aggregate amount or value of the stakes put down by players and lost in playing that game.

#### PART IV.

##### *Supplementary.*

21.—(1) No person shall in pursuance of any service agreement be employed on the premises of any casino in any capacity, or perform any function in relation to such capacity, to which this subsection applies unless a certificate has been issued by the Minister, and is for the time being in force, certifying that he has been approved by the Minister under this section for employment on those premises and in respect of the performance of such function in relation to such capacity.

Approval of certain persons employed in connection with gaming.

(2) Subsection (1) applies to the employment of any person in any of the capacities and in respect of the performance of the functions in relation to such capacity specified in the Second Schedule, on the premises of the casino concerned.

Second Schedule.

(3) The provisions of Part I of the Third Schedule shall have effect with respect to applications to the Minister for certificates of approval under this section and, with respect to the issue, refusal and revocation of such certificates and with respect to appeals against decisions given in relation to the refusal or revocation of any such certificates.

Third Schedule.

(4) An application made to the Minister for the issue or renewal of a certificate of approval and the making of an appeal against a decision by the Minister refusing such a certificate shall, in such circumstances and to such extent as is provided in Part II of the Third Schedule, have effect for the purposes of this section as if it were a certificate of approval issued by the Minister under this section, and for the time being in force; but in the case of an appeal against a decision to revoke such a certificate the appellant shall be deemed to be suspended from acting in the capacity, and performing

the functions in relation to such capacity, to which the certificate relates pending the determination of the appeal.

(5) In this section "service agreement" means any contract of service or apprenticeship or any other contract or arrangement for the rendering of services.

(6) Any person who, for the purpose of obtaining for himself or for any other person a certificate of approval under this section, or the renewal or the reinstatement, after it has been revoked, of such certificate,

(a) makes any statement which he knows to be false in any material particular; or

(b) recklessly makes any statement which is false in any material particular,

shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

Approval of certain persons working in other capacities in casinos.

22.—(1) No person shall be employed in any capacity to which this subsection applies unless a permit has been granted by the Minister, and is for the time being in force, stating that he has been approved by the Minister under this section for employment in such capacity.

(2) Subsection (1) applies to the employment of any person on the premises of a casino in any of the following capacities—

(a) security officer;

(b) bartender;

(c) cocktail or drink waiter or waitress;

(d) host or hostess;

(e) such other capacity as may be prescribed by the Minister by order.

Fourth Schedule.

(3) The provisions of the Fourth Schedule shall have effect with respect to applications to the Minister for permits under this section, and with respect to the issue, refusal and revocation of any such permit and with respect to appeals against decisions given in relation to the refusal or revocation of any such permit.

(4) Any person who, for the purpose of obtaining for himself or for any other person a permit under this

section, or for the renewal or the reinstatement, after it has been revoked, of any such permit—

(a) makes any statement which he knows to be false in any material particular; or

(b) recklessly makes any statement which is false in any material particular,

shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars.

23.—(1) Any person making application for a certificate of approval, under section 21, or for a permit under section 22, shall before the issue of the certificate of approval or the permit, as the case may be, furnish the Minister with a full set of his finger-prints taken in accordance with the requirements of subsection (2).

Applicants for certificates of approval or permits to provide finger-prints.

(2) Finger-prints for the purposes of subsection (1) shall be taken under such arrangements as may be approved by the Minister, and certified in writing, by a person approved by the Minister, to be the finger-prints of the person in question.

(3) Where the finger-prints of any person have been furnished in accordance with the provisions of this section, copies and all records thereof shall be returned to that person—

(a) if he is refused a certificate or permit (as the case may be), upon such refusal; or

(b) if he is granted a certificate or permit, upon his ceasing to hold such certificate or permit.

24.—(1) The Minister may make regulations requiring the holder of a licence in respect of any premises—

Further powers to regulate licensed premises.

(a) to display, in such manner and in such position on those premises as the Minister may direct, the rules according to which any gaming is to be conducted on the premises, either generally or in any particular circumstances;

(b) to make, and to retain during such period as may be prescribed by such regulations, such records as may be so prescribed with respect to cheques given in exchange for cash or tokens to be used by players in gaming on those premises, and

to provide such verification of those records as may be so prescribed.

(2) Without prejudice to any other provisions of this Ordinance, the Minister may make regulations imposing such prohibitions, restrictions or other requirements as may appear to the Minister to be requisite—

(a) for securing that gaming in any casino is properly and fairly conducted; or

(b) for preventing the use of any indirect means of doing anything which, if done directly, would be in contravention of any of the provisions of this Ordinance.

Offences in relation to the management of casinos.

25.—(1) Without prejudice to the powers conferred by sections 15 and 16 (relating respectively to the cancellation or suspension of a licence) and subject to subsection (2), if any of the conditions or restrictions imposed on the grant of a licence or any of the provisions of sections 17, 19, or 20, or of any regulations made under section 24, are contravened in relation to any casino, the licensee and any other person for the time being having the control or management thereof shall each be guilty of an offence.

(2) Where a person is charged with an offence under subsection (1) it shall be a defence for him to prove—

(a) that the contravention occurred without his knowledge; and

(b) that he exercised all such care as was reasonable in the circumstances to secure that the provisions in question were not contravened.

(3) Any person guilty of an offence under subsection (1) shall be liable on summary conviction to a fine of ten thousand dollars or to imprisonment for one year, or to both such fine and imprisonment.

Appointment and powers of inspectors.

26.—(1) The Governor may, by writing, in such form as may be prescribed, appoint any public officer to be an inspector to carry out such duties and exercise such powers for ensuring compliance with the provisions of this Ordinance as are conferred by this Ordinance

nance or may be conferred by any regulations made under this Ordinance.

(2) Without prejudice to the provisions of subsection (1), an inspector, while on duty in that capacity and in relation to his duties under this Ordinance, shall have, exercise and enjoy all the powers, privileges and immunities and have the responsibilities of a police officer.

(3) Any inspector or any police officer may at any reasonable time enter any casino and inspect the premises and any machine or other equipment on the premises and any document which constitutes a record or account required to be made and retained for the purpose of this Ordinance.

(4) An inspector upon entering any casino and while on any premises in pursuance of the powers conferred by this section shall, if requested to do so, produce the document under which he was appointed.

(5) The person in charge of any casino entered by an inspector or a police officer pursuant to this section, shall give to such inspector or police officer all reasonable assistance within his power, and shall furnish him with any such information as he may reasonably require.

(6) If any licensee or other person for the time being having the control or management of any casino and any other person acting on behalf of or with the authority of the licensee—

(a) fails without reasonable excuse to admit any inspector or police officer who demands admission to the premises of that casino in pursuance of this section; or

(b) on being required by an inspector or police officer to do so, fails without reasonable excuse to permit him to inspect the premises or any machine or other equipment on the premises; or

(c) on being required by an inspector or police officer to produce any such document as is mentioned in subsection (3), which is in his possession or under his control, fails without reasonable excuse to produce it as required; or

(d) on being required by an inspector to provide any information relating to the premises or the conduct of gaming therein, which is reasonably required by the Minister for the purposes of this Ordinance, fails without reasonable excuse to furnish that information to the inspector; or

(e) wilfully obstructs any inspector or police officer in the exercise of powers conferred by this Ordinance,

the licensee or other person concerned (as the case may be) shall be guilty of an offence.

(7) If, on information on oath, the Magistrate or a Justice of the Peace is satisfied with respect to any premises that there are reasonable grounds for suspecting that an offence under this Ordinance has been, is being or is about to be committed on those premises, he may issue a warrant authorising any police officer or inspector to enter the premises, if necessary with force, at any time within fourteen days after the date of issue of the warrant, and to search the premises.

(8) Any police officer or inspector who enters any premises under the authority of a warrant issued under subsection (7) may—

(a) seize and remove any document, money or valuable thing, instrument, or other thing whatsoever, found on the premises, which he has reasonable cause to believe may be required as evidence for the purpose of proceedings in respect of an offence under this Ordinance; and

(b) arrest and search any person found on the premises whom he has reasonable cause to believe to be committing or to have committed any such offence.

Provided that no female shall be searched except by a female.

(9) Any person guilty of an offence under this section shall be liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

## PART V.

## Taxation.

27.—(1) In each and every year there shall be charged on and paid by the licensee of any casino, which is open for business at any time during that year, an annual tax of such amount as may be prescribed by the Governor (hereafter in this Ordinance referred to as the basic tax) in respect of that casino.

Basic tax.

(2) The basic tax payable under subsection (1) shall be paid by the licensee in six equal monthly instalments, the first of which shall be due and payable on the 31st day of January in that year and the remainder each on the last day of each next succeeding month:

Provided that where any casino is first opened for business after the 31st day of January in any year, the basic tax payable in respect of that casino for that year shall be due and payable by the licensee in such manner, whether or not by monthly instalments, as the Minister may direct in writing:

Provided further that where any casino is first opened for business after the 30th day of June in any year, the amount of the basic tax payable in respect of that casino for that year may be reduced by such amount as may be determined by the Governor and shall be payable in such manner and at such time or times as the Minister may direct in writing.

28.—(1) In addition to the basic tax there shall be charged on and paid by the licensee of any casino, in respect of each year, or part thereof, in which the casino is open for business—

Other taxation provisions.

(a) a tax (hereafter in this Ordinance referred to as the drop tax) on the gross amount paid in that year by players in the casino in exchange for chips or other tokens to enable them to take part in gaming, otherwise than by means of a gaming machine; and

(b) a tax (hereafter in this Ordinance referred to as the profits tax) on the gross profit made in that year by the operation in the casino of gaming machines,

and such taxes shall be computed and paid as hereafter provided by this Ordinance.

(2) In computing for any period the amount of the drop or the gross profit from the operation of gaming machines, the value of any cheque, or the amount of any promise to pay money given to the licensee of the casino, or to his servant or agent, and the amount of any credit extended by the licensee or his servant or agent to any person taking part or intending to take part in any gaming, shall be taken into account as money received by the casino on the day on which such cheque or promise is given or such credit is provided.

(3) For the purposes of this Ordinance, the gross profit made in any month from the operation of gaming machines shall be the amount by which the value of coins inserted in the machines, or paid for tokens required to operate the machines, by the players, exceeds the amount of money or money's worth paid out during that month in respect of prizes to players operating those machines. In computing the gross profit for any particular month, no reduction shall be made in the gross profit for that month on account of any loss made in any earlier month.

(4) The taxes payable under the provisions of subsection (1) shall be computed in respect of each month in every year, and such computations shall be made at the rates set out in the First Schedule, and shall be due and payable by the licensee on or before the last day of the month next succeeding the month to which they relate.

(5) The licensee of any casino shall submit to the Minister, on or before the last day of every month in any year in which the casino is open for business a statement, in such form as the Minister may direct, setting out the total amount of the drop and the amount of the gross profit from the operation of gaming machines on each day (or during such other period as the Minister may require) of the immediately preceding month, and the aggregate amount of such drop and of such gross profit, respectively, for the preceding months of the same year and certifying that the amounts of the taxes, payable in respect thereof in accordance with the provisions of this Ordinance have been paid.

First Schedule.

29.—(1) Notwithstanding any other provision of this Ordinance, if the Minister has reason to believe that the amount of any tax payable under section 28 has been incorrectly computed by a licensee, or if a licensee fails in any month to submit to the Minister a statement in conformity with subsection (5) of section 28, the Minister may assess the amount of such tax (if any) payable by the licensee as being such amount as in the circumstances appears to the Minister to be proper in view of the provisions of this Ordinance.

Assessment by the Minister.

(2) When the amount of any tax has been assessed as provided by subsection (1), the Minister shall give notice in writing to the licensee stating the amount so assessed, and such amount of tax shall be due and payable by the licensee within such period next following the date of such notice as the Minister may direct in the notice:

Provided that a licensee may appeal against such assessment to the Supreme Court, within thirty days of the date of such notice, and

(a) pending the determination of the appeal the licensee shall not be liable to pay the amount of the tax so assessed; and

(b) upon the determination of the appeal the licensee shall be liable to pay such amount of tax within such time as the court may order, as being due and payable under section 28, in lieu of the amount assessed by the Minister.

(3) The Judge may by rules of court provide for the procedure to be used in appeals made under this section; and until any such rules are made, any appeal shall be made in accordance with such procedure as the Judge may direct in any particular case.

30.—(1) The licensee of any casino shall submit to the Minister such statements in such form and at such times as the Minister may direct, relating to the amount of drop received and the particulars relevant to the computation of the gross profit made from the operation of gaming machines in the casino during any period and to the financial transactions between the licensee and the persons taking part in the gaming, including particulars of cheques and promises to pay given by, or credit extended to, such persons.

Returns inspection etc.



(2) Without prejudice to subsection (1), the licensee of any casino shall, within sixty days (or such longer period as the Minister may allow in any particular case) next following the 31st day of December in each year in which the casino is opened for business, submit to the Minister, a statement showing the amount of drop received and of the gross profits made from the operation of gaming machines in the casino during each month of that year, together with a certificate by a chartered accountant, or person with other equivalent professional qualification in accountancy, approved by the Minister, certifying that any drop tax and profits tax payable in respect thereof has been correctly computed and paid.

(3) The licensee of any casino shall ensure that all accounts, books, documents and records of that casino are at all times kept within the Islands and permit any inspector, or other person authorised in that behalf in writing by the Minister, at any reasonable time to enter the casino—

(a) to inspect and take extracts from or copies of any book, document or other record relating to the accounts of the casino or the financial transactions between the licensee and persons gaming in the casino, including credit arrangements, promises to pay and cheques issued;

Provided that if any such books, documents or records are kept by the licensee on any premises other than the premises of the casino, the licensee shall afford the same facilities for inspection on those other premises;

(b) to be present at and supervise the count, at the close of business of the casino on any day, of the money received by the casino in gaming during that day; and

(c) to be present at and supervise the calculation of the amount of drop and the takings from gaming machines received on any day.

31.—(1) Any licensee and his servant or agent who—

(a) knowingly makes any false entry in any statement or return required to be submitted to the Minister under the provisions of this Part; or

Offences affecting tax assessment, etc.

(b) knowingly makes any false entry in any account relating to the casino,

with the intention that the same shall be taken to be true, shall be guilty of an offence and liable upon summary conviction, in the case of an individual, to a fine of five thousand dollars or to imprisonment for two years, or, in the case of an offence committed by a body corporate, to a fine of fifty thousand dollars.

(2) Any person who obstructs any person in the execution of the powers and duties conferred upon him by subsection (3) of section 30 shall be guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months.

(3) Where the servant or agent of the licensee commits an offence under this section, the licensee or, where the licensee is a body corporate, any director or principal officer of that body corporate shall be deemed to have aided and abetted the commission of the offence unless he establishes to the satisfaction of the court that the offence was committed without his knowledge and that he could not reasonably be expected to know that the offence was being committed.

32. Any amount of tax due and payable under section 27 or 28 shall be paid to and collected by the Treasurer for the general revenue of the Islands:

Taxes to be paid to the Treasurer.

Provided that the Governor may waive the payment of the whole or any part of any such tax payable in respect of the first twelve months of the operation of any casino if he is satisfied that there are sufficient reasons for so doing in any particular case.

33.—(1) Any amount due and payable in respect of tax, or any part thereof, remaining unpaid may be sued for and recovered by the Treasurer in the Magistrate's Court.

Recovery of unpaid tax.

(2) When any person is adjudged to pay any amount of tax in any proceedings brought in pursuance of subsection (1), the court shall order such person to pay in addition to the amount of the tax due and the cost of the suit, a penalty calculated at the rate of ten per centum of the amount of tax unpaid and adjudged

to be payable in such proceedings, and an additional sum in respect of interest on the amount of tax so adjudged to be payable, calculated at the rate of one *per centum* per month from the date when the tax first became payable.

#### PART VI.

##### Miscellaneous.

Fees and taxes.  
First Schedule.

34.—(1) The fees specified in paragraph 1 of the First Schedule shall be payable to the Treasurer in respect of the matters to which they respectively relate; and the rates of tax specified in paragraphs 2 and 3 of the said Schedule shall apply for the purpose of computation of taxes payable under section 28.

(2) The Governor may, from time to time, by order amend the First Schedule in respect of the fees and rates of tax (or any of them) specified therein.

Financial provisions.

35. All expenses incurred by the Minister in respect of the discharge of his functions under this Ordinance shall be defrayed out of moneys appropriated for the purpose by the Legislative Council.

Liability of lessees, tenants, etc.

36. The keeping of any premises by the lessee, tenant or occupier thereof, or by any person for whose acts the lessee, tenant or occupier is responsible, for the conduct of gaming in such circumstances that such gaming is unlawful under the provisions of this Ordinance, shall entitle the owner or lessor of such premises, as the case may be, to terminate the lease, tenancy or agreement under which the premises are held.

Offences by bodies corporate.

37. Without prejudice to any other provisions of this Ordinance, where an offence, under this Ordinance, is committed by a body corporate and 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 similar officer (by whatever name called) of the body corporate, or by any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and be liable to be proceeded against and punished accordingly.

38. Any person who takes part, in any capacity, in any gaming which is unlawful under the provisions of this Ordinance shall be guilty of an offence and liable on summary conviction to a fine of five hundred dollars or to imprisonment for six months.

Unlawful gaming.

39.—(1) Any person who, without lawful excuse (the proof whereof shall lie on him) has in his possession any instrument designed or adapted for gaming shall be guilty of an offence and liable on summary conviction—

Unlawful possession of instruments of gaming.

(a) in the case of a first conviction, to a fine of three thousand dollars or to imprisonment for two years, or to both such fine and imprisonment;

(b) in the case of a second or subsequent conviction for the same offence to a fine of three thousand dollars and shall be sentenced to imprisonment for not less than six months and not more than two years.

(2) Proceedings under this section shall not be instituted except by or with the consent of the Attorney General.

40. The court before which any person is convicted of an offence under section 38 or 39 may order that anything produced to the court, and shown to the satisfaction of the court to relate to the offence, be forfeited and either destroyed or dealt with in such other manner as the court may direct.

