



No. 16 of 2001

[Date of assent - 31st August, 2001]

AN ACT TO AMEND THE EXTERNAL INSURANCE ACT

Enacted by the Parliament of The Bahamas

Short
title.
Ch. 318.

1. This Act which amends the External Insurance Act may be cited as the External Insurance (Amendment) Act, 2001.

Repeal
and re-
placement
of section
21 of the
principal
Act.

2. Section 21 of the principal Act is repealed and replaced by the following -

"Con- 21. (1) Subject to subsections
fiden- (2) and (3), the Registrar or any
tial- officer, employee, agent or adviser
ity. of the Registrar who discloses any
information relating to -

- (a) the affairs of the Registrar's office;
- (b) any application made to the Registrar;
- (c) the affairs of an external insurer or underwriting manager; or
- (d) the affairs of a customer, client or policyholder of an

external insurer or
underwriting
manager,

that he has acquired in the course of his duties or in the exercise of the Registrar's functions under this or any other law, is guilty of an offence and shall be liable on summary conviction to a fine not exceeding fifty thousand dollars or to imprisonment for a term not exceeding three years.

(2) Subsection (1) shall not apply to a disclosure -

- (a) lawfully required or permitted by any court of competent jurisdiction within The Bahamas;
- (b) for the purpose of assisting the Registrar to exercise any functions conferred on him by this Act, by any other Act or by regulations made thereunder;
- (c) in respect of the affairs of an external insurer or underwriting manager or of a customer, client or policyholder of an external insurer or underwriting manager, with the consent of the

external insurer or underwriting manager, customer, client or policyholder, as the case may be, which consent has been voluntarily given;

(d) where the information disclosed is or has been available to the public from any other source;

(e) where the information disclosed is in a manner that does not enable the identity of any external insurer or underwriting manager or of any customer, client or policyholder of the external insurer or underwriting manager to which the information relates to be ascertained;

(f) to a person with a view to the institution of, or for the purpose of -
(i) criminal proceedings,
(ii) disciplinary proceedings, whether within or outside The

B a h a m a s ,
relating to the
exercise by a
counsel and
attorney ,
auditor ,
accountant ,
valuer or
actuary of his
professional
duties ,

(iii) disciplinary
proceedings
relating to the
discharge by a
public officer,
or a member or
employee of the
Registrar of
his duties; or

(g) in any legal
proceedings in
connection with -

(i) the winding-up
or dissolution
of an external
insurer or
underwriting
manager, or

(ii) the appointment
or duties of a
receiver of an
external
insurer or
underwriting
manager.

(3) Subject to subsection
(6), the Registrar may disclose to
an overseas regulatory authority
information necessary to enable that

authority to exercise regulatory functions including the conduct of civil or administrative investigations and proceedings to enforce laws, regulations and rules administered by that authority.

(4) In deciding whether or not to exercise his power under subsection (3), the Registrar may take into account -

(a) whether the inquiries relate to the possible breach of a law or other requirement which has no close parallel in The Bahamas or involve the assertion of a jurisdiction not recognised by The Bahamas; and

(b) the seriousness of the matter to which the inquiries relate and the importance to the inquiries of the information sought in The Bahamas.

(5) The Registrar may decline to exercise his powers under subsection (3) unless the overseas regulatory authority undertakes to make such contribution towards the cost of the exercise as the Registrar considers appropriate.

(6) Nothing in subsection (3) authorises a disclosure by the Registrar unless -

- (a) the Registrar has satisfied himself that the intended recipient authority is subject to adequate legal restrictions on further disclosures which shall include the provision of an undertaking of confidentiality; or
- (b) the Registrar has been given an undertaking by the recipient authority not to disclose the information provided without the consent of the Registrar; and
- (c) the Registrar is satisfied that the assistance requested by the overseas regulatory authority is required for the purposes of the overseas regulatory authority's regulatory functions including the conduct of civil or administrative investigations or proceedings to enforce laws, regulations and rules administered by that authority;

and
(d) the Registrar is satisfied that information provided following the exercise of his power under subsection (3) will not be used in criminal proceedings against the person providing the information.

(7) Where in the opinion of the Registrar it appears necessary in relation to any request for assistance received from an overseas regulatory authority to invoke the jurisdiction of a Stipendiary and Circuit Magistrate in obtaining information requested by the overseas regulatory authority, the Registrar shall immediately notify the Attorney-General with particulars of the request, and shall send him copies of all documents relating to the request, and the Attorney-General shall be entitled, in a manner analogous to *amicus curiae*, to appear or take part in any proceedings in The Bahamas, or in any appeal from such proceedings, arising directly or indirectly from any such request.

(8) The Registrar may provide information that he has acquired in the course of his duties or in the exercise of his functions under this or any other law to any other regulatory authority in The Bahamas

where he considers such information may be relevant to the functions of such other regulatory authority.

(9) In this section "overseas regulatory authority" means an authority which, in a country or territory outside The Bahamas exercises functions corresponding to any functions of the Registrar."

Amendment
of the
principal
Act.

3. The principal Act is amended by the insertion after section 21 of the following -

"Duty 21A. The Registrar shall, for of Re- the purpose of carrying out the gistrar. provisions of this Act, satisfy himself that the provisions of the Financial Transactions Reporting Act, 2000 are being complied with."