



I assent,

HYLEETALIBURD, M.H.

Deputy Governor-General

6th October 2021.

ISLAND OF NEVIS

No. 5 of 2021

AN ORDINANCE to amend the Nevis International Insurance Ordinance, Chapter 7.07 (N) and for matters related thereto or connected therewith.

[Published 14th October 2021, Official Gazette No. 64 of 2021.]

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

1. Short Title.

This Ordinance may be cited as the Nevis International Insurance (Amendment) Ordinance 2021.

2. Interpretation.

In this Ordinance, unless the context otherwise requires, the expression “Ordinance” means the Nevis International Insurance Ordinance, Cap. 7.07 (N).

3. Amendment of Section 2.

Section 2 of the Ordinance is amended as follows:

- (a) by deleting the word “Minister” as it appears in the definition of “approved securities” and replacing it with the word “Registrar”.
- (b) by deleting the word “Minister” as it appears in the definition of “auditor” and replacing it with the word “Registrar”.
- (c) by deleting the definition of insurance broker and replacing it with the following new definition:

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

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- (d) by inserting the following new definition after the definition of “regulations”
 “Regulator” means the Regulator of Financial Services appointed for Nevis
 under the Financial Services Regulatory Commission Act, Cap. 21.12.”
- (e) by deleting the words “section 19(1) as they appear in the definition of the term
 “solvency margin” and replacing them with the words “section 24 (1)”.

4. Amendment to Section 3.

Section 3 subsection (12) of the Ordinance is amended by deleting the word “Minister” as it appears in the second line and replacing it with the word “Regulator”.

5. Amendment of Section 4.

Section 4 subsection (1) and paragraph (c) of the Ordinance is amended by deleting the word “Minister” as it appears in the first line and replacing it with the word “Regulator”.

6. Amendment of Section 5.

Section 5 of the Ordinance is amended as follows:

- (a) by inserting the words “Advisory Committee” immediately after the word
 “Insurance” in the heading.
- (b) in subsection (1) by deleting the word “Minister” and replacing it with the
 words “Financial Services Regulatory Commission – Nevis Branch”.
- (c) In subsection (6) by deleting the word “Minister” and replacing it with the
 words “Financial Services Regulatory Commission – Nevis Branch”.

7. Amendment of Section 8.

Section 8 subsection (2) of the Ordinance is amended by deleting the word “said” which appears after the words “annuity company” as it appears in the second line.

8. Amendment of Section 12.

Section 12 subsection (1) paragraph (b) of the Ordinance is amended by deleting the words “section 13” as they appear in the second line and replacing them with the words “section 16”.

9. Amendment of Section 18.

Section 18 of the Ordinance is amended as follows by:

- (a) inserting the following new definition under subsection (1), immediately after
 the definition of annual account:
 “electronic format” means a document in a computer processable message
 format that is capable of being transmitted electronically.”
- (b) deleting subsection (2) and replacing it as follows:
 “(2) A registered insurer shall submit its audited annual accounts to the Registrar,
 either in original hard copy or electronic format, within 21 days after the

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date of the meeting at which the accounts were approved by the board of directors and in any event not later than six months after the close of the financial year to which those annual accounts relate.”

- (c) deleting the word “Minister as it appears in subsection (4) and replacing it with the word “Registrar”.
- (d) inserting immediately after subsection (5), a new subsection (6) as follows:
 “(6) Where the audited annual accounts are submitted by a registered insurer later than six months after the close of the financial year to which they relate, then a late fee as prescribed shall be payable.”
- (e) inserting immediately after the new subsection (6), a new subsection (7) as follows:
 “(7) A registered insurer shall, prior to the expiration of the initial deadline for submission of its annual accounts, apply to the Registrar, to request an extension for submission of its annual accounts after the due date for submission of the annual accounts and this application shall be accompanied by the prescribed application fee.

10. Amendment of Section 21.

Section 21 subsection (1) of the Ordinance is amended by deleting the words “section 19” as they appear in the second line and replacing them with the words “section 18”.

11. Amendment of Section 22.

Section 22 subsection (9) paragraph (b) of the Ordinance is amended by deleting the words “section 23” as they appear in the third line and replacing them with the words “section 24”.

12. Amendment to Section 26.

Section 26 of the Ordinance is amended by adding a new subsection (5) as follows and renumbering the existing subsection (5) as the new subsection (6):

- “(5) A registered insurer who is authorized to carry on captive insurance business may engage in co-insurance pools and an insurer engaged in any co-insurance pool will be regulated in accordance with the provisions of this Ordinance.”

13. Amendment of Section 32.

Section 32 of the Ordinance is amended as follows:

- (a) by deleting the word “an” as it appears before the words “registered agent” in the second line and replacing it with the word “a”
- (b) by deleting the words “or a director” which appear in the third line of that Section.

14. Amendment of Section 34.

Section 34 of the Ordinance is amended as follows:

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- (a) deleting subsection (3) and replacing it with the following new subsection:
 “(3) A registered insurer may have a corporate director as part of its board of directors in addition to the two directors who are natural persons as required under subsection (1).”
- (b) inserting a new subsection (4) as follows:
 “(4) A registered insurer who has directors in contravention of this section commits an offence and shall be subject to a fine of \$20,000.00 imposed by the Financial Services Regulatory Commission-Nevis Branch.”

