



PARLIAMENT
REPUBLIC OF TRINIDAD AND TOBAGO
(TENTH PARLIAMENT- 2014/2015 SESSION)

INTERIM REPORT
OF THE
JOINT SELECT COMMITTEE
ON
THE INSURANCE BILL, 2015

Ordered to be printed

TOGETHER WITH THE MINUTES OF PROCEEDINGS

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THE COMMITTEE

APPOINTMENT

1.1 Pursuant to resolutions of the Senate on Tuesday May 05, 2015 and of the House of Representatives on Wednesday May 06, 2015, a Joint Select Committee was established:

“to consider and report on a Bill entitled, ‘An Act to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes”

MEMBERSHIP

1.2 The following persons were appointed to serve on the Committee:

- Mr. Larry Howai
- Dr. Bhoendradatt Tewarie
- Mr. Vasant Bharath
- Dr. Dhanayshar Mahabir
- Mrs. Helen Drayton
- Mr. Faris Al-Rawi
- Mr. Stephen Cadiz, MP
- Mr. Jairam Seemungal, MP
- Mrs. Carolyn Seepersad Bachan, MP
- Dr. Delmon Baker, MP
- Mr. Colm Imbert, MP
- Ms. Marlene McDonald, MP

TERMS OF REFERENCE

1.3 The Committee was mandated to discuss the general merits of the Bill along with its details and to report by May 21, 2015.

MEETINGS

1.4 The Committee held two (2) meetings on Wednesday May 13, 2015 and Monday May 18, 2015.

1.5 The Minutes of these two (2) meetings are attached at **Appendix 1**.

CHAIRMANSHIP

1.6 At its first meeting on Wednesday May 13, 2015, the Committee elected Mr. Larry Howai as Chairman.

REPORT

3.1 The Committee wishes to report that the clause by clause analysis of the Bill has been completed but additional time is required for the preparation of a list of amendments and revised Bill. As such, the Committee is unable to submit its recommendations by the deadline of May 21, 2015.

RECOMMENDATIONS

4.1 The Committee therefore requests a further period of one (1) week to complete its work and to submit a final report to the Parliament by **May 28, 2015**.

Respectfully submitted,

Mr. Larry Howai
Chairman

May 19, 2015

**MINUTES
OF
PROCEEDINGS**

**MINUTES OF THE 1st MEETING OF THE
JOINT SELECT COMMITTEE ON THE INSURANCE BILL, 2015
HELD IN THE ARNOLD THOMASOS ROOM (EAST), LEVEL 6, OFFICE OF THE PARLIAMENT
TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE,
1A WRIGHTSON ROAD, PORT OF SPAIN ON
WEDNESDAY MAY 13, 2015**

PRESENT

Mr. Larry Howai	-	Chairman
Dr. Dhanayshar Mahabir	-	Member
Mr. Stephen Cadiz, MP	-	Member
Dr. Delmon Baker, MP	-	Member
Dr. Bhoendradatt Tewarie	-	Member
Mr. Jairam Seemungal, MP	-	Member
Mr. Faris Al-Rawi	-	Member
Mrs. Nataki Atiba-Dilchan	-	Secretary
Ms. Khisha Peterkin	-	Assistant Secretary

ABSENT/EXCUSED

Mrs. Helen Drayton	-	Member
Mr. Vasant Bharath	-	Member
Mrs. Carolyn Seepersad Bachan, MP	-	Member
Mr. Colm Imbert, MP	-	Member
Ms. Marlene McDonald, MP	-	Member

COMMENCEMENT

1.1 The meeting was called to order by the President of the Senate at 10:53 a.m. All Members were welcomed to the meeting and thanked for attending.

