

BELIZE

INTERNATIONAL BUSINESS COMPANIES ACT

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ARRANGEMENT OF SECTIONS

PART I - *Short Title and Interpretation*

1. Short title.
2. Interpretation.

PART II - *Constitution of Companies*

3. Incorporation
4. Restrictions on incorporation.
5. Requirements of International Business Companies.
6. Effect of failure to satisfy requirements of section 5.
7. Personal liability.
8. Business objects or purposes.
9. Powers.
10. Validity of acts of company.
11. Name.
12. Memorandum.
13. Articles.
14. Registration.
15. Certificate of incorporation.
16. Amendment of Memorandum and Articles.
17. Copies of Memorandum and Articles to members

PART III - *Capital and Dividends*

18. Shares to be fully paid.
19. Kind of consideration for Shares.
20. Forfeiture of shares.
21. Amount of consideration for shares.
22. Fractional shares.
23. Capital and surplus accounts.
24. Authorised capital in several currencies.
25. Dividend of shares.
26. Increase or reduction of authorised capital.
27. Division and combination of shares.
28. Conversion of shares with par value into shares without par value and *vice versa*.
29. Character of a share.
30. Share certificates.
31. Share register.
32. Rectification of share register.
33. Transfer of registered shares.
34. Transfer of bearer shares.
35. Seizure.
36. Acquisition of own shares.
37. Treasury shares disabled.
38. Increase or reduction of capital.
39. Dividends.
40. Appreciation of assets.
41. Mortgages and charges of shares.

PART IV - *Registered Office and Agent*

42. Registered office.
43. Registered agent.
44. Change of registered office or registered agent.

45. Register of registered agents.
46. Penalty for contravention of sections 42 and 43.

PART V - Directors, Officers, Agents and Liquidators

47. Management by directors.
48. Election, term and removal of directors.
49. Optional register of directors.
50. Number of directors.
51. Powers of directors.
52. Emoluments of directors.
53. Committees of directors.
54. Meetings of directors.
55. Notice of meetings of directors.
56. Quorum for meetings of directors.
57. Consents of directors.
58. Alternates for directors.
59. Officers and agents.
60. Standard of care.
61. Reliance on records and reports.
62. Conflicts of interests.
63. Indemnification
64. Insurance.

PART VI - Protection of Members and Creditors

65. Meetings of members.
66. Notice of meetings of members.
67. Quorum for meetings of members.
68. Voting by members.
69. Voting trusts.
70. Consents of members.
71. Service of notice on members.
72. Service of process, etc., on company.
73. Books, records and common seal.
74. Inspection of books and records.
75. Contracts generally.
76. Contracts before incorporation.
77. Contracts for payment or transfer.
78. Optional register of mortgages and charges.
79. Notes and bills of exchange.
80. Power of attorney.
81. Authentication or attestation.
82. Company without members.

PART VII - Merger, Consolidation, Sale of Assets, Forced Redemptions, Arrangements and Dissenters

83. Interpretation of words and phrases used in this Part.
84. Merger and consolidation.
85. Merger with subsidiary.
86. Effect of merger or consolidation.
87. Merger or consolidation with foreign company.
88. Disposition of assets.
89. Redemption of minority shares.
90. Arrangements.
91. Rights of dissenters.

PART VIII - Continuation

92. Continuation.
93. Provisional registration.
94. Certificate of continuation.
95. Effect of continuation.

96. Continuation under foreign law.

PART IX - *Winding-Up, Dissolution and Striking Off*

97. Compulsory winding-up and dissolution.
98. Voluntary winding-up and dissolution.
99. Powers of directors in a winding-up and dissolution.
100. Duties of liquidator.
101. Powers of liquidator.
102. Procedure on winding-up and dissolution.
103. Rescission of winding-up and dissolution.
104. Winding-up and dissolution of company unable to pay its claims, etc.
105. Winding-up and dissolution by the court.
106. Receivers and managers.
107. Striking off.
108. Restoration to register.
109. Effect of striking off.
110. Appointment of official liquidator.
111. Dissolution of company struck off.
112. Security for Registrar's costs.

PART X - *Fees and Penalties*

113. Fees.
114. Licence fees.
115. Penalties to be paid to Registrar.
116. Recovery of penalties, etc.
117. Company struck off liable for fees, etc.
118. Fees, etc., to be paid into Consolidated Revenue Fund.
119. Fees payable to Registrar.