Forfeiture.

41. Any person who is guilty of an offence under this Ordinance, or any regulations made thereunder, for which no specific penalty is provided, shall be liable on summary conviction to a fine of one thousand dollars and in default of payment thereof to imprisonment for six months.

Penalties for certain other offences.

42. Any notice or other document required under this Ordinance to be given or sent to any person, if not required by this Ordinance to be served by registered post, may be given or sent—

Service of documents.

(a) by delivering it to him; or

(b) by sending it by post to him at his usual or last known place of residence or business; or

(c) in the case of a body corporate, by delivering it to the secretary or clerk of that body at its registered or principal office, or by sending it to the secretary of that body at that office.

Regulations.

43.—(1) Without prejudice to any other provisions of this Ordinance, the Governor may make regulations for carrying into effect the provisions of this Ordinance and for prescribing anything required to be prescribed for the purposes thereof.

(2) Without derogation from the generality of the power conferred by subsection (1), the Governor may make regulations—

(a) providing for the cards, chips, tokens or other articles to be used in gaming, and for their inspection by the Minister or an inspector;

(b) prescribing the records to be kept by licensees;

(c) prescribing the accounts to be kept by licensees and the requirements for the audit of such accounts;

(d) providing for the supply to the Minister of information regarding the operation of casinos and the activities of any person upon the premises thereof;

(e) with respect to the activities and functions of inspectors;

(f) prescribing maximum stakes which may be permitted in any gaming in a casino;

(g) for verifying and checking the amount of drop and of profits made from the operation of gaming machines in any casino on any day or during any period;

(h) prescribing the conditions and rules in accordance with which any game is to be played in any casino, either generally or in any particular circumstances;

(i) for the restriction and control of access to any casino, either by persons generally or by persons who are prohibited from gaming under the provisions of section 17 or 18;

(j) regulating and controlling the importation into the Islands of gaming machines and other equipment suitable for use or adaptation for gaming.

44. Notwithstanding the provisions of sections 17 and 19 of the Summary Offences Ordinance, or the provisions of any other law for the time being in force, it shall not be an offence for any person to be concerned in keeping any house or place for the purpose of gambling, or to be found in any such house or place, if that house or place is a casino and the gambling is conducted, or such person is present, in conformity with the requirements of this Ordinance. Section 18 of the Summary Offences Ordinance shall not apply in a case where a house or place which is alleged to be kept for gambling is a casino, unless the Magistrate or Justice of the Peace is satisfied, by information on oath that such house or place is being used for the purpose of gambling which is not authorised under the provisions of this Ordinance.

Restriction on application of certain provisions of the Summary Offences Ordinance.

Cap. 25.

## SCHEDULES.

### FIRST SCHEDULE.

(Section 34.)

#### FEES AND TAXES.

1. The following fees shall be payable to the Treasurer in respect of the matters stated—
 

(a) for the issue of a licence to operate a casino	\$1,000
(b) for the issue or renewal of a certificate of approval under s. 21 and the Third Schedule	15
(c) for the issue or renewal of a permit under s. 22 and the Fourth Schedule	10
2. The rate applicable for the computation of drop tax, under section 28(1)(a) ... .. 1%
3. The rate applicable for the computation of profits tax, under section 28(1)(b) ... .. 5%

## SECOND SCHEDULE.

(Section 21(2).)

CAPACITIES AND FUNCTIONS IN RESPECT OF WHICH A  
CERTIFICATE OF APPROVAL IS REQUIRED.

(a) Accountant—that is to say, a person who records cash, cheques, markers, IOUs, chips and tokens used in the gaming, and who may, from time to time, perform such other duties as are normally undertaken by an accountant provided that such duties are directly connected with the gaming activities of the licensee;

(b) Assistant Casino Manager—that is to say, a person who watches the gaming and the performance of cashiers, croupiers, inspectors and supervisors in the course of their duties, and who may record the details of, and transmit cash, cheques, markers, IOUs, chips and tokens used in the gaming and who may, with the prior approval of the Minister, perform the functions of the Casino Manager in his absence;

(c) Assistant Director of Security—that is to say, a person who watches the gaming and performance by any person pursuing any service agreement of any functions which such person is permitted to perform. Such person may perform such other duties as are specified in the written security instructions issued by the licensee, and notified to the Minister. He may also, with the prior approval of the Minister, perform the functions of the Director of Security in his absence;

(d) Cashier—that is to say, a person who may assist the gaming by handling any apparatus, markers, dice, chips, tokens or other articles used in the gaming, and who may issue, receive and record cash, cheques, markers, IOUs, chips or tokens used in the gaming, provided that he performs his duties only in the cashier's office;

(e) Casino Manager—that is to say, the person who is in actual and effective control of all persons pursuing any service agreement and of any functions which such person is permitted to perform, and who may record the details of, and transmit cash, cheques, markers, IOUs, chips and tokens used in the gaming;

(f) Change Booth Operator—that is to say, a person who issues, receives, transmits, exchanges or records cash, chips or tokens used in the gaming, provided that such person shall perform his duties only in the money-change booth where he is on duty;

(g) Change Girl—that is to say, a person who issues, receives, transmits, exchanges and records cash, chips and tokens used in the gaming on any gaming machines, provided that such person shall in the performance of her duties, only be directly concerned with players at the gaming machines;

(h) Company Official—that is to say, a person who is a director, secretary, shareholder or other official of the company (where the licensee is a company), and who may watch the gaming or performance by any person in pursuance of any service agreement of any functions which such person is permitted to perform, and who may record the details of, and transmit cash, cheques, markers, IOUs, chips and tokens used in the gaming;

(i) Croupier—that is to say, a person who takes part in the gaming as a player, handles apparatus, cards, tokens and other articles used in the gaming at the gaming tables and who may receive cash and issue chips and tokens used in the gaming at the gaming tables where he is on duty;

(j) Director of Security—that is to say, a person who watches the gaming and the performance by any person pursuing any service agreement of any functions which such person is permitted to perform. Such person may perform such other duties as are specified in the written security instructions issued by the licensee and notified to the Minister;

(k) Inspector—that is to say, a person who on behalf of the licensee watches the gaming and the performance of croupiers in the course of their duties and who may receive or record cash, markers, IOUs, chips, and tokens used in the gaming at the gaming tables where he is on duty, and who may transmit markers, IOUs, chips and tokens used in the gaming between the cashier's office and the gaming tables. Such person may also transmit and exchange chips and tokens between the money-change booths and the gaming tables where he is on duty;

(l) Office Assistant—that is to say, a person who records the details of cash, cheques, markers, IOUs, chips and tokens used in the gaming, and who may perform such other duties as are specified in written instructions issued by the licensee and notified to the Minister;

(m) Office Manager/Credit Manager—that is to say, a person who records the details of cash, cheques, markers, IOUs, chips and tokens used in the gaming, and who may perform such other supervisory duties in relation to the gaming and in relation to persons employed in pursuance of service agreements, within the cashier's office, or in the office adjacent thereto;

(n) Security Supervisor—that is to say, a person who watches the gaming and the performance by any person pursuing any service agreement of any functions which such person is permitted to perform and who may record the details of, and transmit cash, cheques, markers, IOUs, chips and tokens used in the gaming. Such person may also perform such other duties as are specified in the written security instructions issued by the licensee and notified to the Minister;

(o) Supervisor—that is to say, a person who watches the gaming and the performance of croupiers and inspectors in the course of their duties and who may record the details of, and transmit between the cashier's office and the gaming tables cheques, markers, IOUs, chips and tokens used in the gaming.

### THIRD SCHEDULE:

(Section 21(3) and (4).)

#### ISSUE, RENTAL AND REVOCATION OF CERTIFICATES OF APPROVAL.

##### Part I.

1.—(1) Any person may apply to the Minister for the issue to him or the renewal of a certificate, under section 21, certifying that, in relation to premises specified in the certificate, he has been approved by the Minister for employment in relation to the business of gaming on those premises in a capacity and in respect of the performance of the functions relating to such capacity to which subsection (1) of that section applies, as are specified in the certificate.

(2) Any such application shall specify the premises and the capacity in respect of which the certificate is required.

3.—(1) In determining whether to issue or renew a certificate on any such application the Minister shall have regard only to the question whether, in relation to the premises specified in the application, the applicant is a fit and proper person to act in the capacity specified and to perform the functions relating to that capacity.

(2) Notwithstanding any other provision of this Schedule, the Minister shall not issue or renew any certificate of approval except upon payment by the applicant of the fee payable in respect thereof specified in the First Schedule.

4. Subject to the provisions of this Schedule, any such certificate issued by the Minister, if not renewed (or again renewed, as the case may be) shall cease to be in force after the 31st day of December next following the date of issue or renewal.

5. Subject to the provisions of this Schedule the Minister, after such enquiry as he may consider necessary, may at any time revoke any such certificate if it appears to him that, in relation to the premises specified in the certificate, the person to whom the certificate relates is not a fit and proper person to act in the capacity specified therein and to perform the functions relating to such capacity.

6. Where the Minister proposes to revoke any such certificate, he shall serve a notice on the person to whom it relates stating that (subject to any appeal against revocation) the certificate is to be revoked as from the end of the period of twenty-one days after the date of service of the notice and, subject to the following provisions of this Schedule, the revocation shall take effect at the end of that period. Where a certificate has been revoked the Minister shall also serve on the licensee of the premises specified in the certificate notice of the revocation of the certificate.

7.—(1) Where on an application made under this Schedule the Minister refuses to issue or renew a certificate, the applicant, by notice in writing to the Minister, may appeal to the Governor against the decision of the Minister.

(2) Where the Minister serves a notice on any person under paragraph 6 of this Schedule that person, by notice in writing to the Minister, may appeal to the Governor against the decision of the Minister to revoke the certificate.

8. Upon receipt of a notice of appeal under the provisions of paragraph 7, the Minister shall refer the case to the Governor, who shall appoint such person as may appear to him to be fit and proper to enquire into the case and, after giving the appellant and the Minister an opportunity to submit to him in writing representations in respect of the matter, to report to the Governor with such recommendation as appears to him to be proper. The Governor in determining the appeal shall take into account the representations made in the appeal and the report and recommendation made by the person so appointed to enquire into the case.

##### Part II.

9.—(1) Where a person applies to the Minister for a certificate under section 21 and at the time of the application a certificate issued by the Minister in respect of the applicant (whether in relation to the same premises or not) is in force, the application shall, until it is determined by the Minister, have the same effect for the purposes of that section as if it were a certificate issued by the Minister, and for the time being in force, certifying that, in relation to the premises specified in the application he has been approved by the Minister for acting in the capacity specified in the application and for performing the functions relating to such capacity.

(2) Where an application has effect as mentioned in subparagraph (1) of this paragraph, and the Minister refuses to issue a certificate on that application, and the applicant appeals against the decision of the Minister, in accordance with the provisions of subparagraph (1) of paragraph 7, the application shall continue to

have effect as in subparagraph (1) until the appeal is determined by the Governor.

(3) Where a notice of appeal against the revocation of a certificate is served under the provisions of subparagraph (2) of paragraph 7, the person serving the notice of appeal shall be deemed to be suspended from acting in the capacity and performing the functions in relation to such capacity to which the certificate relates, until the appeal is determined by the Governor.

#### FOURTH SCHEDULE.

(Section 22.)

##### ISSUE, RENEWAL AND REVOCATION OF PERMITS.

1. Any person may apply to the Minister, for the issue to him or the renewal of a permit, under the provisions of section 22, stating that, in relation to the premises specified therein, he has been approved by the Minister for employment on those premises in the capacity specified in the permit.

2. Any such application shall specify the premises and the capacity, such as is mentioned in subsection (2) of section 22, in respect of which the permit is required.

3. In determining whether to issue or renew a permit on any such application, the Minister shall have regard only to the question whether, in relation to the premises specified in the application, the applicant is a fit and proper person to be employed in the capacity to which the application relates.

4. Notwithstanding any other provisions of this Schedule the Minister shall not issue or renew any permit except upon payment by the applicant of the fee payable in respect thereof specified in the First Schedule.

5. The Minister, after such enquiry as he may consider necessary, may at any time revoke any such permit if it appears to him that, in relation to the premises specified in the permit, the person to whom the permit relates is not a fit and proper person to be employed in the capacity specified therein.

6. Where the Minister proposes to revoke any such permit, he shall serve a notice on the person to whom it relates stating that (subject to any appeal against revocation) the permit is to be revoked as from the end of the period of twenty-one days after the date of service of the notice, and subject to the decision on any such appeal, the revocation shall take effect at the end of that period. Where a permit has been revoked, the Minister shall also

serve on the licensee of the premises specified in the permit notice of the revocation of the permit.

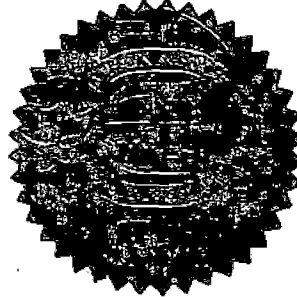
7. The provisions of paragraphs 7 and 8 of the Third Schedule, relating to appeals against decisions of the Minister in respect of the refusal to issue or renew, or for the revocation of, a certificate of approval, shall apply *mutatis mutandis* to appeals against the like decisions made in respect of permits under this Schedule:

Provided that where an appeal is made against a decision to revoke a permit, the person serving the notice of appeal shall be deemed to be suspended from working in the capacity and on the premises to which the permit relates until the determination of the appeal.

Form 615G  
PRUCEDI **Plasdex** \* INNOVATES  
MONTREAL TORONTO

TURKS AND CAICOS ISLANDS

THE CASINOS (AMENDMENT) ORDINANCE 1987  
(NO. 8 OF 1987)



I assent

*[Signature]*  
16.11.87  
Governor

An Ordinance to amend the Casinos Ordinance 1978.

Enacted by the Legislature of the Turks and Caicos Islands.

Short title.

1. This Ordinance may be cited as the Casinos (Amendment) Ordinance 1987.

Interpretation No.13 of 1978.

2. In this Ordinance "the principal Ordinance" means the Casinos Ordinance 1978.

Amendment to s.2

3. Subsection (1) of section 2 of the principal Ordinance (the interpretation section) is amended -

- (a) by deleting the definition of "drop" appearing therein;
- (b) by adding, between the definitions of "gaming machine" and "inspector", appearing therein -

"gross gaming yield" means the difference between -

- (i) the value in money or money's worth of the stakes staked with the casino;



it employees, agents, representatives or other persons authorised by this Ordinance to receive stakes, in gaming; and

- (ii) the value in money money's worth of the winnings paid by the casino, its employees, agents, representatives or other persons so authorised as aforesaid, to those taking part in gaming otherwise than on behalf of the casino."

4. The following subsections shall be inserted after subsection (1) of section 4 of the principal Ordinance -

Restriction  
on number of  
casinos in  
Providenciales.

"(1A) No application for a licence shall be entertained in respect of the Island of Providenciales if there are, at the time of such application, two operating casinos on that Island, but this subsection shall cease to have effect when the number of bedletting rooms on the Island of Providenciales exceeds 5,000, or on the 1st day of December 2001, whichever shall occur the earlier.

No.7 of 1985

"(1B) For the purposes of subsection (1A) "bedletting rooms" means any bedroom contained in a building to which the Accommodation (Taxation) Ordinance 1985 applies by virtue of section 3(1) of that Ordinance."

5. The following paragraph shall be inserted after paragraph (c) of subsection (1) of section 11 of the principal Ordinance -

No licence to  
be granted when  
restriction  
in force.

"(d) when section 4(1A) of this Ordinance would prevent an application for such a licence being entertained."

Replacement  
of s.28(1)(a)

6. In place of paragraph (a) of subsection (1) of section 28 of the principal Ordinance shall be substituted the following paragraph -

"(a) a tax on the gross gaming yield, calculated as provided in section 2 and at the rates specified in subsection (4) of this section."

Amendment  
of ss28(2),  
and (5),  
30(1),(2) and  
(3)(c) and  
generally.

7. The principal Ordinance shall be amended other than in section 2(1) by deleting the word "drop" wherever that word appears and by substituting in its place the words "gross gaming yield", and for the words "drop tax" wherever those words appear by substituting in their place the words "gross gaming yield tax."

Amendment  
to 1st  
Schedule.

8. The First Schedule to the principal Ordinance is amended by deleting the existing item 2 and substituting in its place the following new item 2 -

"2. The rate applicable for the computation of gross gaming yield tax under s.28(1)(a) shall be :-

on the first \$375,000	2 1/2 per cent
on the next \$750,000	5 per centt
on the next \$2,625,000	10 per cent
on the remainder	20 per cent"

Passed by the Legislative Council this 8th day of May 1987.

  
Ruth Blackman  
Clerk

  
R.B. Butterfield  
Deputy Speaker





TELEPHONE NO. 2801-2809  
TELEX NO 212 TURCAICOS TO  
OUR REF. NO. Info.Rel.#95  
YOUR REF. NO.

CHIEF SECRETARY'S OFFICE.  
GRAND TURK  
TURKS AND CAICOS ISLANDS  
WEST INDIES.  
11th May 1987

INFORMATION PRESS/RADIO RELEASE

PERMANENT RESIDENCE CERTIFICATES-GOVERNMENT POLICY STATEMENT.