1.2 The President advised that her role was to facilitate the election of a Chairman and called for nominations.

ELECTION OF A CHAIRMAN

2.1 Mr. Larry Howai was nominated by Mr. Dhanayshar Mahabir. This nomination was seconded by Dr. Bhoendradatt Tewarie.

2.2 There being no further nominations, Mr. Larry Howai was elected Chair of the Committee.

2.3 The President congratulated Mr. Howai and advised that secretariat support for the Committee would be provided by Mrs. Nataki Atiba-Dilchan as Secretary and Ms. Khisha Peterkin as Assistant Secretary.

2.4 The President invited Mr. Howai to take the Chair.

2.5 Mr. Howai took the Chair and thanked Members for electing him.

2.6 The Chairman advised that the following persons would be absent from the day's meeting:

Mrs. Helen Drayton
Mr. Vasant Bharath
Mrs. Carolyn Seepersad Bachan, MP
Mr. Colm Imbert, MP

DETERMINATION OF A QUORUM

3.1 The Committee agreed to a quorum of 4 persons inclusive of the Chair and with representation from each House.

TERMS OF REFERENCE

4.1 The Chairman reminded Members that the Terms of Reference were as follows:

- (i) to consider an Act *“to repeal and replace the Insurance Act, Chap. 84:01; to reform the law relating to insurance companies; to regulate insurance businesses and privately administered pension fund plans and for other related purposes”*;
- (ii) to discuss the general merits of the Bill along with its details; and
- (iii) to report by May 21, 2015.

THE WAY FORWARD

5.1 The Chairman invited Members to offer suggestions on the way forward in the completion of its mandate.

5.2 The following were the main thoughts expressed by Members:

- The changes in the Insurance Bill 2015 were very involved and it may not be possible to complete an in-depth analysis in the allotted time.
- The Committee could seek to look only at the matters agreed to by the Joint Select Committee in its report submitted to the Parliament in the previous session.
- There was the possibility, given the fluidity of the financial sector, that amendments will have to be made soon after the Bill is passed to ensure that the legislation remains relevant.

- The documents provided to Members prior to the meeting were helpful but the input of stakeholders like ATTIC and of the consultants used previously like Mr. Lester may be valuable.
- There are several concerns for practitioners about the operation of the Bill in its current form.
- It was important to pass the legislation to ensure that the industry was properly protected.

5.3 The Committee invited Mr. Carl Hiralal, Inspector of Financial Institutions, and Ms. Lorraine John, Asst. Chief Parliamentary Counsel, and to join the meeting to provide perspective on the best approach to be taken.

5.4 After a lengthy discussion the Committee agreed that during its clause by clause analysis greater focus would be placed on the areas which were not recommendations of the previous Committee, while other clauses would be approved *en bloc*.

5.5 Also invited to join the meeting to provide comments were:

Central Bank of Trinidad and Tobago:

Ms. Wendy Ho Sing- Senior Specialist Advisor
 Ms. Joanne Hamid- Senior Examiner, Policy and Market Conduct
 Mrs. Michelle Chong Tai-Bell- Chief Actuary
 Mr. Rene Singh- Legal Counsel II
 Mrs. Camille Rajnauth- Legal Counsel I

CPC:

Ms. Carla Ali - Legal Officer II
 Ms. Laura Ramnath - Legal Officer

Local Insurance Consultant:

Mr. John Gonzales

Legal Consultant:

Dr. Claude Denbow, S.C.

5.6 The issues raised during deliberations, the related responses and the decisions taken are attached as Appendix I to these Minutes.

5.7 The clause by clause consideration of the Bill was suspended at **Clause 41**.

ADJOURNMENT

6.1 The Chairman thanked Members and adjourned the meeting to Monday May 18, 2015 from 9:00 am.

6.2 The adjournment was taken at 1:15 pm.

I certify that these Minutes are true and correct.