PART XI - *Public Investment Companies*

120. Definitions and application.
121. Procedure for registration as a public investment company.
122. Further exemptions.
123. Further provisions respecting public investment companies.
124. PIC Group.
125. Fiscal unity of a PIC Group.
126. Employees.
127. Exchange control.
128. Register and certificate.
129. Power to make amendments by regulation.

PART XII - *Exemptions from Tax*

130. Exemptions from tax, etc.

PART XIII - *General*

131. Appointment of Registrar, etc., and regulations.
132. Optional registration of registers.
133. Optional registration of mortgages and charges.
134. Exchange Control.
135. Form of certificate.
136. Certificate of good standing.
137. Inspection of documents.
138. Language in documents.
139. Double taxation agreements.
140. Jurisdiction.
141. Declaration by court.
142. Judge in Chambers.
143. General penalty, savings and transitional provisions.

- 144. Alteration of fees and penalties.
- 145. Regulations in general.

PART XIV - *Limited Duration Companies*

- 146. Interpretation of words used in this Part.
- 147. Application for registration as a Limited Duration Company.
- 148. Registration procedure.
- 149. Maximum duration.
- 150. Contents of the Articles of Association.
- 151. Winding-up.
- 152. Cancellation of registration.

INTERNATIONAL BUSINESS COMPANIES

PART I - Short Title and Interpretation

Short title.

1. This Act may be cited as the International Business Companies Act.

Interpretation.

- 2.(1) In this Act, unless the context otherwise requires:-

“Articles” means the Articles of Association of a company incorporated under this Act;

“authorised capital” of a company means the sum of the aggregate par value of all shares with par value which the company is authorised by its Memorandum to issue, plus the amount, if any, stated in its Memorandum as authorised capital to be represented by shares without par value which the company is authorised by its Memorandum to issue;

“Belize Offshore Practitioner Association” means a body corporate established by the Belize Offshore Practitioners Association Act;

“capital” of a company means the sum of the aggregate par value of all outstanding shares with par value of the company and shares with par value held by the company as treasury shares plus-

- (a) the aggregate of the amounts designated as capital of all outstanding shares without par value of the company and shares without par value held by the company as treasury shares; and
- (b) the amounts as are from time to time transferred from surplus to capital by a resolution of directors;

“collective investment scheme” means a scheme carried on by a company, a partnership or a unit trust that issues equity interests, the purpose or effect of which is the pooling of investor funds with the object of spreading investment risks and enabling investors in the scheme to receive profits or gains from the acquisition, holding, management or disposal of investments, provided that the pooling of funds by banks and insurance companies shall not be deemed to be within this definition;

“continued” means continued within the context of Part VIII;

“court” means the Supreme Court or a Judge thereof;

“dollar” or “\$” means a dollar in the currency of the United States of America;

“the *Gazette*” means the *Belize Government Gazette* and includes any supplement thereto;

“member” means a person who holds shares in a company;

“Memorandum” means the Memorandum of Association of a company incorporated under this Act;

“person” includes a trust, the estate of a deceased individual, a partnership, or an unincorporated association of persons; “person resident in Belize” means a person who ordinarily resides within Belize or carries on business from an office or other fixed place of business within Belize, but does not include a company incorporated under this Act;

“public investment company” means a company which fulfils the requirements of and is registered in

accordance with section 121;

“Register” means the Register of International Business Companies maintained by the Registrar in accordance with subsection (1) of section 14 or a Branch Register of International Business Companies maintained by a Deputy-Registrar in accordance with subsection (2) of section 14 respectively;

“Registrar” means the Registrar appointed by the Minister in accordance with subsection (1) of section 131 or a Deputy-Registrar appointed by the Registrar in accordance with subsection (2) of that section respectively;

“securities” means shares and debt obligations of every kind, and options, warrants and rights to acquire shares or debt obligations;

“surplus”, in relation to a company, means the excess, if any, at the time of the determination, of the total assets of the company over the sum of its total liabilities as shown in the books of account, plus its capital;

“treasury shares” means shares of a company that were previously issued but were repurchased, redeemed or otherwise acquired by the company and not cancelled.