1. PERMANENT RESIDENCE CERTIFICATES ("PRCs") ONCE GRANTED CAN ONLY BE REVOKED ON LIMITED GROUNDS. ALSO, WHEN THE HOLDER OF THE PRC HAS RESIDED IN THE ISLANDS FOR FIVE YEARS HE MAY APPLY FOR NATURALISATION AND SUCH AN APPLICATION IS DIFFICULT TO REFUSE. IT IS FOR THESE REASONS THAT EXECUTIVE COUNCIL HAS RECENTLY AGREED THAT IN FUTURE THE GRANT OF A PRC TO A NON-BELONGER MAY BE APPROVED ONLY IF THE APPLICANT COMPLIES WITH THE POLICY REQUIREMENTS DETAILED IN THIS RELEASE.
2. THE MINIMUM REQUIREMENTS STIPULATED BY EXECUTIVE COUNCIL FOR THE GRANT OF A PRC ARE THOSE SET OUT AT ANNEX A TO THIS RELEASE.
3. PARA 2(a) OF ANNEX A REFERS TO THE GRANT OF A PRC TO A PERSON WHO HAS EXPENDED MONEY UPON "AN APPROVED INVESTMENT". THE BASIC GUIDELINES FOR DETERMINING WHAT IS TO BE REGARDED AS AN APPROVED INVESTMENT ARE SET OUT AT ANNEX B TO THIS RELEASE.
4. APPLICATIONS FOR PRCs SHOULD BE SUBMITTED IN WRITING TO THE CHIEF SECRETARY'S OFFICE, GRAND TURK. PERSONS WHO HAVE ALREADY APPLIED FOR A PRC DO NOT NEED TO MAKE A NEW APPLICATION.

5. APPLICATIONS WHICH DO NOT CONFORM TO THE POLICY REQUIREMENTS SET OUT IN THIS RELEASE WILL BE REJECTED BY THE CHIEF SECRETARY.

6. AN APPLICANT WHO CONFORMS TO THE REQUIREMENTS WILL BE SUBJECTED TO STRINGENT CHARACTER CHECKS. IF THESE ARE SATISFACTORY, HIS APPLICATION WILL THEN BE SUBMITTED TO EXECUTIVE COUNCIL FOR APPROVAL.

7. THE FEE PAYABLE ON THE GRANT OF A PRC IS \$3,000.00.

Cheryl-Ann Francis  
Government Information Officer.

ANNEX A

Minimum requirements for the grant of a Permanent Residence Certificate

1. The applicant must be aged 21 or over and be of good character and financial probity.
2. The applicant must -
  - (a) have expended \$250,000 or \$150,000 (as the case may be) upon an investment in the Islands which is regarded as an approved investment in accordance with the guidelines at Annex B; or
  - (b) be a member of a profession, trade or business who has resided in the Islands for a total period of 3 years in the period of 4 years immediately preceding his application and who is in possession of a work permit issued under s. 23 of the Immigration Ordinance 1971 and must reside in a dwellinghouse or condominium valued at not less than \$150,000 which he, personally, owns; or
  - (c) reside in a dwellinghouse or condominium valued at not less than \$150,000 which he, personally, owns and has so resided in the Islands for a total period of 3 years in the period of 4 years immediately preceding his application and who has not, during his period of residence, engaged in any gainful occupation.

## ANNEX B

### Basic guidelines for determining what is regarded as an approved investment

#### NEW INVESTMENTS

1. A new investment is regarded as an approved investment if it complies with paragraphs 2 to 5.
2. The prior approval in writing of the Governor must be obtained to the investment.
3. The minimum investment shall be \$250,000.
4. The investment must be expedient in the public interest and likely to produce directly or indirectly
  - (a) significant Government revenue; or
  - (b) long term employment for belongers.
5. The following shall not be considered approved investments -
  - (1) The construction of a single dwellinghouse or condominium,
  - (2) The purchase of an existing property or business.

#### EXISTING INVESTMENTS

6. An existing investment is regarded as an approved investment if it complies with paragraph 7 only.
7. In the case of an investment already made, the investment will be deemed an approved investment if the Governor is satisfied that:-
  - (a) the value of the investment is at least \$150,000; and
  - (b) the applicant has reasonable grounds for believing that the investment was approved on behalf of the Government by the Executive Council or a former Government Minister and that on completion of the investment he would be granted a PRC.





## IMMIGRATION DEPARTMENT - TURKS AND CAICOS ISLANDS

The information in this leaflet is for guidance only. Each application is considered on its merits under the provisions of the Immigration Ordinance.

It is the policy of the Government of the Turks and Caicos Islands to promote the interests of those people who belong to the Islands and who are hereinafter called 'Belongers'. In pursuit of this policy, precedence in terms of work opportunities is given to Belongers. Not all vacancies arising in the employment field can be filled by Belongers however, and to the extent that posts remain vacant, such posts are available to other persons.

The employer plays a major role in the regulation of immigration through the work permit system. When an employer is unable to fill a post with a Belonger he should obtain a certificate to that effect from the Labour Commissioner before applying to the Immigration Department for a work permit for an employee of his choice who is not a Belonger.

Work permits are not issued to persons who have entered the Islands as visitors. Any such person wishing to take up the offer of employment must leave the Islands and await the issue of a work permit. A person already in the Islands and the holder of a work permit who wishes to change his employment must apply to the Immigration Department for the change to be authorised.

Work permits are not required by persons who come within the following categories;

- i. persons enjoying diplomatic or consular privileges and their private servants aged 16 or over;
- ii. representatives of overseas governments or of United Nations Organisations;
- iii. employees of the Turks and Caicos Government;
- iv. serving members of H.M. Forces;
- v. seamen or aircrew under contract to join a ship or aircraft in the Islands - but not where the ship or aircraft is engaged or seeking to engage in business within the Islands.

Work permits are issued for specific jobs and for specific periods of time. They are normally for periods up to twelve months, but in the case of certain professional posts they can be for periods up to 24 months. When a permit expires the post is open to Belongers and only if none are available will the post be open to others, once the employer has obtained the appropriate certificate from the Labour Commissioner.

A permit will normally be valid for presentation at a port of entry within three months of the date of its issue. Someone presenting a permit after the expiry of three months will have to satisfy the Immigration Officer that the post is still available and that the employer still wishes to employ him. If he cannot meet these requirements he will be refused entry to the Islands.

The only persons free to take employment without the permission of the Immigration Department, are Belongers. Persons holding residence certificates must satisfy the permit requirements, though there is some relaxation of the procedures for those with permanent residence certificates and for the dependants of residents to the extent that they are not required to leave the Islands in order to await the issue of their permit.

### Stages in the application process

1. The employer applies to the Labour Commissioner for a certificate to the effect that there is no Islander available for the vacancy.
2. The employer obtains an application form from the Immigration Department and completes all sections - including the sections relating to the employee.
3. The employer sends the completed application form to the Immigration Department together with:
  - a. Two passport size photographs of the employee
  - b. A recent medical certificate supplied by the employee.
  - c. The Labour Commissioner's certificate of 'non availability'.
  - d. The prescribed fee.
4. If the application is approved the Immigration Department will send the permit to the employer.
5. The employer sends the permit to the employee so that he can present the permit to the Immigration Officer on arriving in the Islands.
6. The employee presents his passport and the permit to the immigration Officer at the port of entry in the Islands.

### Extensions and renewals

An application for the renewal or extension of a permit should be made to the Immigration Department before the expiry of the current permit. Failure to apply in good time may jeopardise a decision to extend or renew. An application form should be obtained from the Immigration Department.

The employer will need to obtain a fresh certificate of 'non availability' from the Labour Commissioner and forward that certificate to the Immigration Department with the application form, the passport and the prescribed fee.

A leaflet showing the current permit fees may be obtained from the Immigration Department on request.

### IMPORTANT NOTES

A person seeking entry to the Islands with the intention of taking work will be refused entry unless he presents a valid permit to the Immigration Officer.

Persons arriving with permits should be in possession of valid passports and - where they are nationals of countries who require visas to enter these Islands - valid visas.

A person who is found working in the Islands without the permission of the Immigration Department is liable to a heavy fine or imprisonment for up to six months or both. Any person who knowingly harbours or employs such a person may also be liable to similar penalties.

Any further information on immigration matters in the Turks and Caicos Islands should be addressed to:

The Chief Immigration Officer  
GRAND TURK.





# About this Report

This report presents the results of a study conducted by The Conference Board of Canada on the impact of the Canada-United States Free-Trade Agreement (FTA) on the CARIBCAN program and other commercial links between Canada and the Commonwealth Caribbean countries.

The report draws on the findings of the Conference Board's major study on the economic impact of free trade released in March 1988. It uses this broader analysis to set the parameters for a specific consideration of the impact of the FTA on Canada's trade and investment links with the Commonwealth Caribbean countries.

The Conference Board's analysis of the Free-Trade Agreement used econometric modelling techniques to capture the long-run economic effects of the FTA on the Canadian economy and Canada's major trading partners.

To determine the potential effects of the FTA on Canada's bilateral trade relationships with countries that are third parties to the agreement, such as the Commonwealth Caribbean countries, a review of the relevant literature was first carried out to establish a theoretical framework for analysis. A number of discussions took place with

Canadian government officials in order to obtain background information on the CARIBCAN program. Following this, the existing CARIBCAN relationship as represented by merchandise trade and investment figures was explored. Combining the results of the Conference Board's broader analysis of the FTA with the theoretical framework and the CARIBCAN relationship analysis, the impact of the FTA on the bilateral agreement between Canada and the group of Commonwealth Caribbean countries was assessed.

This study was financially supported by the Department of External Affairs Canada. In accordance with the conditions under which the Conference Board conducts financed research, the ultimate responsibility for the design and method of research and content of the final report rests with the Conference Board. Moreover, The Conference Board of Canada retains proprietary rights over the research as well as control of the distribution of the research findings. This report was prepared by John Higgins, Senior Research Associate, under the direction of Tancredi Zollo, Director, International Studies and Service Development Group, The Conference Board of Canada.

# Highlights

- The Free-Trade Agreement can be examined in terms of its trade and investment diversion and its trade and investment creation effects.
- As tariffs on U.S. goods are lowered, it is expected that Canadian imports from the United States will grow. If this occurs at the expense of imports from other countries, the result is trade diversion. This may occur in sectors where the United States can supply substitutes for goods from third-party countries because of better price competitiveness due to the lowering of tariffs. Trade creation will result from the higher levels of economic growth, and therefore of overall imports, that will result from trade liberalization.
- Canadian investment will expand under the FTA because of the need to adjust to changes in Canadian industry's price competitiveness and the enhanced access to the U.S. market. If Canadian firms expand their North American investments at the expense of that in other countries, investment diversion results. Investment creation can also be expected in the long run as corporate profits expand in conjunction with greater growth in the Canadian economy.
- In the case of Canada's trade relationship with the Commonwealth Caribbean countries, the trade creation effects on total trade will outweigh any potential trade diversion effects on Canadian imports under the CARIBCAN program. There will be a small net increase in imports from Commonwealth Caribbean countries over the next ten years because of the FTA.
- The FTA is expected to lead to higher levels of Canadian investment. The extent to which Canadian companies' North American investments compete with their investments in Commonwealth Caribbean countries will determine the net effect on Canada's direct investment flows to the region in the short run. In the long run the potential exists for more Canadian investment in the region. The study concludes that since Canadian investment in the Commonwealth Caribbean countries is not centred on manufacturing, the effects over the course of the next ten years will be marginal.

# Impact of Canada-U.S. Free Trade on Commonwealth Caribbean Countries

The proposed Free-Trade Agreement between Canada and the United States will result in the liberalization of trade between the two countries. The main feature of the Agreement is a gradual elimination of tariffs, but it also enhances each country's access to the other's market.

The Free-Trade Agreement is intended to be restricted to trade between Canada and the United States. Under the rules of origin it applies only to goods wholly produced or obtained in either country. Goods produced in other countries cannot enter either Canada or the United States duty free. The Agreement does not impede on either government's ability to pursue independent policies with other countries. This is an important element for third-party countries such as the Commonwealth Caribbean nations. The government of Canada has clearly stated that it is committed to the multilateral trading system and the growth of world trade. Thus, the FTA is not intended to impact either positively or negatively on Canada's other bilateral trade relationships.

The Agreement, nevertheless, has the potential to impinge on Canada's business links with other countries. One U.S. observer anticipates that Canadian and U.S. exports will expand at the expense of exports from other countries.<sup>1</sup> This observer does acknowledge that there will be trade creation from the Free-Trade Agreement. That is, the third-party loss in market share will be offset by an expanded economic pie, and sales from third-party countries will be maintained or even expanded in absolute terms.

There is not yet a general consensus on the relative importance of the Agreement's trade diversion and trade creation effects. Nevertheless, it is still possible to address the impact of the Free-Trade Agreement for individual third-party countries, such as those covered by the CARIBCAN program.

## The CARIBCAN Program

In June 1986, the Canadian government enacted CARIBCAN, a program to encourage trade, investment and industrial co-operation with the Commonwealth Caribbean region.<sup>2</sup> CARIBCAN's main feature is the unlimited extension by Canada of preferential duty-free access to the Canadian market to most exports from the Commonwealth Caribbean countries. Notable exclusions are textiles and clothing, footwear, luggage and handbags, leather garments, lubrication oils and methanol. In addition, the program contains measures to encourage Canadian investment and other forms of industrial co-operation with the region. Included are programs to strengthen the exporting capabilities of Commonwealth Caribbean countries, seminars for business people from the region on market development in Canada, and access to regional offices of the Canadian Department of Regional Industrial Expansion to assist Caribbean trade commissioners in their trade promotion efforts in Canada.

The program's basic objectives are to expand Canadian and Commonwealth Caribbean trade and promote new investment opportunities in the region. In the long term, it is hoped that the program will assist the economic development of the Commonwealth Caribbean countries.

## Economic Links between Canada and Commonwealth Caribbean Countries

The links between Canada and the Commonwealth Caribbean countries go back to the early 18th century. Today the value of merchandise trade amounts to roughly half a billion dollars. In 1987, \$596 million worth of goods were exchanged, with the balance of trade in

<sup>1</sup> Jeffrey J. Schott, "The Canada-United States Free Trade Agreement: The Global Impact", Jeffrey J. Schott and Murray G. Smith, editors, *The Free Trade Agreement: A U.S. Assessment* (Washington: The Institute For International Economics, 1988), p. 5.

<sup>2</sup> For further information on the CARIBCAN program, see *CARIBCAN Canadian Programs for Commonwealth Caribbean Trade, Investment and Industrial Cooperation*, Institute for Research on Public Policy, Ottawa, May 1988.

Table 1.  
Canadian Imports from Commonwealth Caribbean Countries  
(thousands of Canadian dollars)

	1978	1981	1984	1987
Agricultural goods	16,749	14,231	12,064	18,785
Food & beverage items	20,831	20,582	26,449	22,068
Crude metals & minerals (excluding mineral fuels)	77,347	100,882	145,755	109,146
Crude petroleum	12,168	52,855	20,507	19,958
Petroleum & coal	12,550	54,112	91,947	25,063
Chemicals	8,590	10,986	19,199	16,820
Primary metals	158	34	619	24,653
Textiles & clothing	2,326	3,875	173	2,638
Machinery & equipment	10	177	792	1,409
Other manufactured goods	1,969	3,302	4,646	17,819
Special transactions	1,266	4,148	4,453	6,197
Total	153,964	265,184	326,604	264,556

Sources: Statistics Canada; The Conference Board of Canada.

Table 2  
Canadian Exports to Commonwealth Caribbean Countries, 1987  
(thousands of Canadian dollars)

Agricultural goods	302
Food & beverage items	90,089
Crude metals & minerals (excluding mineral fuels)	2,975
Crude petroleum	32
Petroleum & coal	738
Chemicals	21,951
Primary metals	15,976
Textiles & clothing	10,715
Machinery & equipment	17,866
Other manufactured goods	168,581
Special transactions	2,565
Total	331,790

Sources: Statistics Canada; The Conference Board of Canada.

Canada's favour (see Tables 1 and 2).

Canada's main exports to the region fall under the heading of "other manufactured goods". These include items such as telecommunications equipment, medical products, containers, prefabricated buildings, metal fabricated products, office equipment, paper products and aircraft. Exports of these types of goods amounted to more than \$160 million in 1987. The next most important export is "food and beverage items", with \$90 million worth shipped to the region in 1987.

Canadian imports from the Commonwealth

Caribbean countries are fairly diversified. The most important import is bauxite from Jamaica, which falls under the industrial classification of "crude metals and minerals excluding mineral fuels". Among the other important Commonwealth Caribbean exports are food and beverage items, crude and refined petroleum and other manufactured goods. This last category has grown more than 300 per cent since 1984. The most notable increase has been in telecommunications and related equipment from Barbados. Overall, however, imports from the Commonwealth Caribbean countries account for only 0.23 per cent of Canadian imports (see Table 3).

With regard to the items that are excluded from the CARIBCAN program and upon which duty must be paid on entry to Canada, the volume of trade is minimal. In 1987, for example, textiles and clothing exports to Canada amounted to just over \$2 million (see the next section for a discussion of exports entering Canada duty free).

One of the salient features of Commonwealth Caribbean countries' exports is their degree of volatility. Aggregate exports fell sharply from 1984 to 1987 after a period of growth in the preceding three years. The principal cause was a decline in shipments of crude metals and minerals, particularly bauxite, and petroleum products to Canada. The bauxite mine in Jamaica has become a swing producer in recent years.

Canadian involvement in the Caribbean region



**Table 3**  
Commonwealth Caribbean Countries' Share of Canadian Imports, 1987  
(percentage)

Agricultural goods	0.65
Food & beverage items	0.47
Crude metals & minerals (excluding mineral fuels)	5.30
Crude Petroleum	0.57
Petroleum & coal	1.64
Chemicals	0.27
Primary metals	0.54
Textiles and clothing	0.05
Machinery & equipment	0.008
Other manufactured goods	0.05
Total	0.23

Sources: Statistics Canada; The Conference Board of Canada.

is not confined to merchandise trade. Even leaving aside the substantial contribution of the tourism industry, Canadians have a noticeable direct investment position, valued at slightly more than \$2 billion as of 1984 (see Table 4). Although Table 4 covers all of the Caribbean region, it is indicative of the sectoral distribution of Canadian direct investment in Commonwealth Caribbean countries. Most of the investment is in either utilities and communications or the financial area, sectors where there is a comparatively favourable regulatory environment. Investment is centred in those countries with a favourable regulatory regime, for example, the Bahamas. There is little investment in the manufacturing sector or in mining.