Chairman

Secretary

Thursday May 14, 2015

Appendix I

Clause	Issue	Response	Decision
1	None	-	Agreed
2	Is the new definition of “ <i>insurance consultant</i> ” too wide? It should refer only to suppliers of insurance products and appears to capture more.....	The definition was copied from Bahamas legislation.	<i>To amend to limit the width of the definition.</i>
3	None	-	Agreed
4- definition section	Why this definition for “ <i>credit exposure</i> ”	This is a policy decision which is flexible. It is also reflected in the Schedule 11.	<i>To amend definition to remove “net of specific provisions”</i>
	“ <i>continuing professional development</i> ” What was the feedback from industry on this proposal?	Input was received from the insurance companies. They have accepted the concept and are participating actively in setting the parameters/elements for what is required.	-
	“ <i>financial group</i> ” - why new e, f, and g?	Definition widened to mirror the FIA definition and to capture other recognized entities that the insurance companies are allowed to operate e.g. real estate entities. ATTIC response to inclusion of (f) was positive.	-
	“ <i>foreign company</i> ”- If a company is incorporated both inside and outside of Trinidad and Tobago how is that dealt with ?	Once a company is incorporated in Trinidad it is treated as a local insurer under the Act.	-
	“ <i>guarantee</i> ”-Why is it specifically expressed that a letter of credit is also applicable as a guarantee.	A guarantee can take many forms inclusive of a letter of credit.	<i>Delete definition of “guarantee”</i>
	“ <i>security interest</i> ” - Refinement of the definition is necessary	To allow for distinction between that an individual- to exclude	<i>Insert “given by or” after the word “otherwise”</i>

	<i>"Trinidad and Tobago policy account"</i> - What is the reason for this definition?	To provide for the use of new system of separate accounts.	-
4(2)	Why insert a new sub-clause and why the sum of \$4000?	This allowed the legislation to be in sync with the Bankruptcy and Insolvency Act. 279(4) allows for the Minister to amend the amount if not sufficient.	<i>To include reference to 279(4) for clarification</i>
6	How is control by the minority catered for? Why is <i>"persons"</i> deemed as a synonymous to a <i>"single person"</i> ?	This is addressed under 6(1)(c). This ties back to (1) where a person exercises more than 50%. This also captures as broad a pool of persons as possible and to prevent the development of subsidiaries to obfuscate true ownership of the company.	Agreed
7-13	None	-	Agreed
14(1)	None	-	Agreed
14(2)	Why was update of records required only on a quarterly basis and not more regularly?	In reality there are not many changes of significance in the list of intermediaries. There is benefit to update on a daily basis as even on a quarterly basis the changes are few. In practice data is updated as soon as changes occur.	Agreed
15	None	-	Agreed
16	Why was ICATT added?	To address any reckless behaviour among actuaries/accountants who are not complying with standards of profession.	Agreed
17-26	None	-	Agreed
27	Is five days based on international practice?	No. It is based on practical application for Trinidad and Tobago.	Agreed

28-34	None	-	Agreed
35(1-3)	None	-	Agreed
35(4)	This appears too high-handed and should be a power of the Board.	This was deemed necessary to deal with recalcitrant officers.	<i>Delete</i>
35(5-6)	None	-	Agreed
36-41(6)	None	-	Agreed
41(7)	Is 7(b) clear in meaning?		<i>Amend re clarification with respect to assets in excess of liabilities e.g. in trust account etc.,</i>

**MINUTES OF THE 2nd MEETING OF THE
JOINT SELECT COMMITTEE ON THE INSURANCE BILL, 2015
HELD IN THE ARNOLD THOMASOS ROOM (WEST), LEVEL 6, OFFICE OF THE PARLIAMENT
TOWER D, THE PORT OF SPAIN INTERNATIONAL WATERFRONT CENTRE,
1A WRIGHTSON ROAD, PORT OF SPAIN ON
MONDAY MAY 18, 2015**

PRESENT

Mr. Larry Howai	-	Chairman
Dr. Dhanayshar Mahabir	-	Member
Mr. Stephen Cadiz, MP	-	Member
Mrs. Helen Drayton	-	Member
Mr. Jairam Seemungal, MP	-	Member
Mrs. Nataki Atiba-Dilchan	-	Secretary
Ms. Khisha Peterkin	-	Assistant Secretary