15. Amendment of Section 36.

Section 36 subsection (6) of the Ordinance is amended by deleting the words “and in section 31” as they appear in the first line.

16. Amendment of Section 38.

Section 38 of the Ordinance is amended in subsection (1) by deleting the word “Minister” as it appears in the third line.

17. Amendment of Section 39.

Section 39 of the Ordinance is amended by deleting the section in its entirety and replacing it as follows:

“(1) The Court may order the compulsory winding up of a registered insurer under this Ordinance:

- (a) on the petition of the Registrar,
- (b) in the case of a registered insurer engaged in general business, on the petition of policyholders with an aggregate annual premium of at least two hundred thousand dollars.

(2) A petition for the compulsory winding up of a registered insurer may not be presented without leave of the Court which must be satisfied that a prima facie case has been established in the following circumstances:

- (a) on the petition of the Registrar, of the registered insurer being unable to pay its debts within the meaning of subsection (4); or
- (b) on the petition of a policyholder, of the registered insurer failing to pay a substantial claim that is uncontested or awarded by a court or other tribunal of competent jurisdiction and as to which all rights of appeal have been waived or have elapsed through the passage of time.

(3) The Registrar shall be a party to any winding up proceedings under this Section and shall be provided with such information as may be required concerning the affairs of the registered insurer.

(4) For the purposes of this Ordinance, a registered insurer shall be deemed to be unable to pay its debts if at any time the total value of its assets does not exceed the total amount of its liabilities by the amount prescribed by this Ordinance or its Regulations.

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(5) In any proceedings upon a petition presented by the Registrar for the compulsory winding up of a registered insurer under this section, evidence that the registered insurer was unable to pay its debts at any time before the start of the proceedings is evidence that such registered insurer continues to be unable to pay its debts, unless the contrary is proved.

18. Insertion of Section 39A.

The Ordinance is amended by inserting immediately after Section 39, a new Section 39A as follows:

“39A. Petition by the Registrar.

If the Registrar is of the opinion that it is necessary to do so, it may, with the leave of the Court, present a petition:

- (a) for the compulsory winding up by the Court of the registered insurer on the ground that it is unable to pay its debts; or
- (b) for an order that the registered insurer or any part of the insurance business of the registered insurer be placed under judicial management on the ground that it is in the public interest to do so.”

19. Insertion of Section 39B.

The Ordinance is amended by inserting immediately after new Section 39A, a new Section 39B as follows:

“39B. Petition by registered insurer

(1) A licensed insurer may, upon giving the Registrar one month’s written notice of its intention to do so, petition the Court without leave for an order to be voluntarily wound up.

(2) Both the registered insurer and the Registrar are entitled to be heard on any petition presented to the Court under this section.

(3) Where a registered insurer, except a registered insurer which carries on long term business, has passed a resolution for the voluntary winding up of its business, it shall notify the Registrar in writing of such resolution and of the date on which it will cease to enter into new contracts of insurance and of the name and address of its proposed liquidator.

20. Insertion of Section 39C.

The Ordinance is amended by inserting immediately after new Section 39B, a new Section 39C as follows:

“39C. Stay of legal process

Where a petition is presented under this Part for an order in respect of a registered insurer, all actions and the execution of all writs, summonses and other

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processes against that registered insurer are, by virtue of this section, stayed and may not be proceeded with without the leave of the Court”.

21. Amendment of Section 48.

Section 48 of the Ordinance is amended by deleting the word “Minister” as it appears in the first line.

22. Amendment of Section 49.

Section 49 of the Ordinance is amended in paragraph (a) by deleting the word “Minister” as it appears in the second line.

23. Amendment of Section 52.

Section 52 of the Ordinance is amended by deleting the word “Minister” and replacing it with the words “Financial Services Regulatory Commission – Nevis Branch”.

24. Amendment of Schedule.

The Schedule to the Ordinance is amended as follows:

- (a) The Schedule headed – Nevis International Insurance Regulations is amended in Regulation 11(2)(b) by deleting the word “Minister” and replacing it with the word “Registrar”.
- (b) Regulation 2 is amended in the definition of the Ordinance by deleting the words “Nevis International Insurance Ordinance, 2004” and replacing it with the words “Nevis International Insurance Ordinance, Cap. 7.07”.
- (c) Regulation 4 is amended by deleting the words “Section 16” as they appear in the first line and replacing them with the words “Section 21”.
- (d) Regulation 6(a) is amended by deleting the words “Section 7 (1) (b)” as they appear in the second line and replacing them with the words “Section 9 (1) (b)”.
- (e) Regulation 9(b)(ii) is amended by deleting the words “Section 16” as they appear in the second line and replacing them with the words “section 21”.

HONOURABLE FARREL SMITHEN
President

Passed by the Nevis Island Assembly this 5th day of October, 2021.

MYRA A WILLIAMS
Clerk of the Nevis Island Assembly