**Table 4**  
Sectoral Distribution of Canadian Direct Investment in Caribbean Countries, 1984  
(percentage)

Manufacturing	2.1
Petroleum	11.8
Mining & smelting	8.7
Utilities, communications	35.9
Merchandising	8.7
Financial	32.8

Note: The main countries in which Canadians have investments are the Bahamas, Bermuda, Jamaica, Trinidad and Tobago, Antigua, Cayman Islands, Dominican Republic, Netherland Antilles and Haiti.

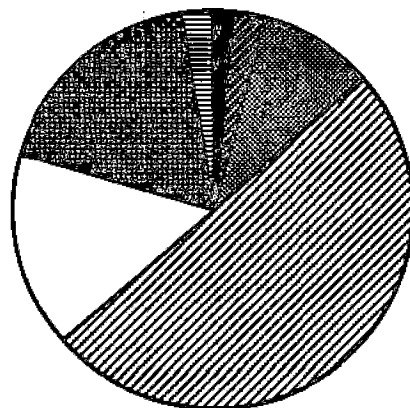
Sources: Statistics Canada; The Conference Board of Canada.

### Trade under the CARIBCAN Program

The volume of imports entering Canada under the CARIBCAN program is minimal. Figures tabulated by the government of Canada indicate that CARIBCAN trade represents only 5 to 6 per cent of total Commonwealth Caribbean exports to Canada. Most of the goods shipped are non-dutiable.

There are problems, however, with quantifying the goods entering Canada under the CARIBCAN program. This is because a considerable volume of imports enter Canada from the Bahamas under a temporary duty remission program that is outside the CARIBCAN program. The goods involved are inorganic chemicals and various

**Chart 1**  
Percentage Distribution of Imports under the CARIBCAN Program, 1987



Sources: The Conference Board of Canada.

petroleum derivatives. Excluding these imports lowers the volume of trade under the CARIBCAN program to between 1 and 2 per cent of Canadian imports from these countries. This translates into roughly \$1.5 million worth of goods imported into Canada in 1987, which was approximately double the amount of 1986.

The bulk of trade under the CARIBCAN program originates in Jamaica and the Bahamas. Shipments also come from Trinidad and Tobago, Barbados and the Leeward and Windward Islands (see Chart 1).

The items entering Canada are mainly agricultural products or food and beverage goods, which accounted for 28.5 per cent and 59.9 per cent, respectively, of total CARIBCAN imports under the program in 1987. In discussion with various Canadian government officials it was pointed out that among the food items that enter duty free under CARIBCAN are hot pepper sauces, cocoa, squash and pickled vegetables. These are items particular to the region and not available from other countries. The only manufactured good of any significance entering duty free under the program is a telephone component from Trinidad and Tobago.

There is no indication that the CARIBCAN program has fostered direct investment or other forms of business links. To date, the benefits of the program have been restricted to merchandise trade.

### Impact of the Canada-United States Free-Trade Agreement

The Conference Board's assessment of the Free-Trade Agreement shows that both exports to and imports from the United States will expand. Overall, the Canadian economy is expected to be stronger in the long run (see Table 5). Similar conclusions have been reached by other Canadian research agencies and the government of Canada (see Table 6).

Lower tariffs in both Canada and the United States partially explain the expected trade expansion. But equally important is the potential for the Agreement to increase Canadian productivity and boost output.

Under the Free-Trade Agreement, Canadian companies will be in a position to construct world-scale production facilities because they will have greater access to the U.S. market. To benefit from this opportunity, Canadian producers will have to rationalize their operations. Theoretically, the

Table 5  
Key Economic Indicators for Canada, Real Growth Rate Comparison, Base Case vs. Free-Trade Agreement, 1987-97

	Level change (1981 \$ billions)	Compound growth(%)	
		Base case	Free trade
GDP	+9.3	2.5	2.7
Consumption	+2.5	2.2	2.3
Business investment	+4.4	2.7	3.1
Exports	+4.9	3.2	3.4
Imports	+2.2	2.9	3.1
CPI	—	4.8	4.6
Exchange rate	No change	—	—

Source: The Conference Board of Canada.

Table 6  
Long-Run Economic Impact of Canada-United States Free Trade

	Percentage increase in Canadian GDP
The Conference Board of Canada	1.7
Department of Finance	2.5
Economic Council of Canada	3.3
Institute for Policy Analysis	3.3

Source: The Conference Board of Canada; Department of Finance

result of all this rationalization and specialization will be an increase in Canadian productivity. In order for firms to achieve greater productivity, Canadian investment in Canada, and to a lesser extent in the United States, will have to increase more rapidly than it otherwise would have.

The major concern among third-party countries is the Free-Trade Agreement's potential for trade diversion and, to a lesser extent, direct investment diversion. With tariffs on U.S. goods removed under free trade, imports into Canada from the United States will be cheaper than similar goods from other countries. The advantage of duty-free entry that the goods traded under the CARIBCAN program now enjoy will be reduced. For goods that are non-dutiable, there will be no trade diversion because U.S. price competitiveness will not change under the FTA. Because investment funds are finite in the short term, the additional North American investment could come at the expense of direct investment in other countries.

The key to the trade diversion question is

whether substitute goods are available from the United States. The products entering Canada under the CARIBCAN program tend to be unique to the Caribbean region and therefore it is unlikely that similar goods can be obtained from the United States. It should be kept in mind that the Free-Trade Agreement is confined to the customs region of the United States. The U.S. Virgin Islands, for example, are not covered by the Agreement.

Items excluded from the CARIBCAN program (i.e., subject to duty upon entry into Canada) could be adversely affected by the Free-Trade Agreement. For instance, goods such as textiles and clothing may be at risk. However, as pointed out earlier, exports from the Commonwealth Caribbean countries in items excluded from duty remission are a small proportion of total trade. Thus, there will be little or no effect on the current value of Canadian imports from Commonwealth Caribbean countries, for goods either inside or outside the program.

Turning to the question of investment diversion, the Conference Board's assessment is that the Free-Trade Agreement will increase Canadian business investment by \$4.4 billion, in constant 1981 dollars, by 1997. The bulk of this increase will be in the non-auto-related manufacturing sector and in utilities. There is no conclusive evidence as to whether this investment will come at the expense of Canadian investment in the Commonwealth Caribbean countries. Current indications are that although the possibility of investment diversion does exist, the impact on total Canadian direct investment in Commonwealth Caribbean countries will be very small. First, the expected growth in Canadian investment amounts to only 4 per cent over the next ten years. As discussed earlier, Canadian investment in Caribbean manufacturing is limited. If the expected increase in Canadian investment is pro-rated across all third-party countries that now receive Canadian foreign manufacturing investment, the impact on Canadian investment in the Caribbean is minor. Second, Canadian investment in the region may not be affected because the opportunities that are present there are not available in North America. For example, certain natural resource investment opportunities are unique to the region, as are manufacturing opportunities based on low-cost labour. Counterbalancing this in the short term is the finite supply of investment funds. Additional North American investment may come at the expense of investment in countries such as those in the Commonwealth Caribbean.

Table 7  
Impact of Canada-United States Free Trade on Canadian Imports, 1987-97  
(1981 \$ millions)

Imports	Change in value
Agricultural goods	+126
Food & beverage items	-2
Crude metals & minerals (excluding mineral fuels)	+60
Crude petroleum	0
Petroleum & coal	0
Primary metals	+190
Non-auto manufactured goods*	+2,044
Total	+2,419

\*This category includes chemicals, textiles and clothing, machinery and equipment and other manufactured goods.

Source: The Conference Board of Canada.

Finally, to the extent that the rationalization and specialization of Canadian industry results in greater Canadian competitiveness, the additional investment in Canada will move industry down its long-run average cost curve sooner, and it will be better positioned to compete globally and pursue additional foreign investments.

The trade creation effects of the Free-Trade Agreement may be more important to the Commonwealth Caribbean countries than any trade or investment diversion effects. Canadian merchandise imports will increase by 2 per cent or \$2.4 billion (in 1981 dollars) by 1997 (see Table 7). The most significant increase, at 2.0 billion 1981 dollars, will be in other manufactured goods. The bulk of the increase in imports will take place in other manufactured goods because the Free-Trade Agreement deals mainly with tariffs on such items. Since Canadian imports from these countries are not predominately in the category of "other manufactured goods", the question arises as to how the FTA can create trade for the region.

The answer is that the expansion in trade in non-auto-related goods will have a positive impact on personal income and corporate profits, which in turn will result in greater import demand in other areas.

For Commonwealth Caribbean countries, there are several key results of the Conference Board's analysis of free trade:

- Canada's imports of agricultural commodities will expand by more than \$125 million by 1997. Food and beverage imports, however, will remain relatively unchanged because of relative price movements favouring non-food

consumption. Non-food prices are expected to decline more than food prices.

- Canadian imports will expand in other areas such as primary metals and crude metals.
- The value of the Canadian dollar will not be affected by the Free-Trade Agreement. Thus, the price competitiveness of the Commonwealth Caribbean countries will not be altered.
- If we assume that the Commonwealth Caribbean countries maintain their level of Canadian imports, then as total Canadian imports increase so will exports from these countries. On this basis, it is estimated that Commonwealth Caribbean exports will benefit by approximately \$5 million (in 1981 dollars) over the next ten years. The Free-Trade Agreement will therefore have a small positive effect on Commonwealth Caribbean trade.

## Conclusion

There are two factors to consider in assessing the impact of the Free-Trade Agreement on third parties such as the Commonwealth Caribbean countries: trade and investment creation, and trade and investment diversion. These dynamics pull in opposite directions, and it is their relative strengths that will ultimately determine the implications of the Agreement for Commonwealth Caribbean trade and investment. This study concludes that trade under the CARIBCAN

program will not be altered by the Free-Trade Agreement because of the uniqueness of the goods coming into Canada under the program. Trade that is outside the CARIBCAN program is mostly non-dutiable and hence does not face the threat of being displaced by U.S. exports. The trade creation effects of the Agreement may boost exports from the Commonwealth Caribbean region.

The effect on investment is somewhat more ambiguous because the factors influencing foreign investment decisions in third-party countries will be affected only indirectly at most by the Free-Trade Agreement. The extent to which investment opportunities are unique to the Commonwealth Caribbean countries will play an important role in determining the level of Canadian investment. There is no reason for the Agreement to affect investment by Canadian firms in Commonwealth Caribbean countries because investment decisions are based on a plethora of factors unconnected to the Agreement. At the same time, there is a strong possibility that the Free-Trade Agreement may strain the Canadian corporate sector's ability to undertake projects outside North America since overall corporate financial resources are limited in the short term. Nevertheless, given the lack of direct investment in manufacturing in the region, and the fact that free trade will spur mainly manufacturing investment, the potential for investment diversion in the Commonwealth Caribbean countries is marginal. Over the long term, because of the positive impact of the Agreement on overall economic growth and financial resources, investment creation could take place in third-party countries.

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## Canada

## Caribbean envoy represents six states

**J** Bernard Yankey, a tall, robust-looking diplomat, is an unusual breed of envoy on Ottawa's embassy row.

Unlike his counterparts, he wears more than one hat — six of them, to be exact. And he says that they all fit just fine.

He represents all but one of the seven members of the Organization of Eastern Caribbean States.

"Since they were all developing territories, they tend to have common interests when it comes to dealing with nations like Canada," said Yankey, a 53-year-old agricultural economist who is cutting his teeth in the world of diplomacy.

He would appear to be well qualified to deal with matters of an economic-financial nature. He held senior executive posts in the Caribbean Development Bank for 15 years before his arrival here a year ago.

Yankey is high commissioner for the independent Commonwealth islands of St. Lucia, Grenada, Saint Vincent and the Grenadines, Dominica, St. Christopher (St. Kitts) and Nevis, and commissioner for the British colony of Montserrat (Antigua and Barbuda opened its own high commission in Ottawa last year.)

In his post, Yankey also represents the secretariat of the seven-member family, based in St. Lucia, the largest of these countries, with a population of about 125,000. This particular role parallels that of Jacques Lecomte, ambassador in Canada for the 12-nation European Economic Community.

The Kent Street High Commission has existed since the birth of the Eastern Caribbean grouping in 1981. All of the islands concerned have relatively small populations and limited markets.

This Dominica-born envoy does not feel at all handicapped by his lack of diplomatic experience as he seeks to help the OECS territories — separately and collectively — in such areas as trade, development aid and tourist promotion.

"In my years with the development bank, I had to handle the sensitive subject of 'financing' in dealing with both governments and the private sector," noted Yankey, looking out the window of his spacious 17th floor downtown office toward Parliament Hill.

Not surprisingly, commercial affairs are taking up a "significant" part of his time, especially the matter of the removal of barriers to the free flow of trade between this Caribbean region and Canada.

A feeling prevails within the OECS that while tourism has had a major impact on the economic



**PATRICK  
BEST**

**DIPLOMATS**

health of the Caribbean territories, it has tended to mask "the reality of underdevelopment." What is more, tourism is seen as being very vulnerable to "political and social problems."

More specifically, his organization wants Canada to provide duty-free access to its market for such Caribbean exports as textiles, footwear and luggage, and to clear the way for "direct" shipping of products from Canada to the OECS region. "The current 'transshipping' system is a costly and time-consuming process," added Yankey. >

The latest figures on OECS-Canada trade indicate that there is room for improvement in this area.

Total two-way trade amounted to \$45 million in 1988, with OECS exports amounting to just \$7.9 million.

This trade pattern is no cause for pessimism, as far as the agricultural specialist turned diplomat

is concerned. Rather, it represents "an opportunity" to try to promote action aimed at removing barriers to the flow of goods between the OECS and Canada.

Yankey expects these questions to be taken up when the Caribbean trade pact of 1988 comes up for review next month. And he raises them every chance that he gets in talks with Canadian authorities.

It is recognized that it is becoming more difficult to obtain the right kind of foreign aid than was the case in past years. Canadian economic assistance to the OECS region is about \$24 million a year, up somewhat from the figure for five years ago.



1985 No. 6

CURRENCY, REVENUE AND TAXATION

THE CUSTOMS TARIFF (GENERAL) ORDER 1985

Made .....4th June...1985

Coming into operation.....17th June 1985

No. 7 of 1971

IN EXERCISE of the powers conferred on me by subsection (3) of section 7 of the Customs Ordinance 1970, I make the following Order:

Citation.

1. This Order may be cited as the Customs Tariff (General) Order 1985.

Commencement.

2. This Order shall come into force on the 17th day of June, 1985.

Interpretation.

3. (1) In this Order the abbreviations and symbols set out in the first column of Part I of the First Schedule have the meanings given to them in the second column of that Part.

(2) For the purposes of paragraph 13 of Part II of the Second Schedule, the landed cost of a motor vehicle shall be taken to be the aggregate of -

(a) the contract price of the vehicle or the normal price of the vehicle, whichever is the greater; and

(b) the freight, insurance and all other costs, charges and expenses incidental to the sale of the vehicle and to the removal or carriage of the vehicle from the place of despatch to the Islands.

(3) In sub-paragraph (2) the normal price of a motor vehicle shall be taken to be the price which the vehicle would fetch at the time of importation on a sale in the open market (as construed in accordance with sub-section (4) of section 40 of the Ordinance) between a buyer in the Islands and a seller at the place from which the vehicle was despatched, the buyer and seller being independent of each other.



Import and  
export duties  
of customs.

4. (1) Subject to paragraph 4, import duties of customs are imposed on any goods imported into the Islands of any description specified in the first column of Part II of the First Schedule at the rate specified in the second column of that Part in relation to goods of that description.

(2) Export duties of customs are imposed on any goods exported from the Islands of any description specified in the first column of Part III of the First Schedule at the rate specified in the second column of that Part in relation to goods of that description.

Exemption  
from import  
duties of  
customs.

5. Import duties of customs shall not be payable in respect of goods of any description specified in the Second Schedule.

Revocation.

6. The Customs Tariff (Consolidation and Amendment) Order 1984 and the Customs (Temporary Surcharge) Order 1984 are revoked.

#### FIRST SCHEDULE

(Paragraph 4)

(Paragraph 2(1) and 3)

#### IMPORT AND EXPORT DUTIES OF CUSTOMS

#### PART I

#### ABBREVIATIONS AND SYMBOLS

Abbreviation or symbol (1)	Meaning (2)
%	In any case where the symbol appears against a rate of duty imposed on any goods other than a motor vehicle, <u>per centum ad valorem</u> , and in all other cases, <u>per centum</u>
cc.	cubic centimetres
cwt.	hundredweight avoirdupois
gal.	imperial gallon
lb.	pound avoirdupois
n.e.s.	not elsewhere specified.
no.	number

qt

quarter of an imperial gallon.

ton.

ton avoirdupois.