- (2) A reference to money in this Act is a reference to the currency of the United States of America.
- (3) A company that is incorporated under the Companies Act or under the laws of a jurisdiction outside Belize shall be a company incorporated under this Act if it is continued as a company incorporated under this Act in accordance with Part VIII, and references in this Act to a “company incorporated under this Act” shall be construed accordingly.
- (4) A reference in this Act to voting in relation to shares shall be construed as a reference to voting by members holding the shares except that it is the votes allocated to the shares that shall be counted and not the number of members who actually voted, and a reference to shares being present at a meeting shall be given a corresponding construction.
- (5) Unless otherwise defined in the Articles of a company incorporated under this Act, the expression “resolution of directors” means-
- (a) a resolution approved at a duly constituted meeting of directors or of a committee of directors of a company, by affirmative vote of a simple majority, or such larger majority as may be specified in the Articles, of the directors present at the meeting who voted and did not abstain; or
 - (b) a resolution consented to in writing by an absolute majority, or such larger majority as may be specified in the Articles, of all the directors or of all the members of the committee, as the case may be,

but where a director is given more than one vote in any circumstances, he shall in the circumstances be counted for the purposes of establishing majorities by the number of votes he casts.

- (6) Unless otherwise defined in the Articles of a company incorporated under this Act, the expression “resolution of members” means-
- (a) a resolution approved at a duly constituted meeting of the members of a company by the affirmative vote of-
 - (i) a simple majority, or such larger majority as may be specified in the Articles, of the votes of the shares that were present at the meeting and entitled to vote thereon and were voted and did not abstain; or
 - (ii) a simple majority, or such larger majority as may be specified in the Articles, of the votes of each class or series of shares which were present at the meeting and entitled to vote thereon as a class or series and were voted and not abstained and of a simple majority, or such larger majority as may be specified in the Articles, of the votes of the remaining shares entitled to

vote thereon that were present at the meeting and were voted and not abstained; or

- (b) a resolution consented to in writing by-
 - (i) an absolute majority, or such larger majority as may be specified in the Articles, of the votes of shares entitled to vote thereon; or
 - (ii) an absolute majority, or such larger majority as may be specified in the Articles, of the votes of each class or series of shares entitled to vote thereon as a class or series and of an absolute majority, or such larger majority as may be specified in the Articles, of the votes of the remaining shares entitled to vote thereon.

(7) In this Act, any reference to another Act or to Regulations made under another Act shall be deemed to include any statutory reenactment or modification thereof.

(8) In this Act, "Minister" means the Minister for the time being responsible for international financial services.

PART II - Constitution of Companies

Incorporation.

3. Subject to the requirements of this Act, any person may singly or jointly with others, by subscribing to a Memorandum and to Articles, incorporate a company under this Act.

Restrictions on incorporation.

4. No company shall be incorporated under this Act unless immediately upon its incorporation the company is an International Business Company.

Requirements of International Business Companies.

5.(1) For purposes of this Act, an International Business Company is a company that does not-

- (a) carry on business with persons resident in Belize;
- (b) own an interest in real property situate in Belize, other than a lease referred to in paragraph (e) of subsection (2);
- (c) carry on a banking business unless it is licensed under an enactment authorising it to carry on such business;
- (d) carry on business as an insurance or a reinsurance company, insurance agent or insurance broker, unless it is licensed under an enactment authorising it to carry on such business;
- (e) carry on the business of providing the registered office for companies;
- (f) carry on trust business, unless it is licensed under an enactment authorising it to carry on such business;
- (g) carry on collective investment schemes, unless it is licensed under an enactment

authorising it to carry on such business;

- (h) hold shares, stock, debt obligations or other securities in a company incorporated under the Companies Act or under any enactment amending or substituting the said Act;
- (i) subject to subsection (4) below, issue its shares, stock, debt obligations or other securities to any person resident in Belize or to any company incorporated under the Companies Act or under any enactment amending or substituting the said Act.

(2) For purposes of paragraph (a) of subsection (1), an International Business Company shall not be treated as carrying on business with persons resident in Belize by reason only that-

- (a) it makes or maintains deposits with a company incorporated in Belize and carrying on a banking business within Belize;
- (b) it makes or maintains professional contact with solicitors, barristers, accountants, bookkeepers, trust companies, administration companies, investment advisers or other similar persons carrying on business within Belize;
- (c) it prepares or maintains books and records within Belize;
- (d) it holds, within Belize, meetings of its directors or members;
- (e) it holds a lease of property for use as an office from which to communicate with members or where books and records of the company are prepared or maintained;
- (f) it owns a vessel or vessels registered in Belize in accordance with the Registration of Merchant Ships Act.