ABSENT/EXCUSED

Mr. Vasant Bharath	-	Member
Dr. Bhoendradatt Tewarie	-	Member
Mr. Faris Al-Rawi	-	Member
Mrs. Carolyn Seepersad Bachan, MP	-	Member
Mr. Colm Imbert, MP	-	Member
Dr. Delmon Baker, MP	-	Member
Ms. Marlene McDonald, MP	-	Member

COMMENCEMENT

The Chairman called the meeting to order at 10:02 a.m. and welcomed all who were present.

The Chairman advised that the following persons would be absent from the day's meeting:

- Mr. Vasant Bharath
- Dr. Bhoendradatt Tewarie
- Mr. Colm Imbert, MP
- Mr. Delmon Baker, MP
- Mrs. Carolyn Seepersad Bachan, MP
- Ms. Marlene Mc Donald, MP
- Mr. Faris Al-Rawi (court/late)

CONFIRMATION OF THE MINUTES- May 13, 2015

There being no corrections or omissions, the motion for the confirmation of the Minutes was moved by Mr. Seemungal and seconded by Dr. Mahabir.

CLAUSE BY CLAUSE CONSIDERATION OF THE BILL

The following persons were invited to join the meeting to assist with the consideration of the Bill:

Central Bank of Trinidad and Tobago:

Ms. Wendy Ho Sing- Senior Specialist Advisor
Ms. Joanne Hamid-Senior Examiner, Policy and Market Conduct
Mrs. Michelle Chong Tai-Bell-Chief Actuary
Mr. Rene Singh-Legal Counsel
Mrs. Camille Rajnauth-Legal Counsel

CPC:

M. Lorraine John-Asst. Chief Parliamentary Counsel
Ms. Carla Ali - Legal Officer II
Ms. Laura Ramnath-Legal Officer

Ministry of Finance

Ms. Carla Carter- Senior Legal Officer

Local Insurance Consultant:

Mr. John Gonzales

The Committee recommenced consideration at Clause 42 and completed its clause by clause analysis of the Bill.

The issues raised during deliberations, the related responses and the decisions taken are attached as Appendix I to these Minutes.

OTHER BUSINESS

Interim Report

It was agreed that an Interim Report would be presented to the House of Representatives on Wednesday May 20, 2015 to seek an extension of one (1) week to prepare the necessary list of amendments and a Revised Bill for final reporting.

ADJOURNMENT

The Chairman thanked Members for the time spent to complete the mandate of the Committee and adjourned the meeting.

The adjournment was taken at 3:00 pm.

I certify that these Minutes are true and correct.

Chairman

Secretary

Tuesday May 19, 2015

Appendix I

Clause	Issue	Response	Decision
42-43	None	-	Agreed
44	<p>Is this consistent with what exists in other jurisdiction?</p> <p>How does the industry feels about provision?</p> <p>By how much has the reserve fund been topped up by?</p>	<p>There is no substantial change from the existing formula.</p> <p>This approach is a bit more conservative than what exists in other jurisdictions.</p> <p>The fund is generally not less than 20% of net premium income. All companies are bound by the same formula.</p>	Agreed
45-46	<p>What is experience of CBTT re regulation and local companies complying?</p> <p>Is the catastrophe fund a pool fund? Can income be earned off fund?</p>	<p>Previously having a fund was not mandatory.</p> <p>No. Each company has to set up its own fund.</p> <p>This fund complements other re-insurance arrangements.</p>	Agreed
46	Why? Is it necessary to put this in the law?	By having it stated in law, extra protection is provided for the CBTT.	Agreed
47	Were there any deletions in this version of the Bill, since the 2013 Bill?	Yes. These would be pointed out as the clauses are considered.	Agreed
48	None	-	Agreed
49	Why are the provisions mutually exclusive?	Where a company is not engaging in "non-financial activity" e.g. real estate, then no	Agreed