PART II

IMPORT DUTIES OF CUSTOMS

\* Amended 26/7/88

Description of goods (1)	Rate of duty (2)
1. Arms, ammunition and explosives	40%
2. Beer, ale, stout, porter, cider and perry.	<del>5.00</del> <del>\$4.35</del> per gall.
3. Butter and butter substitutes lard and lard substitutes (including vegetable oils)	12%
4. Cheese	12%
5. Ice cream and frozen lollipops (other than frozen yoghurt)	12%
6. Canned meat, meats and meat preparations, other than fresh or frozen	10%
6A Fresh or frozen fish	30%
7. Oils (other than vegetable oils) -	
(a) fuel n.e.s.	\$0.075 per gall.
(b) illuminating and other refined petroleum burning oils (excluding kerosene)	\$0.050 per gall.
(c) kerosene which is of a quality suitable for use as aviation fuel	\$0.050 per gall.
(d) motor spirit, including benzine, benzoline, gasolene, naptha, polymerised hydrocarbons and petrol spirits generally	<del>0.400</del> <del>\$0.300</del> per gall.
(e) lubricating oils	\$0.385 per gall.
(f) Diesel fuel	\$0.100 per gallon
8. Spirits -	
(a) rum	<del>14.30</del> <del>\$13.00</del> per gall.
(b) all other normally potable spirits	<del>20.00</del> <del>\$17.25</del> per gall.
9. Sugar	16%
10. Tea	15%

11. Tobacco 20.00  
~~\$17.25~~ per lb.

12. Wine containing less than 42% of proof spirit -  
(a) sparkling 10.00  
~~\$8.625~~ per gall.  
(b) still 8.00  
~~\$6.90~~ per gall.  
(c) vermouth 8.00  
~~\$6.90~~ per gall.  
(d) medicated wines \$2.329 per gall  
plus 15%

13. (1) Motor vehicles, other than motor vehicles with a weight unladen of six tons or more, being -  
(a) motor vehicles, other than motorcycles and scooters, with engines -  
    (i) not exceeding 2,000 cc. 25% of landed cost  
    (ii) exceeding 2,000 cc. but not exceeding 4,000 cc. 35% of landed cost  
    (iii) exceeding 4,000 cc. 45% of landed cost  
(b) motorcycles and scooters with engines -  
    (i) not exceeding 100 cc. 25% of landed cost  
    (ii) exceeding 100 cc. but not exceeding 250 cc. 35% of landed cost  
    (iii) exceeding 250 cc. 45% of landed cost  
(2) Motor vehicles with a weight unladen of six tons or more 5% of landed cost

14. (a) Sand and aggregate of a quality suitable for making concrete or concrete blocks 10.25%  
(b) Concrete blocks 10.25%

15. Timber (whether treated or not against insects or other pests) being wood in the rough, squared, sawn, planed, tongue or v-jointed, plywood or laminated wood, but not further prepared 10.25%

16. Cement 10.25%

17. Aluminum, zinc and rock sheeting 10.25%

18. Construction steel 10.25%

28/10/88

19. Edible goods n.e.s.	25%
20. All goods n.e.s.	30%

PART III  
EXPORT DUTIES OF CUSTOMS

Description of goods (1)	Rate of duty (2)
1. <u>Cench (strombus gigas)</u> -	
(a) dried	\$0.11 per 100
(b) processed	\$0.10 per lb.
(c) shells	\$0.02 per 5
2. <u>Crawfish (panulirus argus)</u> -	
(a) whole crawfish	<sup>15</sup> \$0.20 per lb.
(b) crawfish tails	<sup>30</sup> \$0.25 per lb.
(c) crawfish meat	<sup>30</sup> \$0.25 per lb.
3. Processed fish	<del>\$0.05</del> <sup>05</sup> per lb. <del>27/1/88</del>
4. All spirits, wines and spirituous liquors exported from the Islands and on which no import duty of customs has been paid.	\$5.00 per case containing 12 reputed qts.
5. Manufactured goods produced or assembled in the Islands, other than handicrafts.	5%

}

Annexed by  
S.I. No 6/1988  
w.e.f. 1<sup>st</sup> April 1988

SECOND SCHEDULE  
(Paragraph 5)

EXEMPTIONS FROM IMPORT DUTIES OF CUSTOMS

1. Aircraft (other than private aircraft) and aerodromes

The following goods intended for use in connection with aircraft used under a valid licence or permit granted under the Air Transport (Licensing of Air Services) Regulations 1953 (published as a supplement to the Jamaica Gazette of the 17th July, 1953) or any Regulations replacing those Regulations of 1953 or in connection with the use for civil aviation purposes of any aerodrome to which the Aerodromes and Air Navigation Aids Ordinance 1985 applies -

- (a) accessories and instruments necessary for the navigation of aircraft
- (b) machinery and equipment necessary for the repair and maintenance of aircraft
- (c) equipment imported solely for use in any aircraft in flight operating between the Islands and any place outside the Islands or between places in the Islands
- (d) machinery, equipment, appliances and materials imported for the construction, maintenance or improvement of aerodromes
- (e) lubricants and fuel imported and taken out of bond solely for use in aircraft

2. Alcoholic beverages, tobacco products and perfumes etc. contained in accompanied baggage

The following goods contained in the accompanied baggage carried with him by a person when he enters the Islands and not imported for commercial purposes -

- (a) normally potable spirits of not more than one reputed quart or not more than two litres of wine containing less than 42% of proof spirit
- (b) 200 cigarettes, or 100 cigarillos (cigars with a maximum weight of 3 grammes), or 50 cigars or 125 grammes of smoking tobacco
- (c) 50 grammes of perfume or 0.25 litres of toilet water;
- (d) articles of any other description purchased outside the Islands to a total value not exceeding \$200.

so, however, that this exemption shall not apply to any person under the age of seventeen years in respect of the goods mentioned in sub-paragraphs (a) and (b)

3. Books etc.

Books (bound or unbound), manuscripts, sheet music, newspapers, pamphlets, periodicals, unframed photographs, almanacs, trade catalogues, bank notes, used and unused postage stamps and used postcards; but excluding account books, printed labels, printed forms, tickets, legal forms (including memoranda and articles of association) and Christmas or greetings cards.

4. British Council

Goods imported by the British Council, otherwise than for resale or for the personal use of members or employees of the Council.

5. Bullion and coin

Bullion and coin

6. Cable and Wireless

All vehicles, plant, machines, apparatus, appliances, equipment and materials (including office stationery) and fuel imported by Cable and Wireless (West Indies) Limited, or its agents, in connection with the renewal, repair, extension, maintenance or operation of any telecommunication system

7. Charities

Goods imported or sent to the Islands, whether as gifts or otherwise, by the Red Cross Society or the St. John Ambulance Brigade, or by any religious or other charitable institution approved by the Governor and intended for use in the relief of distress or suffering.

8. Containers and coverings

Containers and coverings of any kind -

- (a) for the packaging or covering of any produce of the Islands for export
- (b) used for the packaging or covering of any such produce and returned to the Islands empty
- (c) which imported goods are normally packaged in or covered.

9. Diplomatic and similar organisations

Goods for the official use of any of the following persons, and the personal and household effects (including one motor vehicle) of any such person or of his spouse or any other person wholly or mainly maintained by him or in his custody, charge or care -

- (a) the head or any member of any foreign, diplomatic or consular mission of any country, on condition that he is not engaged in any other business or profession and that a similar privilege is accorded by such country to a corresponding British mission

- (b) an official of the United Nations Organisation or of any of its associated agencies assigned to carry out any functions in the Islands in connection with any programme or project of the United Nations Organisation or of any of its associated agencies

10. Ecclesiastical goods and vestments, tombstones and memorial tablets

- (a) Goods of a non-consumable nature imported solely for the construction, repair, use, furnishing or decoration of places of divine worship, including vestments for use during public worship
- (b) Altar bread and altar wines imported solely for the purpose of administering the Sacrament
- (c) Tombstones, whether engraved or not, and commemorative and memorial tablets.

11. Educational goods

Goods imported solely for use in any school or other educational establishment in the Islands approved by the Board of Education.

12. Firefighting apparatus

Firefighting apparatus, including fire engines, fire hoses, couplings, extinguishers and refills

13. Boats, equipment for boats and fishing gear

- (a) Any boat and any equipment <sup>exclusively</sup> for a boat not elsewhere specified (including engines or parts of engines, but not including batteries of less than 1 cwt.), and any materials for the construction or repair of a boat, ~~where such boat, equipment or materials are imported solely by a person who is the holder of a valid licence under the Fisheries Protection Regulations 1976 and the boat, or boat to be constructed or repaired is intended to be used, and is or will be suitable for use principally for fishing by that person.~~

- (b) The following goods imported by the holder of a valid licence under the Fisheries Protection Regulations 1976 and intended solely for use in the fishing industry -

- (i) fishing nets and gear for fishing nets
- (ii) fishing lines of all types
- (iii) fish hooks
- (iv) seine twine and synthetic netting twine

28/10/88 GAZETTE

- (v) fish wire
- (vi) net preservative (other than linseed oil)
- (vii) deck equipment, including line-haulers, pot-haulers, capstans, winches, trolling gurdies, handline reels, and rope-leads and fairleads used with such equipment.
- (viii) life-saving equipment, including jackets, life buoys, buoyant apparatus, inflatable rubber dinghies and distress flares
- (ix) swivels
- (x) sea-anchors, sails and sail canvas
- (xi) navigational equipment, including compasses, sextants, radio direction finders and station pointers

14. Flags

Flags of any country or territory of the British Commonwealth or of any foreign country

*Deleted. 26.7.88*

15. Fresh or frozen meat, fish, fruit and vegetable; eggs, dried bean and peas; milk and milk substitute grams and cereals; flour; etc.

- (a) Fresh or frozen -
  - (i) meat (including poultry and game);
  - ~~(ii) fish~~
  - (iii) fruit
  - (iv) vegetables
- (b) Salted meat
- (c) Canned corned beef
- (d) Eggs, in shell
- (e) Dried beans and peas (not canned)
- (f) Unprocessed nuts
- (g) Milk; cream; dried, condensed or evaporated milk; and milk substitute and cream substitute
- (h) Grains and cereals, including wheat, maize, oats, rice and rye (whether or not milled, polished or ground) but not including any which have been subjected to baking, roasting, toasting or other cooking process
- (i) Flour derived from, or separated during, the milling or grinding of anything contained in

*Deleted 26.7.88*



sub-paragraph (h), except when contained in anything which has been subjected to baking, roasting, toasting or other cooking process or when applied as a coating to anything which is not exempted from import duties of customs

(j) Hominy and grits

(k) Bran and middlings except when mixed with any fish or meat or any derivative of fish or meat

16. Goods for the relief etc. of the permanently disabled

Goods for the relief, employment, rehabilitation and cultural needs of the permanently bodily and mentally disabled, including artificial limbs and aids and invalid chairs.

17. Government and statutory bodies

(a) Goods imported by or on behalf of, or taken out of of bond by, the Government

(b) Goods imported by and intended for use by the Development Board, the Government Investment Corporation, the Tourist Board or any other statutory body approved by the Governor

18. Health practitioners and veterinary practitioners

Drugs and medicines (including vaccines, serums, antibiotics and anti-toxins), spectacles, contact lenses, dentures, appliances, instruments and other equipment imported by -

(i) a health practitioner for the time being registered as such under the Health Practitioners Ordinance 1978;

(ii) a veterinary practitioner for the time being approved by the Governor under the Control of Drugs Ordinance 1976 as being a person qualified to practise as such;

and intended to be used, administered or supplied by him in the course of the practice of the profession in respect of which he is so registered or approved

19. Her Majesty's Forces

Goods officially required solely for the use of any unit of Her Majesty's Forces, including vehicles, arms, ammunition, uniforms, accoutrements, prizes and equipment

20. Kerosene

Kerosene which is not of a quality suitable for use in aviation fuel

21. Legacies from belongers etc. dying outside the Islands

Goods owned by a person who was at the time of his death -

- (a) a person who belonged to the Islands within the meaning of section 2 of the Immigration Ordinance 1971; or
- (b) a person who was the holder of a permanent residence certificate under section 10 of that Ordinance;

being goods (other than tobacco, perfumed or other spirits or wine) used solely for the personal use of that person and imported by or for a person resident in the Islands who has become entitled to those goods by virtue of any testamentary disposition or on an intestacy

22. Live animals

Live animals

23. Machinery (for export products)

Machinery and parts of machinery intended to be used in the manufacture or preparation of any product intended to be exported from the Islands, including -

- (a) steam and internal combustion engines
- (b) boilers
- (c) prime movers
- (d) electric motors
- (e) conveyor belts
- (f) hand-driven machinery (whether portable or stationary)

24. Musical instruments for bands

Musical instruments intended solely for use by members of a band approved by the Governor

25. Newsprint

Newsprint (not including any sized, watermarked or writing paper of any kind) imported solely for the purpose of printing newspapers, magazines or periodicals.

26. Patterns, samples and advertising materials

Patterns, samples and advertising materials which are not intended to be given to, or disposed of by, customers

27. Personal effects imported by person first entering the Islands

- (1) Goods (other than tobacco, perfumed or other

spirits or wine) imported by a person entering the Islands for the first time, whether or not carried with him or contained in his accompanied baggage, on condition that -

- (a) the goods are intended solely for his personal use or the personal use of his spouse or any other person wholly or mainly maintained by him or in his custody, charge or care;
- (b) the goods are, on importation, declared to the proper officer;
- (c) at the time of his entry, the person importing the goods intends to remain in the Islands for a period of not less than twelve months from the date of his entry;
- (d) the goods have been both owned and used outside the Islands by the person importing them for periods together amounting to -
  - (i) in the case of clothing, footwear and household textiles goods (except carpets and rugs) of any value and any thing or set of things of a value not exceeding \$500, not less than 3 months;
  - (ii) in an other case, not less than 12 months;

and that the person importing them has been outside the Islands throughout the relevant period of ownership referred to in sub-paragraph (i) or (ii)

- (c) the goods are not sold or otherwise disposed of within twelve months from the date on which they were imported.
- (2) In addition to the exemption afforded by paragraph 2 and sub-paragraph (1), goods (other than tobacco, perfumed or other spirits or wine) purchased outside the Islands and contained in the accompanied baggage carried by a person entering the Islands for the first time, on the conditions set out in sub-paragraph (1)(a), (b), (c) and (e).

#### 39. Printing supplies

Printing machines, and parts of printing machines, for use in the printing industry; printing type, including electrotypes; and printing ink

#### 40. Re-imported goods

Goods re-imported into the Islands to the extent of their value at the date of exportation from the Islands

#### 41. Salt

Salt

31. Scientific and meteorological research

Technical equipment for scientific research or meteorological observation imported by persons or organisations approved by the Governor

32. Soil and fertilizers

Soil and fertilizers

33. Sports goods for clubs

Sports goods imported for the use of any club or organisation approved by the Governor and not imported for sale or hire

34. Tarmacadam

Tarmacadam and other material intended to be used for providing a waterproof seal to roads

35. Trees and other plants etc. for propagation

Trees and other plants, bulbs, cuttings, seeds and grain of all kinds for propagation

36. Toothpastes and toothbrushes

Toothpastes and toothbrushes

37. Trophies and medals

(a) Cups, medals, shields and similar trophies which are not articles of general utility and -

(i) which have been won outside the Islands or sent by donors resident outside the Islands; or

(ii) which are imported specially for bestowal as honorary distinctions or prizes;

on condition that they do not bear any advertisement and are not imported for commercial purposes

(b) Medals and official decorations approved by the Governor to be worn by persons in the Islands

38. Uniforms and equipment for youth organisations

Uniforms and equipment imported by and for the use of the Boy Scouts' Association, the Girl Guides' Association or such other youth organisation as may be approved by the Governor

39. Water and water equipment

(a) Water in bottle, can or bulk, but not

Including distilled water, Appollinaris, Perrier, Vichy or other mineralised water

- (b) Plant or apparatus for producing potable water and parts of such plant or apparatus
- (c) Gutting and piping, being piping of not less than 3 inches in diameter, for the collection of rainwater

40. Wind-operated generators etc.

Wind operated generators and pumps, solar pumps and solar water stills, and parts of such generators, pumps, solar pumps and stills

41. Wood preservatives

Wood preservatives other than paint

MADE THIS 4th day of June 1985

W.J.R. Pincott

WILLIAM JAMES RONALD PINCOTT  
ACTING GOVERNOR

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# EUROPE AND THE CARIBBEAN — LOOKING TO 1992

BY ARIEL MISICK

Four years from now the member countries of the European Community will be lifting the remaining trade barriers amongst themselves. ARIEL MISICK looks at some of the implications for the Caribbean.

1992 is regarded by many in the Caribbean as being the quincentennial anniversary of Columbus' discovery of the New World. In Europe, it is targeted as an event, the consequences of which will be as far reaching as Columbus' discovery of the new World. The European Community (EC) has decided that 1992 should be the deadline for the removal of all remaining barriers to the free movement of goods, people, services and capital within the EC.

## CHALLENGE OF A SINGLE MARKET

There are two ways of looking at the outcome of this single European market. The first is that Europe will become a fortress within itself, blocking the flow of international trade, investments and services from non-EC members countries. Mrs. Margaret Thatcher, the British Prime Minister, has made clear her resistance to a fortress Europe. In a speech in Bruges on September 20th, 1988, she said that "It would be a betrayal, if while breaking down the con-

straints on trade within Europe, the Community were to erect greater external protection. We must ensure that our approach to world trade is consistent with the liberalization we preach at home."

The alternative way of looking at the prospect of the single European market is that it offers a window of challenge and opportunity for the future, not only for Europe, but for the rest of the world. The challenge and opportunity arises because the single European market, with a combined population of over 320 million, would become the largest in the free world. Not only would it become a larger market, but a market which has seen increasing growth in corporate and personal incomes and investments, a rise in living standards and a decline in unemployment. The unification of the market is expected by itself to result in higher disposable income, more economic growth and greater efficiency.

It is this enlarged, more productive, more efficient and more prosperous single market which

other countries, particularly the United States, Japan and other countries in the Pacific, will be watching with keen eyes. Mrs. Thatcher envisages that other developing countries should also benefit. Referring to the EC member countries she said: "We have a responsibility to give a lead on this, a responsibility which is particularly directed to the less developed countries. They need not only aid, more than anything they need improved trading opportunities if they are to gain the dignity of growing economic strength and independence."

