

NON-RESIDENT INSURANCE UNDERTAKINGS ACT 1967



**BERMUDA
1967 : 75**

NON-RESIDENT INSURANCE UNDERTAKINGS ACT 1967

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[21 March 1967]

[preamble and words of enactment omitted]

Interpretation

1 In this Act —

"non-resident insurance undertaking" means any undertaking conducting insurance business of any kind other than—

- (a) a company incorporated in Bermuda under any Act; or
- (b) any other person or body of persons, ordinarily resident in Bermuda,

conducting insurance business from a place of business in Bermuda as principals to the insurance business undertaken in Bermuda and authorised by law so to do;

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"insurance business" includes making out or executing policies of insurance or insurance contracts receiving any premium or giving credit therefor or receiving any other consideration therefor, paying out any sums under a policy of insurance or insurance contracts and entering into or inducing or attempting to induce any person to enter into or take out any policy of insurance or insurance contract by advertisement or otherwise;

"the Minister" means the Minister of Finance or such other Minister as may be appointed to administer this Act.

Permit to carry on business

2 (1) Any person who conducts insurance business in Bermuda as manager of or agent for or otherwise on behalf of a non-resident insurance undertaking except under the authority and in accordance with the conditions of a permit issued to that non-resident insurance undertaking, or to some person in Bermuda on its behalf, commits an offence against this Act:

Punishment on summary conviction: imprisonment for 1 month or a fine of \$15,000 or both such imprisonment and fine.

Punishment on summary conviction in respect of a second or subsequent offence: imprisonment for 6 months or a fine of \$30,000 or both such imprisonment and fine.

(2) The Act shall not apply to any non-resident insurance undertaking the whole of whose insurance business is conducted with persons normally resident outside Bermuda and relates solely to persons, property and risks outside Bermuda.

(3) Collectively, all members of the Society of Lloyd's of London and any insurance undertaking operating on the same basis shall, for the purposes of the Act, be deemed to be a single non-resident insurance undertaking irrespective of the combination in which such members underwrite any particular insurance risk.

Grant of permit

3 (1) The Minister may grant a permit under this Act upon application in writing made by, or on behalf of, the non-resident insurance undertaking and such a permit shall not be issued to the non-resident insurance undertaking or person acting on its behalf until there is produced to the Minister a receipt of the Accountant General that \$10,000 has been paid to him by, or on behalf of, the non-resident insurance undertaking.

(2) A permit granted by the Minister under this section—

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- (a) shall contain a condition that on or before the 31st day of March in each year subsequent to the year of issue thereof the non-resident insurance undertaking or any person acting on its behalf, shall pay to the Accountant General the sum \$10,000 and such a condition shall be specified in the permit; and
- (b) may be limited in duration to a time specified in the permit; and
- (c) may be granted subject to such other conditions or limitations as the Minister may think fit to impose and as are specified in the permit,

and any person conducting insurance business on behalf of any non-resident insurance undertaking who fails to comply with any condition or limitation specified in the permit relating to that non-resident insurance undertaking commits an offence against this Act:

Punishment on summary conviction: imprisonment for 1 month or a fine of \$15,000 or both such imprisonment and fine.

Punishment on summary conviction in respect of a second or subsequent offence: imprisonment for 6 months or a fine of \$30,000 or both such imprisonment and fine.

[subsections (1) and (2)(a) amended by 1990:12 effective 1 January 1991]

Accountant-General may grant relief

4 Notwithstanding section 3(2) it shall be lawful for the Accountant General, in any case where a non-resident insurance undertaking has not made payment or where payment has not been made on its behalf in accordance with the condition specified in section 3(2)(a) and the Accountant General is satisfied that such non-payment is not due to wilful neglect or default, to accept payment of the sum due together with a penalty of \$1,000 as constituting compliance with that condition and on receipt thereof the non-resident insurance undertaking shall for all purposes be deemed to have complied therewith.

Revocation of permit

5 (1) Where it appears to the Minister that the manager or agent or other person acting on behalf of a non-resident insurance undertaking is conducting the business on behalf of that non-resident insurance undertaking in contravention of any of the conditions contained in the permit relating to that non-resident insurance undertaking, the Minister may revoke that permit:

Provided that, before so revoking any such permit, the Minister shall cause a notice to be served on such persons conducting business

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on behalf of that non-resident insurance undertaking as appears to the Minister equitable and shall take into account any representations made by or on behalf of those persons.

(2) Notice of any revocation pursuant to this section shall be published in the Gazette and in at least one other newspaper circulating in Bermuda.

Application of Companies Act 1981 section 150A provisions

6 (1) Part XI of the Companies Act 1981 [*title 17 item 5*], other than those sections specified in section 150A of the Companies Act 1981, shall not apply to a non-resident insurance undertaking to which this Act applies.

[*section 150A states "Sections 136A, 137(2) and (3), 138, 142, 144, 145, 146, 147 and 151 shall apply to non-resident insurance undertakings as if they were permit companies."*]

(2) Nothing in this Act shall derogate from or abridge any power expressly conferred upon a non-resident insurance undertaking by or under any private Act.

Offences

7 Offences against this Act shall be prosecuted before a court of summary jurisdiction.

Saving for policies existing on 30 March 1967

8 Nothing in this Act shall affect any policy of insurance or insurance contract made out or executed before 31 March 1967, or the conducting of any insurance business in relation to any such policy of insurance or insurance contract after 30 March 1967.

This Act to prevail over incorporating Act or permission

9 Capacity to conduct insurance business conferred on any company under its incorporating Act or permission to engage in gainful occupation granted to any person under the Bermuda Immigration and Protection Act 1956 [*title 5 item 16*] shall not constitute permission to conduct such business in contravention of this Act.

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Commencement

10 [omitted]

[this Act was brought into operation on 31 March 1967]

[Amended by:

1968 : 140

1969 : 666

1981 : 4

1984 : 36

1987 : 45

1990 : 12]