	<p>To what extent can non-financial activity affect risk profile of a company?</p> <p>What is the experience now with foreign entities operating in TT? Is this legislating for the future?</p>	<p>restructuring is required.</p> <p>Where CBTT is not comfortable with the Regulator then restructure will be requested.</p> <p>At present only one company in TT is controlled by a foreign company.</p> <p>Mutually exclusive approach allows CBTT the flexibility to ask for restructure when it is not comfortable with non-financial activities. Strengthens local regulator capability over companies</p>	
50	Were the fines changed at all?	No. Remains the same.	Agreed
51	None	-	Agreed
52	Why this insertion and is there a precedent?	Yes precedent exists as it is well known that Regulator can ask for information from main shareholder. This addresses issues of obscuring company.	Agreed
53	None	-	Agreed
54	None	-	Agreed
55	None	-	Agreed
56	None	-	Agreed
57	How important is amalgamation in relation to insurance?	Latitude would only be exercised in the case of transfers of small blocks of business and not so much in amalgamation.	Agreed

58	None	-	Agreed
59	Why inconsistency of months and not business days?	-	<i>Change months to business days where applicable in Bill.</i>
60	None	-	Agreed
61	The industry has a concern about amalgamation when assets and property transfer is required for a group of companies. The stamp duty burden is quite heavy if law is to be complied with under request of CBTT.	-	Agreed
62	None	-	Agreed
63	None	-	Agreed
64	This was consequential with the removal of the concept of "branch".	-	Agreed
65	None		Agreed
66	None		Agreed
67	This provision is in conflict with the section 99 of the Companies Act as it imposes a duty on directors to act in the best interest of policyholders.	-	<i>Amend to reflect the Jamaican provision offered by Dr. Denbow.</i> <i>Delete (1), (2), (3), retain (4).</i> <i>Also consequential amendment to delete "senior" from Jamaican provision.</i>
68	The industry does not approve of the requirement that the Chair of the audit committee should be a financial expert as defined by this section. Given that there is limited human resource in this specialized industry. What is precedent elsewhere? How to reconcile relationships within the group. Will CBTT give clearance?	Yes there is precedent in Canadian legislation. An Independent director of parent	<i>Amend (5) to include educational certification in accounting "formal training in accounting"</i> <i>5(c)(2) to be reworded for coherence.</i> <i>CBTT and CPC to look at amending definition of independent in</i>

		should be able to serve on subsidiary.	<i>accordance with Canadian legislation.</i>
69	None	-	Agreed
70	What is the difference between the use of “policies” versus “guidelines”?	Policy in this context is acceptable.	Agreed
71	None	-	Agreed
72	None	-	Agreed
73	None	-	Agreed
74	None	-	Agreed
75	(6) (e) –capacity issue with respect to auditors. New rules being imposed.	-	Agreed
76	None	-	Agreed
77	Why is the penalty not proportional for individual versus company?	-	<i>Amend 6(a) to read a “fine of ten million.</i> <i>CPC to look at comparative fines in related legislation.</i>
78	None	-	Agreed
79	None	-	Agreed
80	This provides indemnity for whistleblowers and is in line with other legislation.	-	Agreed
81	None	-	Agreed
82	None	-	Agreed
Committee agreed at this stage to focus on main areas of policy difference from 2013 Bill and to consider less controversial clauses subsequently.			
107	How are policy holders treated in situations of “wind up”? What happens elsewhere?	Unsecured creditors are dealt with after securing policy holders. That is the usual standard.	<i>Delete the extra “shall”-end of 4th line</i>
109	Are there norms for liquidators? How do you know when liquidator is acting properly? Is due diligence defined anywhere?	Subclause (3) allows for court consideration of actions to determine due diligence.	<i>CPC to amend to delete “with greatest economy compatible with efficiency” and replace with “undue delay”/ “due diligence” or more appropriate term.</i>