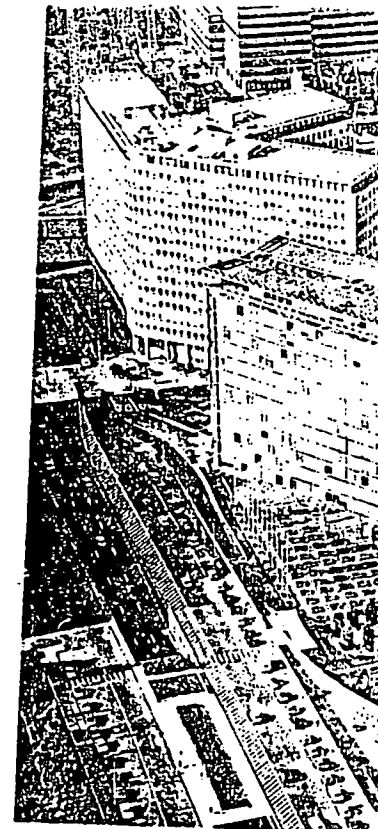
## AN ALTERNATIVE TO THE CBI

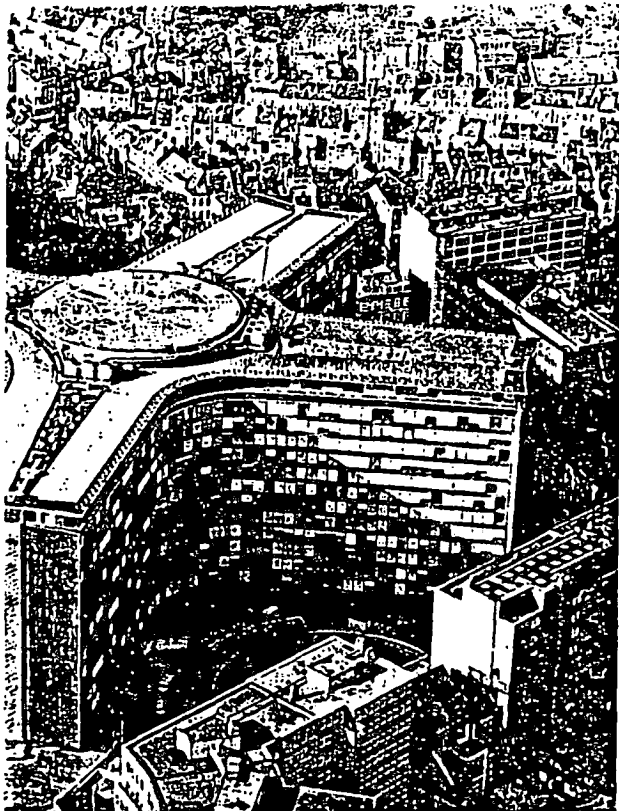
Caribbean countries are watching this single market especially because of their disappointment over Mr. Ronald Reagan's Caribbean Basin Initiative (CBI). The CBI has not brought the benefits of trade and investment to the Caribbean Basin countries that its formulators promised. Caribbean countries must, therefore, intensify their search for other trading

and investment opportunities in Europe and Canada.

As far as the English speaking Caribbean countries are concerned, most of their European trade has been with the U.K. and is limited to three principal commodities — rum, bananas and sugar. These commodities enter the U.K. market under special quota arrangements of the Lome Convention which governs the trading relations between the EC and the ACP (African Caribbean and Pacific) countries. The immediate impact for these countries of the single market is that in the absence of special arrangements, these commodities may now enter the larger European, as opposed to the smaller British market, but on terms that are similar to other countries. Because production costs in the Caribbean are higher than most other producing countries, this would put the export of these Caribbean products at a serious risk with dire consequences for income, economic growth and stability in the region.

This prospect is very much in the minds of Caribbean leaders and businessmen as well as the minds of Caribbean friends within the EC. It was certainly in the mind of Mr. Timothy Eggar, the Minister at Britain's Foreign and Commonwealth Office, who





*European Community Headquarters  
Brussels*

ured Caribbean Ministers  
businessmen in London last  
member of the U.K.'s position  
en he said: "we have a long  
rding commitment to pro-  
preferential access for our  
P suppliers in general and our  
tional suppliers in particu-

The extent to which this  
mitment would translate in  
tinuing duty and quota free  
ess of Caribbean products to  
EC market, will depend on  
content of the next Lome  
vention now under nego-

## **TOURISM AND THE SINGLE MARKET**

The single market after 1992  
have important implications  
Caribbean tourism. Nine mil-

Europeans go outside Eu-  
e for their annual holidays. Ol-  
se, one million go to the Car-  
ean. The single market be-  
se of its increased prosperity,  
uld result in more Europeans  
elling abroad and Caribbean  
ntries should poise them-  
es to ensure that they not  
/ maintain their share of this  
ket but increase it. Gener-

European visitors stay for  
ger periods of time than  
th American visitors and,  
efore, contribute more to  
economy of the countries  
they visit. Caribbean coun-

tries must become more aggres-  
ive in their marketing strategies  
if they are to benefit from the op-  
portunities of this single market.  
Recent initiatives to merge the  
many tourism agencies in the  
Caribbean into a single organi-  
sation are a step in the right  
direction.

Simultaneous with the new  
marketing initiative, Caribbean  
countries must constantly im-  
prove the product and hoteliers  
in particular must ensure that  
the products they advertise are  
the same as those the visitor will  
experience. There are already  
steps within the European Com-  
mission to formulate a directive  
in relation to the advertising of  
tourism products, accommoda-  
tion and services within the EC  
to ensure that European visitors  
receive the same standard of ac-  
commodation and services as is  
advertised. It is not inconceiv-  
able that such a directive may  
extend to European Travel  
Agents and Tour Operators  
sending Europeans outside Eu-  
rope on holiday. Travel Agents  
and Tour operators will be reluc-  
tant to send visitors to the Carib-  
bean if visits are followed by  
complaints and quality of ser-  
vice or about differences be-  
tween the product as advertised  
and as actually provided. The  
implication for the Caribbean is  
clear. Caribbean countries should

also be looking towards a single  
Europe as a source of more in-  
vestment capital in the tourist  
and other industries and should  
consider joint venture invest-  
ment arrangements, with Euro-  
pean private sector companies,  
individuals or institutions such  
as the European Investment  
Bank.

## **OFFSHORE FINANCE CENTRES**

1992 and the single Euro-  
pean market also have implica-  
tions for the Offshore Finance  
Centres of the Caribbean. The  
global move towards taxation  
on the basis of worldwide in-  
come, increasing attempts by  
governments to end some of  
the more obvious forms of tax  
avoidance, the growth of off-  
shore centres in other locations  
and the development of a pat-  
tern whereby financial services  
are being provided as a pack-  
age, all mean that some of the  
offshore business that tradition-  
ally comes to the Caribbean Off-  
shore Centres will not necessar-  
ily continue to flow. The Carib-  
bean Centres must compete  
with and provide the same level  
and sophistication of services  
that are being offered by estab-  
lished European Centres such as  
Luxembourg, Liechtenstein,  
Jersey and Guernsey, and new  
European Centres such as  
Malta. There is likely to be a  
common regulatory framework  
for the provision of financial  
services to the European public.  
Caribbean Offshore Centres  
must be able to provide some  
degree of consumer protection  
to the European public using  
their Centres. This requires a  
mix of regulatory mechanisms  
and self policing of the offshore  
financial industry. Balancing this  
mix may become a delicate op-  
eration. On the one hand too  
much regulation will stifle  
growth of the sector and on the  
other hand too little regulation  
will drive out serious business.

Caribbean governments and  
private sector professionals can-  
not wait until 1992. They must  
monitor closely the develop-

ment of the financial service in-  
dustry in Europe and make the  
necessary adaptations to bene-  
fit from the single market. Where  
that is possible the need will  
arise for reciprocal access to fi-  
nancial markets and, possibly to  
mutual assistance. The alterna-  
tive choice is for Caribbean Off-  
shore Centres to abandon the  
single market as a place for the  
marketing of financial services  
and look toward North, Central  
and South America and the Pa-  
cific. It would be foolish to aban-  
don the single European market.  
Present American attitudes of-  
fer great prospects for the future  
growth of Offshore Finance  
Centres. An example of the  
American attitude is displayed  
in a recent ruling by a U.S. court,  
and the U.S. Securities and Ex-  
change Commission that all  
U.S. dollar transactions will  
have to comply with U.S. law  
and that the U.S. courts have ju-  
risdiction over U.S. dollars eve-  
rywhere. Since the U.S. dollar is  
the currency of most interna-  
tional transactions, this asser-  
tion of jurisdiction has far reach-  
ing implications for international  
banking. It is one reason why  
Caribbean Offshore Finance  
Centres must diversify their  
source of business by looking  
towards the single European  
market.

The support amongst the  
business community for the  
completion of a frontierless mar-  
ket in Europe is growing rapidly.  
The number of mergers and ac-  
quisitions across national fron-  
tiers are accelerating as firms  
implement their new 1992 strat-  
egies. If the European Commu-  
nity is part of the "old world," it is  
an old world with a new ap-  
proach to business and a new  
dimension in its market that  
makes it impossible for the Car-  
ibbean of any non-E.C. country  
to ignore. ■

*Ariel Misick is a partner of the  
law firm Misick & Stanbrook  
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and Providenciales, and an asso-  
ciate of the law firm of Stan-  
brook and Hooper based in  
Brussels.*



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## APPENDIX 52

POPULATION, GROSS NATIONAL PRODUCT  
AND GNP PER CAPITA CARIBBEAN AND  
CENTRAL AMERICAN COUNTRIES

COUNTRY	1987 POPULATION 000	1987 GNP (US \$ 000,000)	GNP PER CAPITA (US \$)
Anguilla	7	NA	NA
Antigua & Barbuda	82	\$211	\$2,570
Aruba	60	NA	6,000 +
Bahamas	241	2,488	10,320
Barbados	254	1,358	5,330
Belize	175	219	1,250
Bermuda	57	1,143 (1)	20,410 (1)
Br. Virgin Is.	12	NA	NA
Cayman Is.	22	NA	NA
Costa Rica	2,170	4,299	1,590
Cuba	10,270	NA	NA
Dominica	80	115	1,440
Dominican Rep.	6,716	4,930	730
El Salvador	4,973	4,220	850
French Guiana	88	NA	NA
Grenada	100	134	1,340
Guadeloupe	336	NA	NA
Guatemala	8,438	6,839	940
Guyana	807	310	380
Haiti	6,164	2,221	360
Honduras	4,677	3,627	780
Jamaica	2,351	2,256	960
Martinique	329	NA	NA
Montserrat	13	NA	NA
Netherlands Antilles	191	NA	3,000-6,000

Nicaragua	3,501	2,959	830
Panama	2,272	5,128	2,240
Puerto Rico	3,346	18,472	5,520
St. Christopher & Nevis	47	80	1,700
St. Lucia	143	196	1,370
<hr/>			
St. Vincent & the Grenadines	112	121	1,070
Suriname	411	972	2,360
Trinidad & Tobago	1,217	5,130	4,220
Turks and Caicos Islands	14	NA	(2)
U.S. Virgin Is.	114	1,074 (1)	9,760 (1)

SOURCE: The World Bank Atlas 1988

TOTAL POPULATION 25 CARIBBEAN ISLANDS	32,278,000
TOTAL POPULATION 10 CENTRAL/SOUTH AMERICA COUNTRIES	27,512,000
TOTAL POPULATION 35 COUNTRIES IN LCR'S TERRITORY	59,790,000

(1) 1986

(2) Turks and Caicos Islands  
GDP per capita in 1986  
estimated at over US \$2,700

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CANADA

TREATY SERIES 1979 No. 30 RECUEIL DES TRAITÉS

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## ECONOMIC COOPERATION

Agreement between CANADA and the Member States of the  
CARIBBEAN Common Market

Done at Kingston, January 20, 1979

In Force April 23, 1979

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## COOPÉRATION ÉCONOMIQUE

Accord entre le CANADA et les États Membres du  
Marché Commun des CARAÏBES

Fait à Kingston, le 20 janvier 1979

En vigueur le 23 avril 1979

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**A TRADE AND ECONOMIC COOPERATION AGREEMENT BETWEEN THE  
GOVERNMENT OF CANADA AND THE GOVERNMENTS OF THE  
MEMBER STATES OF THE CARIBBEAN COMMON MARKET**

The Government of Canada (hereinafter referred to as "Canada") and the Governments of Antigua, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, Montserrat, St. Kitts/Nevis/Anguilla, St. Lucia, St. Vincent and Trinidad and Tobago (hereinafter referred to as "Member States", being Member States of the Caribbean Common Market).

CONSCIOUS of the role played by the 1925 Canada-West Indies Trade Agreement as amended by the Protocol of July 8, 1966, in the development of trade and commercial relations between Canada and the Member States;

COGNIZANT of the broadening of the areas of cooperation between the Contracting Parties since the conclusion of the 1925 Canada-West Indies Trade Agreement as amended by the Protocol of July 8, 1966;

MINDFUL of the mutually beneficial trade and economic relationship that Canada and the Member States have enjoyed;

RECOGNIZING the continued importance of the ties of friendship and understanding existing between them;

MINDFUL of the common perspectives and the joint desire of Canada and the Member States to participate in the establishment of a more equitable and balanced relationship between developed and developing countries;

DETERMINED to accelerate their efforts toward the economic development and social progress of their countries and particularly the Member States;

NOTING the desire of the Member States to hasten the process of regional economic integration as an indispensable element in their economic development and particularly that of the Less Developed Countries among them, and their intention of promoting the diversification of the economies of the Member States by cooperation between these states and Canada in order to modernize and develop the principal sectors of their economies;

DESIRING a framework for the mutually advantageous and evolutionary development of their trade and economic relations;

HAVE agreed as follows:

**ACCORD DE COOPÉRATION COMMERCIALE ET ÉCONOMIQUE ENTRE  
LE GOUVERNEMENT DU CANADA ET LES GOUVERNEMENTS DES  
ÉTATS MEMBRES DU MARCHÉ COMMUN DES CARAÏBES**

Le Gouvernement du Canada (ci-après appelé «le Canada») et les Gouvernements d'Antigua, de la Barbade, de Belize, de la Dominique, de la Grenade, de la Guyane, de la Jamaïque, de Montserrat, de Saint-Christophe-Niève-Anguilla, de Sainte-Lucie, de Saint-Vincent et de la Trinité-et-Tobago (ci-après appelés les «États membres» de par leur appartenance au Marché commun des Caraïbes),

CONSCIENTS du rôle joué par l'Accord de commerce de 1925 entre le Canada et les Antilles, tel que modifié par le Protocole du 8 juillet 1966, dans le développement des relations commerciales entre le Canada et les États membres;

PRENANT ACTE de l'élargissement des secteurs de coopération entre les Parties contractantes depuis la signature de l'Accord de commerce de 1925 entre le Canada et les Antilles tel que modifié par le Protocole du 8 juillet 1966;

SE RAPPELANT les relations économiques et commerciales mutuellement avantageuses dont ont joui le Canada et les États membres;

RECONNAISSANT l'importance du maintien des liens d'amitié et compréhension qui les unissent;

RESPECTANT les perspectives et le désir communs du Canada et des États membres de participer à l'établissement d'une relation plus équitable et équilibrée entre pays industrialisés et en développement;

DÉTERMINÉS d'intensifier leurs efforts en vue de développement économique et social de leur pays et notamment des États membres;

NOTANT le désir des États membres d'accélérer le processus d'intégration économique régionale en tant qu'élément indispensable de leur développement économique, et notamment de celui des moins développés d'entre eux, et leur intention de favoriser la diversification des économies des États membres par une coopération entre ces États et le Canada en vue de moderniser et de développer les principaux secteurs de leurs économies;

DÉSIRANT élaborer un cadre propice à l'évolution mutuellement avantageuse de leurs relations commerciales et économiques;

SONT CONVENUS de ce qui suit:

**PART I**  
**TRADE COOPERATION**

**ARTICLE I**

1. The Contracting Parties shall, in accordance with the provisions of the General Agreement on Tariffs and Trade, foster co-operation in the field of trade with the aim of expanding the exchange of goods between them, having due regard to the provisions of Part IV of the General Agreement and the particular development needs of the Member States to expand and diversify their commercial exchanges in order to accelerate their rate of economic growth.

2. Pursuant to these objectives, the Contracting Parties undertake to accord to products originating in the territories of the other Contracting Parties Most Favoured Nation treatment no less favourable than that accorded to products originating in third countries.

**ARTICLE II**

Canada and the Member States agree to apply to goods originating in each other's territories the highest degree of liberalization which they apply to third countries in general, and undertake to endeavour to grant each other the widest possible facilities for the expansion of trade in products in which Canada or any Member State has an interest.

**ARTICLE III**

Subject to the provisions of Article IV, nothing in this Agreement shall preclude Member States from applying import restrictions or prohibitions for reasons of their development needs including balance of payments difficulties.

**ARTICLE IV**

Except as provided for in relevant provisions of the General Agreement on Tariffs and Trade, prohibitions or restrictions shall not be applied by the Contracting Parties to imports of products originating in each other's territories unless the importation of like products originating in third countries is similarly prohibited or restricted. Such prohibitions or restrictions shall only be applied to the extent and for such time as may be necessary.

**ARTICLE V**

The treatment provided for under the above Articles shall be applied in a manner consistent with the provisions of the General Agreement on Tariffs and Trade. Any Member State which, in pursuance of the objective of promoting trade among Developing Countries, enters into a preferential agreement with any other Developing Country is not required under this Agreement to extend similar or comparable treatment to Canada provided such preferential arrangements are entered into in



**PARTIE I**  
**COOPÉRATION COMMERCIALE**

**ARTICLE I**

1. Conformément aux dispositions de l'Accord général sur les tarifs douaniers et le commerce, les Parties contractantes favorisent la coopération dans le domaine du commerce en vue d'élargir leurs échanges de biens, en tenant dûment compte des dispositions de la partie IV de l'Accord général ainsi que des besoins particuliers des États membres d'élargir et de diversifier leurs échanges commerciaux afin d'accélérer leur taux de croissance économique.

2. Conformément à ces objectifs, les Parties contractantes s'engagent à accorder aux produits provenant des territoires des autres Parties contractantes un traitement de la nation la plus favorisée aussi libéral que celui accordé aux produits provenant de pays tiers.

**ARTICLE II**

Le Canada et les États membres conviennent d'appliquer aux biens provenant des territoires de chacune des Parties le plus haut degré de libéralité qu'ils s'appliquent aux pays tiers en général et s'engagent à s'efforcer de s'accorder les meilleures facilités possibles pour l'expansion des échanges de produits qui intéressent le Canada ou l'un quelconque des États membres.

**ARTICLE III**

Sous réserve des dispositions de l'article IV, rien dans le présent Accord n'empêche les États membres d'appliquer des restrictions ou des interdictions à l'importation pour des raisons inhérentes à leurs besoins de développement, dont des problèmes de balance de paiements.