(3) The provisions of the enactments authorising the carrying on of the businesses specified in paragraphs (c), (d), (f) and (g) of subsection (1) above shall override any contrary provisions contained in this Act but paragraphs (c), (d), (f), (g), (h) and (i) of subsection (1) and this subsection and subsection (4) do not apply to a public investment company existing on or prior to 1st November, 1995.

(4) A person or a company resident in Belize who is a registered agent pursuant to section 43 of this Act may hold shares in a nominee capacity but not beneficially in a company incorporated under this Act.

Effect of failure to satisfy requirements of section 5.

6.(1) Without affecting the operation of section 107, if a company is incorporated under this Act without having satisfied the requirements prescribed for an International Business Company under section 5, or if having satisfied the requirements it subsequently ceases to satisfy the requirements for a continuous period of more than 30 days, the company shall upon the expiration of that period notify the Registrar of that fact.

(2) A company that wilfully contravenes subsection (1) is liable to a penalty of \$500 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Personal liability.

7. Subject to section 82, no member, director, officer, agent or liquidator of a company incorporated under this Act is liable for any debt, obligation or default of the company, unless specifically provided in this Act or in any other law for the time being in force in Belize, and except in so far as he may be liable for his own conduct or acts.

Business objects or purposes.

8. A company may be incorporated under this Act for any object or purpose not prohibited under this Act or under any other law for the time being in force in Belize.

Powers.

9.(1) Subject to any limitations in its Memorandum or Articles, this Act or any other law for the time being in force in Belize, a company incorporated under this Act has the power, irrespective of corporate benefit, to perform all acts and engage in all activities necessary or conducive to the conduct, promotion or attainment of the objects or purposes of the company, including the power to do the following:-

- (a) issue registered shares or shares issued to bearer or both;
- (b) issue the following:-
 - (i) voting shares;
 - (ii) non-voting shares;
 - (iii) shares that may have more or less than one vote per share;
 - (iv) shares that may be voted only on certain matters or only upon the occurrence of certain events; and
 - (v) shares that may be voted only when held by persons who meet specified requirements;
- (c) issue common shares, preferred shares, limited shares or redeemable shares;
- (d) issue shares that entitle participation only in certain assets;
- (e) issue options, warrants or rights, or instruments of a similar nature, to acquire any securities of the company;
- (f) issue securities that, at the option of the holder thereof or of the company or upon the happening of a specified event, are convertible into, or exchangeable for, other securities in the company or any property then or to be owned by the company;
- (g) purchase, redeem or otherwise acquire and hold its own shares;
- (h) guarantee a liability or obligation of any person and to secure any of its obligations by mortgage, pledge or other charge, of any of its assets for that purpose; and
- (i) protect the assets of the company for the benefit of the company, its creditors and its members, and at the discretion of the directors, for any person having a direct or indirect interest in the company.

(2) For purposes of paragraph (i) of subsection (1), notwithstanding any other provision of this Act or of any other law for the time being in force in Belize or any rule of law to the contrary, the directors may cause the company to transfer any of its assets in trust to one or more trustees, to any company, association, partnership, foundation or similar entity; and, with respect to the transfer, the directors may provide that the company, its creditors, its members or any person having a direct or indirect interest in the company, or any of them, may be the beneficiaries, creditors, members, certificate holders, partners or holders of any other similar interest.

(3) The rights or interests of any existing or subsequent creditor of the company in any assets of the company are not affected by any transfer under subsection (2), and those rights or interests may be pleaded against any transferee in any such transfer.

Validity of acts of company.

10.(1) No act of a company incorporated under this Act and no transfer of real or personal property by or to a company so incorporated is invalid by reason only of the fact that the company was without capacity or power to perform the act, or to transfer or receive the property, but the lack of capacity or power may be pleaded in the following cases:

- (a) in proceedings by a member against the company to prohibit the performance of any act or the transfer of real or personal property by or to the company; or
- (b) in proceedings by the company, whether acting directly or through a receiver, trustee, or other legal representative, or through members in a derivative action, against the incumbent or former directors of the company for loss or damage due to their unauthorised act.

(2) For purposes of paragraph (a) of subsection (1), the court may set aside and prohibit the performance of a contract if-

- (a) the unauthorised act or transfer sought to be set aside or prohibited is being, or is to be, performed or made under any contract to which the company is a party;
- (b) all the parties to the contract are parties to the proceedings; and
- (c) it appears fair and reasonable to set aside or prohibit the performance of the contract,

and in so doing the court may, in applying this subsection, award to the company or to the other parties to the contract such compensation as may be reasonable except that in determining the amount of compensation the court shall not take into account anticipated profits to be derived from the performance of the contract.