169	<p>Insurable interest categories are too wide.</p> <p>What about the existing provision re: children as policyholders?</p> <p>In TT are there instances where children have taken out policies?</p>	-	<p><i>CPC to remove extended definition and retain what exists in sec 124 of IA.</i></p> <p><i>Amend – revert to sec 124 of existing act with recognition of cohabitational relationships- remove burden on children. Let court adjudicate.</i></p> <p><i>Add 169 (g) to original 124.</i></p>
178			
179	<p>This appears to give the Regulator too much in the amending of contracts without judicial review.</p> <p>Should this be on the discretion of the Regulator without judicial approval?</p>	It is intended that these powers be exercised in emergency cases. It is not an open ended power.	<i>Delete “Inspector and replace with “Central Bank”</i>
183-192	This change in the arrangement for beneficiaries will require a consequential change to Married Persons Act.	-	Agreed
255	Sub(2)(d)-suggests a presumption of guilt and innocence to be proved	Not appropriate.	<i>Delete (d)</i>
Regulations	Should these be a mix of affirmative and negative, similar to Securities legislation?	To vary whether affirmative or not where regulations may touch on constitutional issues.	<i>CPC to amend accordingly</i>
Resumption from omitted clauses			
83-89	None	-	Agreed
90	(1)(b) reference incorrect.	-	<i>Amend to 89(1) and (2)</i>
91-94	None	-	Agreed

95	This provides for cases where there are not enough assets that the sums assured can be reduced.	-	Agreed
96-101	None	-	Agreed
102	References to be corrected.	-	<i>Amend "101" to read "103"</i>
103-106	None		Agreed
108	None		Agreed
110	How consistent with rest of legislation?	Given that this offence is comparable to fraud the penalty is too low.	<i>Amend penalty. \$1.5M and two years imprisonment \$3M for company Bring (8) in line with Companies Act. Do a comparison with clause 255</i>
111-128	None	-	Agreed
129	Why this provision? What is the mischief to be addressed?	If an agency is carrying on the same business for more than one company a conflict of interest can arise.	Agreed
130-139	None	-	Agreed
140	It is difficult to create a pre-approved list of adjusters as requested by the previous Committee because of fluctuating qualifications.	-	Agreed
141-159	None	-	Agreed
160	This provision has Canadian precedent where participating policy holders share in profits. What was the industry position on this provision?	The industry accepts it as international best practice.	Agreed
161-168	None	-	Agreed
170-177	None	-	Agreed
178	The language is ambiguous. What is meant by "for a non-discretionary purpose including the necessities of life"?	-	<i>Simplify language to say "hardship"</i>

180-183	None	-	-
184	Same issue of irrevocable designation as previously discussed.	-	<i>Delete 184(2). To double check re implications for amendment to Married Persons Act.</i>
185-214	None	-	Agreed
215	Why? Is industry fine with that?	This is only necessary in the first three years from the commencement of Act.	Agreed
216-249	None	-	Agreed
250-255	The Tribunal approach is seen by CBTT as an additional layer and cost.	-	Agreed
256-261	None	-	Agreed
262-265	These provisions were necessary given the removal of statutory fund and copies the language of the FIA.		Agreed
266	None	-	Agreed
267	Due diligence? What is protection for insurer?	Unsecured creditors. Regulator needs to ensure that this does not happen. Is triggered by 70%.	Agreed
268-269	None	-	Agreed
270	Must this be included in law?	It is in existing Act	Agreed
271-278	None	-	Agreed
279	The provisions in (5) and (6) should not be left as negative resolution.	Let Schedule 6 be subject to affirmative. Consistent with FIA and Securities.	<i>Amend to "affirmative resolution"</i>
280-282	None	-	Agreed
Schedules 1-13	None	-	Agreed