**ARTICLE IV**

Sauf les exceptions prévues par les dispositions pertinentes de l'Accord général sur les tarifs douaniers et le commerce, les interdictions et les restrictions ne sont pas appliquées par les Parties contractantes aux importations de produits provenant de l'un ou l'autre de leurs territoires, à moins que l'importation de produits semblables de pays tiers soit de même interdite ou restreinte. Ces interdictions et restrictions ne s'appliquent qu'autant et aussi longtemps que nécessaire.

**ARTICLE V**

Le traitement prévu aux articles précédents sera appliqué de façon conforme aux dispositions de l'Accord général sur les tarifs douaniers et le commerce. Tout État membre qui, aux fins de promouvoir les échanges entre pays en développement, conclut un accord préférentiel avec tout autre pays en développement n'est pas tenu en vertu du présent Accord d'accorder un traitement semblable ou comparable au Canada, pourvu que ces arrangements préférentiels s'inscrivent dans le cadre des dis-

accordance with the provisions of the General Agreement on Tariffs and Trade. Where a Member State envisages concluding such a preferential arrangement, it shall inform the other Contracting Parties, and consultations shall take place when any other Contracting Party so requests, in order that its interests may be taken into account.

#### ARTICLE VI

1. Contracting Parties shall, upon request, consult regarding measures or problems directly affecting the operation of this part of the Agreement.

2. The Contracting Parties shall periodically review the development of trade between Canada and the Member States and, as appropriate international trade issues of common interest.

### PART II

#### TECHNICAL AND FINANCIAL COOPERATION

#### ARTICLE VII

The Contracting Parties, in order to complement bilateral arrangements for intergovernmental financial and technical cooperation, agree to promote cooperation in the implementation of regional programmes and projects proposed by the Member States for the purpose of contributing to economic and social development through regional integration.

#### ARTICLE VIII

Canada undertakes to consider the provision of specific financial and technical support within its bilateral and multilateral development assistance programmes for an agreed programme of regional projects including special emphasis, where appropriate, on the Windward and Leeward Islands and Belize.

#### ARTICLE IX

The Member States undertake to establish priorities and otherwise identify projects for inclusion in an agreed programme of regional projects which will normally be implemented and administered as part of the Canadian development assistance programme with Member States or regional institutions established by them.

#### ARTICLE X

The Contracting Parties shall periodically review and assess the programme of financial and technical cooperation in regional projects and, upon request, consult regarding specific projects within this programme.

positions de l'Accord général sur les tarifs douaniers et le commerce. L'État membre qui prévoit conclure un tel arrangement préférentiel en informe les autres Parties contractantes qui peuvent demander des consultations afin que leurs intérêts puissent être pris en compte.

#### ARTICLE VI

1. Sur demande, les Parties contractantes se consultent au regard des mesures et des problèmes touchant directement l'application de cette partie de l'Accord.

2. Les Parties contractantes réévaluent périodiquement l'évolution des échanges entre le Canada et les États membres et, selon les besoins, les questions commerciales internationales d'intérêt commun.

### PARTIE II

#### COOPÉRATION TECHNIQUE ET FINANCIÈRE

#### ARTICLE VII

Aux fins de compléter les arrangements bilatéraux de coopération financière et technique intergouvernementale, les Parties contractantes conviennent de promouvoir la coopération pour l'exécution des programmes et projets régionaux proposés par les États membres en vue de contribuer au développement économique et social par le biais de l'intégration régionale.

#### ARTICLE VIII

Dans le cadre de ses programmes d'aide bilatérale et multilatérale au développement, le Canada s'engage à étudier la possibilité d'une aide technique et financière particulière au titre d'un programme convenu de projets régionaux en accordant une importance particulière, selon les besoins, aux îles du Vent et Sous-le-Vent et à Bélize.

#### ARTICLE IX

Les États membres s'engagent à établir des priorités et à recenser les projets à inclure dans un programme convenu de projets régionaux qui sera normalement exécuté et administré dans le cadre du programme canadien d'aide au développement avec la collaboration des États membres ou des institutions régionales qu'ils auront créées.

#### ARTICLE X

Les Parties contractantes passent en revue et évaluent périodiquement le programme de coopération financière et technique à des projets régionaux et, sur demande, se consultent sur des projets particuliers de ce programme.

**PART III**  
**INDUSTRIAL COOPERATION**

**ARTICLE XI**

In accordance with the Protocol to the present Agreement, and with a view to assisting the Member States, through industrial cooperation, to strengthen their capability individually and regionally to create new employment opportunities and incomes by diversifying and expanding their industrial base, and by providing and establishing the production and supporting facilities for sustained growth in manufacturing and related services, the Contracting Parties

- (a) shall foster industrial cooperation in all fields deemed suitable by them for the purpose of the development and prosperity of their respective economies. This may include both intergovernmental arrangements and the facilitation, where appropriate, of cooperation involving industry and the service sectors;
- (b) shall periodically review the priorities, at both the national and regional levels, proposed by Member States for industrial cooperation and the form such cooperation might take, including:
  - (i) the transfer, adaptation and development of technology and related training;
  - (ii) research, pre-investment and pre-feasibility studies and other forms of project preparation;
  - (iii) industrial investment;
  - (iv) market development.

**ARTICLE XII**

The Contracting Parties shall, as appropriate, encourage and facilitate *inter alia*:

- (i) cooperation between their respective governmental and non-governmental agencies and industries, including joint ventures;
- (ii) greater participation and increased investment by their respective agencies and firms in the industrial development particularly of the Member States mutually advantageous terms;
- (iii) the conclusion of agreements and contracts between interested agencies and firms in Canada and the Member States;
- (iv) cooperation between their respective industrial and agricultural research institutions;
- (v) the development of direct shipping services open to the participation of their shipping lines.

**PARTIE III****COOPÉRATION INDUSTRIELLE****ARTICLE XI**

En conformité du Protocole au présent Accord et aux fins d'aider les États membres, par la coopération industrielle, à renforcer leurs possibilités individuelles et régionales de créer de nouveaux emplois et de nouvelles sources de revenu en diversifiant et en élargissant leur infrastructure industrielle ainsi qu'en fournissant et en établissant l'infrastructure de production et les installations connexes pour soutenir la croissance du secteur de la fabrication et des services connexes, les Parties contractantes

- a) encouragent la coopération industrielle dans tous les domaines qui leur semblent susceptibles de favoriser le développement et la prospérité de leurs économies respectives. Cette coopération pourra prendre la forme d'arrangements intergouvernementaux et, au besoin, d'une facilitation de la coopération avec l'industrie et le secteur tertiaire;
- b) réévaluent périodiquement, aux niveaux national et régional, les priorités de coopération industrielle proposées par les États membres ainsi que les modalités possibles d'une telle coopération, y compris:
  - (i) le transfert, l'adaptation et le perfectionnement de la technologie et de la formation connexe;
  - (ii) la recherche, les études de préinvestissement, les études de pré faisabilité et les autres formes de préparation des projets;
  - (iii) les investissements industriels; et
  - (iv) le développement des marchés.

**ARTICLE XII**

Selon les besoins, les Parties contractantes encouragent et facilitent notamment:

- a) la coopération entre leurs organismes publics et privés respectifs et leurs industries, y compris les entreprises en coparticipation;
- b) une plus grande participation et des investissements accrus de la part de leurs organisations et firmes respectives dans le domaine du développement industriel, en particulier celui des États membres, à des conditions mutuellement avantageuses;
- c) la signature d'accords et de contrats entre les organisations et firmes intéressées du Canada et des États membres;
- d) la coopération entre leurs institutions respectives de recherche industrielle et agricole;
- e) la mise à pied de services d'expédition maritime ouverts à la participation de leurs compagnies maritimes.

## ARTICLE XIII

The Contracting Parties shall periodically review the development of industrial cooperation between Canada and the Member States, as provided for in the Protocol to this Agreement, and, upon request, shall consult on individual projects. They shall also review, as appropriate, industrial cooperation matters arising in international organizations and agencies.

## PART IV

## INSTITUTIONS

## ARTICLE XIV

1. In order to promote trade and other economic cooperation between them and in order to ensure effective implementation of this Agreement the Contracting Parties agree to establish a Joint Trade and Economic Committee.

2. The Joint Trade and Economic Committee shall *inter alia*:

- (a) consider and, as appropriate, recommend measures to the respective governments to further develop trade and economic relations;
- (b) consider opportunities for and modalities of industrial, technical, financial, agricultural and transportation cooperation;
- (c) exchange views on other trade and economic matters that may be included by mutual consent in the Committee's Agenda;
- (d) review and assess developments as provided for in Articles VI, X and XIII.

3. The Committee shall normally meet annually. Special meetings of the Committee shall be held at the request of a Contracting Party.

## ARTICLE XV

In pursuit of this Agreement the Contracting Parties shall, subject to their respective laws and regulations and in accordance with their respective economic and social objectives,

- (a) facilitate access to their respective countries for individuals wishing to pursue matters related to trade and economic relations; and
- (b) generally accord fair and equitable treatment to individuals and enterprises of the other Contracting Parties.

**ARTICLE XIII**

Les Parties contractantes passent périodiquement en revue l'évolution de la coopération industrielle entre le Canada et les États membres, telle que prévue au Protocole au présent Accord et, sur demande, se consultent sur des projets donnés. Selon les besoins, elles passent également en revue les questions de coopération industrielle soulevées au sein d'organisations et d'organismes internationaux.

**PARTIE IV**  
**INSTITUTIONS****ARTICLE XIV**

1. Afin de promouvoir le commerce et la coopération économique entre elles et pour assurer l'application efficace du présent Accord, les Parties contractantes conviennent de créer un Comité commercial et économique conjoint.

2. Le Comité commercial et économique conjoint doit notamment:

- a) étudier et, selon les besoins, proposer aux Gouvernements concernés des mesures visant à améliorer les relations commerciales et économiques;
- b) étudier les possibilités d'une coopération dans les secteurs de l'industrie, de la technique, des finances, de l'agriculture et des transports;
- c) échanger leurs vues sur d'autres sujets de nature commerciale et économique qui peuvent, de consentement mutuel, être inscrits à l'ordre du jour du Comité;
- d) étudier et évaluer les résultats obtenus en fonction des dispositions des articles VI, X et XIII.

3. Le Comité se réunit normalement une fois par année et tient des réunions extraordinaires à la demande de l'une ou l'autre des Parties contractantes.

**ARTICLE XV**

Aux termes du présent Accord, sous réserve de leurs lois et règlements respectifs et conformément à leurs objectifs économiques et sociaux respectifs, les Parties contractantes:

- a) accueillent dans leurs pays respectifs les personnes désireuses d'étudier des questions liées aux relations commerciales et économiques; et
- b) accordent généralement un traitement honnête et équitable aux ressortissants et aux entreprises des autres Parties contractantes.

**PART V**  
**GENERAL PROVISIONS**

**ARTICLE XVI**

A Contracting Party envisaging the introduction of any measure affecting the interests of other Contracting Parties under this Agreement, shall, where feasible, inform the other Contracting Parties.

**ARTICLE XVII**

Nothing in this Agreement shall be construed as affecting the right of Canada and any Member State to enter into bilateral arrangements between them.

**PART VI**  
**FINAL PROVISIONS**

**ARTICLE XVIII**

This Agreement shall enter into force on signature by all the Contracting Parties. Upon its entry into force, this Agreement shall terminate the Agreement on Trade Relations of April 9, 1912, concluded between Canada, Trinidad, British Guiana, Barbados, St. Lucia, St. Vincent, Antigua, St. Kitts/Nevis/Anguilla, Dominica and Montserrat. It is further agreed that the Canada/West Indies Trade Agreement of July 6, 1925, as amended by the Protocol of July 8, 1966 shall be deemed to have been terminated in respect of each Member State from the effective date of termination conveyed in its notification to Canada.

**ARTICLE XIX**

This Agreement may be amended by an amending Protocol concluded by the Contracting Parties.

**ARTICLE XX**

1. This Agreement shall remain in force for five years. Thereafter it shall continue in force subject to the right of any Contracting Party, on twelve months' notice, to denounce it with respect to any other Contracting Party. The denunciations shall be made by notification addressed to the Secretary-General of the Caribbean Community Secretariat who shall inform the Contracting Parties of such notice.

2.2 In the case of denunciation by a Member State, denunciation shall operate only as regards that State.



**PARTIE V**  
**DISPOSITIONS GÉNÉRALES**

**ARTICLE XVI**

Toute Partie contractante qui prévoit appliquer une mesure touchant les intérêts d'autres Parties aux termes du présent Accord doit, si possible, en informer les autres Parties contractantes.

**ARTICLE XVII**

Rien dans le présent Accord ne sera interprété comme modifiant le droit du Canada et de tout État membre à conclure des arrangements bilatéraux entre eux.

**PARTIE VI**  
**DISPOSITIONS FINALES**

**ARTICLE XVIII**

Le présent Accord entre en vigueur au moment de sa signature par toutes les Parties contractantes et remplace des lors l'Accord sur les relations commerciales du 9 avril 1912 passé entre le Canada, la Trinité, la Guyane britannique, la Barbade, Sainte-Lucie, Saint-Vincent, Antigua, Saint-Christophe, la Dominique et Montserrat. Il est en outre convenu que chaque État membre sera considéré comme n'étant plus lié par les dispositions de l'Accord de commerce de 1925 entre le Canada et les Antilles tel que modifié par le Protocole du 8 juillet 1966 à compter de la date effective de dénonciation précisée dans sa notification au Canada.

**ARTICLE XIX**

Le présent Accord peut être modifié par un Protocole modificatif convenu entre les Parties contractantes.

**ARTICLE XX**

1. Le présent Accord est en vigueur pour une période de cinq ans et le reste par la suite sous réserve du droit de toute Partie contractante de le dénoncer auprès de toute autre Partie contractante au moyen d'un préavis de douze mois. La dénonciation est faite par un avis adressé au secrétaire générale du Secrétariat de la Communauté des Caraïbes qui informera les autres Parties contractantes dudit avis.

2. Dans le cas d'une dénonciation par un État membre, cette dénonciation n'a d'effet qu'à l'égard de cet État.

ARTICLE XXI

The original of the present Agreement, of which the English and French texts are equally authentic, shall be deposited with the Secretary-General of the Caribbean Community Secretariat, who shall send certified copies thereof to all Contracting Parties.

IN WITNESS WHEREOF the undersigned, duly authorized by their respective Governments, have signed the present Agreement.

DONE at Kingston this 20th day of January 1979.

Signed by DON JAMIESON  
*For the Government of Canada*  
on 20th January 1979

Signed by LESTER BIRD  
*For the Government of Antigua*  
on 20th January 1979

Signed by H. de B. FORDE  
*For the Government of Barbados*  
on 20th January 1979

Signed by V.H. COURTENAY  
*For the Government of Belize*  
on 20th January 1979

Signed by O. SERAPHIN  
*For the Government of Dominica*  
on 20th January 1979

Signed by DEREK KNIGHT  
*For the Government of Grenada*  
on 20th January 1979

Signed by R.E. JACKSON  
*For the Government of Guyana*  
on 20th January 1979

Signed by P.J. PATTERSON  
*For the Government of Jamaica*  
on 20th January 1979

Signed by J. OSBOURNE  
*For the Government of Montserrat*  
on 14th February 1979

Signed by CHARLES E. MILLS  
*For the Government of  
St. Kitts/Nevis/Anguilla*  
on 20th January 1979

Signed by JOHN COMPTON  
*For the Government of St. Lucia*  
on 14th February 1979

Signed by R. MILTON CATO  
*For the Government of St. Vincent*  
on 12th February 1979

Signed by B.L. BASIL PITT  
*For the Government of Trinidad  
and Tobago*  
on 14th February 1979

## ARTICLE XXI

L'original du présent Accord, dont les versions anglaise et française font également foi, sera déposé auprès du secrétaire général du Secrétariat de la Communauté des Caraïbes qui en fera tenir copie certifiée à chacune des Parties contractantes.

EN FOI DE QUOI les soussignés, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Protocole.

FAIT à Kingston, le 20<sup>ième</sup> jour de janvier, 1979 en un exemplaire, les versions française et anglaise faisant également foi.

Signé par DON JAMIESON  
*Pour le Gouvernement du Canada*  
le 20 janvier 1979

Signé par LESTER BIRD  
*Pour le Gouvernement d'Antigua*  
le 20 janvier 1979

Signé par H. de B. FORDE  
*Pour le Gouvernement de la Barbade*  
le 20 janvier 1979

Signé par V. H. COURTENAY  
*Pour le Gouvernement de Bélize*  
le 20 janvier 1979

Signé par O. SERAPHIN  
*Pour le Gouvernement de la Dominique*  
le 20 janvier 1979

Signé par DEREK KNIGHT  
*Pour le Gouvernement de la Grenada*  
le 20 janvier 1979

Signé par R.E. JACKSON  
*Pour le Gouvernement de la Guyana*  
le 23 avril 1979

Signé par P.J. PATTERSON  
*Pour le Gouvernement de la Jamaïque*  
le 20 janvier 1979

Signé par J. OSBOURNE  
*Pour le Gouvernement de Montserrat*  
le 14 février 1979

Signé par CHARLES E. MILLS  
*Pour le Gouvernement de Saint-Christophe-Niève-Anguilla*  
le 20 janvier 1979

Signé par JOHN COMPTON  
*Pour le gouvernement de Sainte-Lucie*  
le 20 janvier 1979

Signé par R. MILTON CATO  
*Pour le Gouvernement de Saint-Vincent*  
le 12 février 1979

Signé par B.L. BASIL PITT  
*Pour le Gouvernement de la Trinité-et-Tobago*  
le 20 janvier 1979

## PROTOCOL ON INDUSTRIAL COOPERATION

The Contracting Parties to the Trade and Economic Cooperation Agreement signed at Kingston on January 20th 1979 between the Government of Canada and the Governments of the Member States of the Caribbean Common Market (hereinafter referred to as the "Agreement").