Name.

11.(1) The word “Limited”, “Corporation”, “Incorporated”, “Society Anonyme” or “*Sociedad Anonima*” or “*Aktiengesellschaft*” or the abbreviation “Ltd.”, “Corp.” “Inc.” or “S.A.” or “A.S.” or “A.G.” must be part of the name of every company incorporated under this Act, but a company may use and may be legally designated by either the full or the abbreviated form.

(2) The name of a company incorporated under this Act shall be registered in Roman script, but a company may elect to register as an alternative name an accurate translation of the name registered in Roman script, and which name may be expressed in any script. For the purpose of satisfying the registration and filing requirements under this Act, a company incorporated under this Act shall use the name as expressed in Roman script, but in any dealings with third parties the company may use the alternative name in the form submitted to the Registrar at the time of incorporation.

(3) No company shall be incorporated under this Act under a name that-

- (a) is identical with that under which a company in existence is already incorporated under this Act or registered under the Companies Act or so nearly resembles the name as to be calculated to deceive, except where the company in existence gives its consent; or
- (b) contains the words “Building Society”, “Chamber of Commerce”, “Chartered”, “Cooperative”, “Imperial”, “Municipal”, “Royal”, or a word conveying a similar meaning, or any other word that, in the opinion of the Registrar, suggests or is calculated to suggest-
 - (i) the patronage of Her Majesty or that of a member of the Royal Family; or
 - (ii) a connection with the Government of Belize or a department thereof,

except with the approval of the Registrar in writing;

- (c) is indecent, offensive or, in the opinion of the Registrar, objectionable;
 - (d) contains the words “Assurance”, “Bank”, “Insurance” or “Trust”, or any or their derivatives or cognate expressions, unless it is licensed under an enactment authorising it to carry on such business or activities.
- (4) A company may amend its Memorandum to change its name.
- (5) If a company is incorporated under a name that-
- (a) is identical with a name under which a company in existence was incorporated under this Act or registered under the Companies Act; or
 - (b) so nearly resembles the name as to be calculated to deceive,

the Registrar may, without the consent of the company in existence, give notice to the last registered company to change its name and if it fails to do so within 60 days from the date of the notice, the Registrar must amend the Memorandum of the company to change its name to such name as the Registrar deems appropriate, and the Registrar must publish notice of the change in the *Gazette*.

(6) Subject to subsections (3) and (5), where a company changes its name, the Registrar must enter the new name on the Register in place of the former name, and must issue a certificate of incorporation indicating the change of name.

(7) A change of name does not affect any rights or obligations of a company, or render defective any legal proceedings by or against a company, and all legal proceedings that have been commenced against a company by its former name may be continued against it by its new name.

(8) Subject to subsection (3) the Registrar may, upon a request made by any person, reserve for 90 days a name for future adoption by a company under this Act.

Memorandum.

12.(1) The Memorandum must include:-

- (a) the name of the company;
- (b) the full address within Belize of the registered office of the company;
- (c) the name and full address within Belize of the registered agent of the company;
- (d) the objects or purposes for which the company is to be incorporated;
- (e) the currency in which shares in the company shall be issued;
- (f) a statement of the authorised capital of the company setting forth the aggregate of the par value of all shares with par value that the company is authorised to issue and the amount, if any, to be represented by shares without par value that the company is authorised to issue;
- (g) a statement of the number of classes and series of shares, the number of shares of each such class and series and the par value of shares with par value and that shares may be without par value, if that is the case;
- (h) a statement of the designations, powers, preferences and rights, and the qualifications, limitations or restrictions of each class and series of shares that the company is authorised to issue, unless the directors are to be authorised to fix any such designations, powers, preferences, rights, qualifications, limitations and restrictions, and in that case, an express grant of such authority as may be desired to grant to the directors to fix by a resolution any such designations, powers,

preferences, rights, qualifications, limitations and restrictions that have not been fixed by the Memorandum;

- (i) a statement of the number of shares to be issued as registered shares and the number of shares to be issued as shares issued to bearer, unless the directors are authorised to determine at their discretion whether shares are to be issued as registered shares or to bearer, and in that case an express grant of such authority as may be desired must be given to empower the directors to issue shares as registered shares or to bearer as they may determine by resolution of directors;
- (j) whether registered shares may be exchanged for shares issued to bearer and whether shares issued to bearer may be exchanged for registered shares; and
- (k) if shares issued to bearer are authorised to be issued, the manner in which a required notice to members is to be given to the holders of shares issued to bearer.