Acting pursuant to Part III of that Agreement, have agreed as follows:

### ARTICLE I

The provisions of the Protocol on Industrial Cooperation attached hereto shall be deemed to be annexed to and form part of the Agreement.

### ARTICLE II

This Protocol shall enter into force on signature by all the Contracting Parties to the Agreement. It shall remain in force for five years. Thereafter it shall continue in force subject to the right of any contracting Party following the initial period of five years to denounce it at any time with respect to any other Contracting Party on twelve months' notice. Denunciation of the Agreement shall be regarded as denunciation of the Protocol.

### ARTICLE III

The original of the present Protocol shall be deposited with the Secretary-General of the Caribbean Community Secretariat who shall send certified copies thereof to all Contracting Parties.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective governments, have signed this Protocol.

DONE at Kingston this 20th day of January 1979 in a single copy in the English and French languages, each text being equally authentic.

Signed by DON JAMIESON  
*For the Government of Canada*  
on 20th January 1979

Signed by LESTER BIRD  
*For the Government of Antigua*  
on 20th January 1979

Signed by H. de B. FORDE  
*For the Government of Barbados*  
on 20th January 1979

## PROTOCOLE DE COOPÉRATION INDUSTRIELLE

Les Parties contractantes à l'Accord de coopération commerciale et économique signé à Kingston, le 20 janvier 1979 entre le Gouvernement du Canada et les Gouvernements des États membres du Marché commun des Caraïbes (ci-après appelé «l'Accord»);

Agissant conformément aux dispositions de la partie III dudit Accord, sont convenues de ce qui suit:

### ARTICLE I

Les dispositions du Protocole de coopération industrielle ci-annexé sont considérées comme faisant partie intégrante de l'Accord.

### ARTICLE II

Le présent Protocole entre en vigueur au moment de sa signature par toutes les Parties à l'Accord et le demeure pour une durée de cinq ans. Il reste par la suite en vigueur sous réserve du droit de toute Partie contractante de le dénoncer en tout temps après la période initiale de cinq ans à l'égard de toute autre Partie contractante sur préavis de douze mois. La dénonciation de l'Accord sera considérée comme une dénonciation du Présent Protocole.

### ARTICLE III

L'original du présent Protocole sera déposé auprès du secrétaire général du Secrétariat de la Communauté des Caraïbes qui en fera tenir copie certifiée à chacune des Parties contractantes.

EN FOI DE QUOI les soussignés, dûment autorisés par leurs Gouvernements respectifs, ont signé le présent Accord.

FAIT à Kingston, le 20<sup>ième</sup> jour de janvier, 1979.

Signé par DON JAMIESON  
*Pour le Gouvernement du Canada*  
le 20 janvier 1979

Signé par LESTER BIRD  
*Pour le Gouvernement d'Antigua*  
le 20 janvier 1979

Signé par H. de B. FORDE  
*Pour le Gouvernement de la Barbade*  
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*For the Government of Jamaica*  
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*For the Government of Trinidad  
and Tobago*  
on 14th February 1979

Signé par V.H. COURTENAY  
*Pour le Gouvernement de Belize*  
le 20 janvier 1979

Signé par J. OSBOURNE  
*Pour le Gouvernement de Montserrat*  
le 14 février 1979

Signé par O. SERAPHIN  
*Pour le Gouvernement de la  
Dominique*  
le 20 janvier 1979

Signé par CHARLES E. MILLS  
*Pour le Gouvernement de Saint-  
Christophe-Niève-Anguilla*  
le 20 janvier 1979

Signé par DEREK KNIGHT  
*Pour le Gouvernement de la Grenade*  
le 20 janvier 1979

Signé par JOHN COMPTON  
*Pour le gouvernement de Sainte-  
Lucie*  
le 20 janvier 1979

Signé par R.E. JACKSON  
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le 23 avril 1979

Signé par R. MILTON CATO  
*Pour le Gouvernement de Saint-  
Vincent*  
le 12 février 1979

Signé par P.J. PATTERSON  
*Pour le Gouvernement de la Jamaïque*  
le 20 janvier 1979

Signé par B.L. BASIL PITT  
*Pour le Gouvernement de la  
Trinité-et-Tobago*  
le 20 janvier 1979

## PROTOCOL ON INDUSTRIAL COOPERATION

This Protocol amplifies the intentions of the Contracting Parties with respect to the provisions for Industrial Cooperation as set out in Part III of the Agreement on Trade and Economic Cooperation between Canada and the CARICOM Member States. (Part II of the Agreement provides for Intergovernmental cooperation in technical and financial matters on a regional basis).

2. In Part III the Contracting Parties agree to encourage Canadian agencies, firms and investors to participate in the industrial development of the Member States, where those States so desire, in accordance with their economic and social objectives and consonant with their aspirations for closer regional economic integration. Equally, the Contracting Parties recognize that to encourage such industrial cooperation they must accord fair and equitable treatment to individuals of other Contracting Parties.

3. Articles XI and XII of the Agreement outline the main forms of industrial cooperation which the Contracting Parties agree to facilitate. More generally, in encouraging such industrial cooperation they agree that full account be taken of the following objectives of the Member States:

- (a) to promote the development and diversification of industry and related services in the Member States and to help bring about a more equitable distribution of industry among those States;
- (b) to increase the utilization of raw materials of the Member States and create greater linkages between industry and the other sectors of each national economy, in particular agriculture and tourism on the one hand, and between the national economies of the Member States on the other hand;
- (c) to achieve greater efficiency in industrial production through efforts at complementarity, achieving economies of large scale production and promoting the expansion of exports to markets both within and outside the Member States;
- (d) to facilitate, to the greatest extent possible, the transfer of technology to the Member States and to promote the adaptation and further development of such technology to their specific conditions and needs in all feasible ways including expanding the capacity of the Member States for research and development for adaptation of technology and for training in industrial skills at all levels in these States.

4. Canada, in facilitating industrial cooperation for the purposes of this Agreement, recognises the priority attached by Member States to the development of the following types of industries and related services, including infrastructure and support facilities:

- (i) industries which make significant use of regional raw materials;



## PROTOCOLE DE COOPÉRATION INDUSTRIELLE

Le présent Protocole explicite les intentions des Parties contractantes en ce qui concerne les dispositions de coopération industrielle exposées à la partie III de l'Accord de coopération commerciale et économique entre le Canada et les États membres du CARICOM. (La partie II de l'Accord prévoit une coopération inter-gouvernementale régionale dans les domaines technique et financier).

2. A la partie III, les Parties contractantes conviennent d'encourager les organismes, les entreprises et les investisseurs canadiens à participer au développement industriel des États membres qui le désirent, en conformité avec leurs objectifs économiques et sociaux ainsi que leurs aspirations à une intégration économique et régionale plus étroite. De même, les Parties contractantes reconnaissent que cette coopération industrielle doit s'appuyer sur un traitement honnête et équitable accordé aux ressortissants des autres Parties contractantes.

3. Les articles XI et XII de l'Accord esquissent les grandes formes de coopération industrielle que les Parties contractantes conviennent d'encourager. De façon plus générale, en favorisant cette coopération industrielle, les Parties conviennent de tenir dûment compte des objectifs suivants des États membres:

- a) promouvoir le développement et la diversification de l'industrie et des services connexes dans les États membres et favoriser une répartition plus équitable de l'industrie entre ces États;
- b) accroître l'utilisation des matières premières des États membres et créer de meilleurs liens entre l'industrie et les autres secteurs de chaque économie nationale, en particulier entre l'agriculture et le tourisme d'une part et entre les économies nationales des États membres d'autre part;
- c) accroître la production industrielle en minimisant la différenciation au niveau des projets, en réalisant des économies de production à grande échelle et en favorisant l'expansion des exportations vers les États membres et sur d'autres marchés;
- d) faciliter, dans toute la mesure du possible, le transfert de la technologie aux États membres et promouvoir l'adaptation et le perfectionnement de cette technologie en fonction de leurs conditions et besoins particuliers et ce, par tous les moyens possibles notamment en améliorant la capacité des États membres à réaliser des activités de recherche et de développement, à adapter la technologie et à former des compétences industrielles à tous les niveaux dans ces États.

4. En facilitant la coopération industrielle aux fins du présent Accord, le Canada reconnaît la priorité qu'attachent les États membres au développement des catégories suivantes d'industries et de services connexes, y compris l'infrastructure et les services d'appoint:

- a) les industries qui utilisent les matières premières régionales en quantités considérables;

- (ii) industries which are substantially owned and effectively controlled by an individual or enterprise of a Member State or Member States themselves;
- (iii) industries with special export potential;
- (iv) industries which contribute significantly to the reduction of unemployment in the Member States;
- (v) industries defined by the Member States as integration industries;
- (vi) industrial and related services required for the acceleration of the industrial development of Member States;
- (vii) industries which are located in the Less Developed Countries of the Caribbean Community and the Common Market.

5. Member States, in order to facilitate industrial cooperation for the purposes of this Agreement, will provide indications of their individual industrial development priorities to complement the foregoing more general priorities of Member States. Such additional national development intentions, by sector or other appropriate breakdown, together with Canadian indications of sectoral interests will form the basis for discussion of specific industrial cooperation initiatives.

6. The Contracting Parties will also cooperate in the transfer of technology and possible establishment and expansion of industrial research facilities in Member States. In particular, Canada will assist in the development of industrial management and engineering skills in Member States through such measures as training assistance and the possible utilization of Member States' consultants and consulting firms, wherever practical in association with Canadian firms, in Canadian development assistance projects.

7. The Contracting Parties agree to encourage the adoption of measures to promote industrial cooperation by regional institutions such as the Caribbean Development Bank and the Caribbean Investment Corporation. They recognize the importance of financing, such as export credit facilities on conditions as favourable as possible, for the further development of their trade and industrial relations. They also recognize the importance of facilitating the exchange of information on investment possibilities, the utilization of investment missions, and similar measures in order to draw attention to possibilities of industrial cooperation.

8. Canada and the Member States agree to examine the most effective marketing methods, techniques and strategies for the expansion of trade in the products of the industries of Member States, particularly the less developed ones, especially with respect to products of industrial cooperation projects arranged under the Agreement, both within the Joint Trade and Economic Committee established under the Agreement and, as appropriate, through other bilateral and multilateral fora.

- b) les industries qui sont majoritairement détenues et effectivement contrôlées par un ressortissant ou une entreprise d'un État membre ou par les États membres eux-mêmes;
- c) les industries qui ont des possibilités d'exportation spéciales;
- d) les industries qui contribuent sensiblement à la réduction du chômage dans les États membres;
- e) les industries définies par les États membres comme étant des industries d'intégration;
- f) les services industriels et connexes requis pour l'accélération du développement industriel des États membres;
- g) les industries qui sont implantées dans les pays moins développés de la Communauté et du Marché commun des Caraïbes.

5. Dans le but de faciliter la coopération industrielle aux fins de l'Accord, les États membres fourniront des indications sur leurs priorités de développement industriel afin de compléter les priorités plus générales exposées ci-dessus par les États membres. Ces données supplémentaires sur les objectifs de développement national, réparties par secteur ou selon une autre ventilation appropriée, formeront, avec les données fournies par le Canada au regard des intérêts sectoriels, la base de l'analyse d'initiatives particulières de coopération industrielle.

6. Les Parties contractantes coopéreront également en ce qui concerne le transfert de la technologie ainsi que l'établissement et l'élargissement éventuels d'installations de recherche industrielle dans les États membres. De façon plus particulière, le Canada contribuera au perfectionnement des compétences industrielles et techniques nécessaires dans les États membres par diverses mesures comme l'aide à la formation et le recours éventuel à des consultants et à des sociétés d'experts-conseils des États membres, en association avec des firmes canadiennes lorsque la chose est pratique, pour ses projets d'aide au développement.

7. Les Parties contractantes conviennent d'encourager l'adoption de mesures visant à promouvoir la coopération industrielle offerte par des institutions régionales comme la Banque de développement des Caraïbes et la *Caribbean Investment Corporation*. Elles reconnaissent l'importance d'appuyer financièrement l'élargissement de leurs relations commerciales et industrielles par des mécanismes comme le crédit à l'exportation consenti aux conditions les plus libérales possible. Elles reconnaissent également l'importance de la facilitation des échanges de données sur les possibilités d'investissements, ainsi que de recours aux missions d'investissements et à d'autres mesures visant à attirer l'attention sur les possibilités de coopération industrielle.

8. Le Canada et les États membres conviennent d'étudier les méthodes, techniques et stratégies de commercialisation les plus susceptibles d'élargir les échanges de produits des industries des États membres, notamment des moins développés d'entre eux, en ce qui touche particulièrement les produits issus des projets de coopération industrielle élaborés dans le cadre de l'Accord, tant au sein du Comité commercial et économique conjoint créé en vertu de l'Accord que par le biais d'autres mécanismes bilatéraux et multilatéraux, selon les besoins.

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TRADE AND EDUCATION AGREEMENT

BETWEEN CANADA AND THE

TURKS AND CAICOS ISLANDS

The GOVERNMENT OF CANADA and the GOVERNMENT OF THE TURKS AND CAICOS ISLANDS hereinafter referred to as the Contracting Parties,

DESIRING to enhance their existing friendly relations, and,

RECOGNIZING the mutual benefits accruing from expanding trade, economic and technical co-operation in accordance with the regulations and laws prevailing in their respective countries,

HAVE AGREED TO THE FOLLOWING:

Article One

The Contracting Parties shall endeavour to promote and consolidate trade, economic, and technical co-operation between their two countries in a spirit of mutual understanding.

Article Two

The fields of co-operation mentioned in this Agreement include as examples, but are not limited to, the following items:

- (a) encouragement of the establishment of resort, hotel, agricultural, animal husbandry, mineral and mining, transportation, communications, industrial and technical development projects between the Contracting Parties;
- (b) encouragement of the exchange of information and enhancement of scientific and technological research;
- (c) encouragement of the exchange of various goods and products between them; and
- (d) encouragement of the exchange and training of technical staff required for specific co-operative programmes. This includes, but is not restricted to, graduate and post-graduate studies in Canada, curriculum development for Turks and Caicos institutions and technical training for individual teachers.

Article Three

The Contracting Parties shall make their best efforts to promote the expansion and diversification of their trade exchanges.

To this end, and within the confines of the international trading system, the two Contracting Parties shall work together toward the liberalization of trade exchanged between their respective countries. They shall, therefore, extend to trade originating in their respective countries most favoured nation rates of duty. Further liberalization of trade between the two Contracting Parties shall be considered and recommended by the Joint Economic Commission.

#### Article Four

The Contracting Parties shall use their best endeavours to promote co-operation in education and training between the two countries. This co-operation may include, inter alia:

- (a) arrangements between Canadian and Turks and Caicos organizations, including educational institutions, Ministries of Government and the private sectors of each country for co-operation in the exchange of personnel, information and research;
- (b) education and training of citizens of the Turks and Caicos Islands at Canadian Universities, colleges, Ministries of Government and private sector organizations as required; and
- (c) employment by the Turks and Caicos organizations of Canadian educational and consulting expertise drawn from appropriate Canadian entities.

#### Article Five

The Contracting Parties shall encourage economic and technical co-operation between the citizens of each country including legal entities and the establishment of joint ventures and companies in different spheres of activity.

#### Article Six

The Contracting Parties shall initiate and facilitate the exchange of visits between them by trade, economic and technical representatives, delegations and envoys of the Ministries and private sectors of each country and the setting up of temporary exhibitions for the consolidation of their economic and technical co-operation.

#### Article Seven

The Contracting Parties shall establish a Joint Economic Commission to meet alternately in each country, at the request



of either Party, for consultation on the measures and means to be adopted for the consolidation and promotion of trade, economic and technical co-operation between them. To provide for avenues of continued consultation in the period of time between meetings of the full Joint Economic Commission, sub-committees established by the Commission may meet on a regular basis as required to further the objectives of this Agreement and report the result of such consultation to the next meeting of the Commission.

#### Article Eight

- (a) This Agreement shall enter into force as of the date of the exchange of instruments of ratification according to the regulations in use in each country.
- (b) The duration of this Agreement is for three years, or as determined by both governments, commencing on the date it enters into force and shall be renewed for consecutive periods of one year or as determined by both governments. Either of the Contracting Parties must give notice six months before expiration of the Agreement of its intention not to renew.
- (c) Upon the expiry of this Agreement contracts still under execution and signed when this Agreement was still in force or payments due in accordance with such contracts shall be governed by this Agreement.

FOR THE GOVERNMENT OF  
CANADA

FOR THE GOVERNMENT OF THE  
TURKS AND CAICOS ISLANDS

ADDENDUM

The TRADE AND EDUCATION AGREEMENT BETWEEN CANADA AND THE TURKS AND CAICOS ISLANDS may be further enhanced through the utilization of the CARIBCAN AGREEMENT.

In June 1986, CARIBCAN came into effect to enhance trade and export earnings, promote investment and industrial cooperation for the Commonwealth Caribbean region, and encourage economic development prospects for the region.

Upon agreement between the Government of Canada and the Government of the Turks and Caicos Islands:

The Turks and Caicos Islands will be established as the FREEPORT ENTRY POINT, and the CANADIAN DISTRIBUTION CENTRE for the Caribbean.


A TRADE AND INFORMATION OFFICE will be established on the Islands to assist in the promotion of exports and imports between Canada and the Turks and Caicos Islands, and between Canada, the Turks and Caicos Islands and the countries within the 500 mile Caribbean radius, comprising of a market of 27 million people.


The Trade and Information office will maintain contact with importers and exporters throughout the Caribbean region and will assist the Turks and Caicos in its efforts to pursue their commercial interests with other Caribbean countries.

The Trade and Information Office will ensure exporters on the Islands establish contact with Canadian and Caribbean retailers, wholesalers, distributors and agents for the purpose of promoting sales.

The Trade and Information Office will assist Canadian exporters to increase their level of exports to Caribbean countries through improved access.

Trade fairs, trade missions and seminars will be held to facilitate contact between Canadian importers/exporters and Caribbean importers/exporters.

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