(2) For the purposes of paragraph (d) of subsection (1), if the Memorandum contains a statement either alone or with other objects or purposes that the object or purpose of the company is to engage in any act or activity that is not prohibited under any law for the time being in force in Belize, the effect of that statement is to make all acts and activities that are not illegal part of the objects or purposes of the company, subject to any limitations in the Memorandum.

(3) The Memorandum must be subscribed to by a person in the presence of another person who must sign his name as a witness.

(4) The Memorandum, when registered, binds the company and its members from time to time to the same extent as if each member had subscribed his name and affixed his seal thereto and as if there were contained in the Memorandum, on the part of himself, his heirs, executors and administrators, a covenant to observe the provisions of the Memorandum, subject to this Act.

Articles.

13.(1) The Memorandum, when submitted for registration, must be accompanied by Articles prescribing regulations for the company.

(2) The Articles must be subscribed to by a person in the presence of another person who must sign his name as a witness.

(3) The Articles, when registered, bind the company and its members from time to time to the same extent as if each member had subscribed his name and affixed his seal thereto and as if there were contained in the Articles, on the part of himself, his heirs, executors and administrators, a covenant to observe the provisions of the Articles, subject to this Act.

Registration.

14.(1) The Memorandum and the Articles must be submitted to the Registrar, who must retain and register them in a Register to be maintained by him and to be known as the Register of International Business Companies.

(2) The Minister may direct that the Registrar shall maintain one or more Branch Registers of International Business Companies which may be maintained in Belize or outside Belize.

(3) Upon the registration of the Memorandum and the Articles, the Registrar shall issue a certificate of incorporation under his hand and seal certifying that the company is incorporated.

Certificate of incorporation.

15.(1) Upon the issue by the Registrar of a certificate of incorporation of a company, the company is, from the date shown on the certificate of incorporation, a body corporate under the name contained in the Memorandum with the full capacity of an individual who is *sui juris*.

(2) A certificate of incorporation of a company incorporated under this Act issued by the Registrar is *prima facie* evidence of compliance with all requirements of this Act in respect of incorporation.

Amendment of Memorandum and Articles.

16.(1) Subject to any limitation in its Memorandum or Articles, a company incorporated under this Act may amend its Memorandum or Articles by a resolution of members or, where permitted by its Memorandum or Articles or by this Act, by a resolution of directors.

(2) A company that amends its Memorandum or Articles must submit a copy of the amendment to the Registrar and the Registrar must retain and register the copy of the amendment.

(3) An amendment to the Memorandum or Articles has effect from the time the amendment is registered by the Registrar.

(4) A company that wilfully contravenes subsection (2) is liable to a penalty of \$50 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Copies of Memorandum and Articles to members.

17. A copy of the Memorandum and a copy of the Articles must be given to any member who requests a copy on payment by the member of such amount as the directors may determine to be reasonably necessary to defray the costs of preparing and furnishing them.

PART III - Capital and Dividends

Shares to be fully paid.

18. No share in a company incorporated under this Act may be issued until the consideration in respect of the share is fully paid, and when issued, the share is for all purposes fully paid and non-assessable.

Kind of consideration for shares.

19. Subject to any limitations in the Memorandum or Articles, each share in a company incorporated under this Act shall be issued for money, services rendered, personal property (including other shares, debt obligations or other securities in the company), an estate in real property, a promissory note or other binding obligation to contribute money or property, or any combination thereof.

Forfeitures of shares.

20.(1) The Memorandum or Articles or an agreement for the subscription of shares, of a company incorporated under this Act may contain provisions for the forfeiture of shares for which payment is not made pursuant to a promissory note or other written binding obligation for payment of a debt.

(2) Any provision in the Memorandum or Articles, or in an agreement for the subscription of shares, of a

company incorporated under this Act providing for the forfeiture of shares shall contain a requirement that written notice specifying a date for payment to be made be served on the member who defaults in making payment pursuant to a promissory note or other written binding obligation to pay a debt.

(3) The written notice referred to in subsection (2) shall name a further date not earlier than the expiration of 14 days from the date of service of the notice on or before which the payment required by the notice is to be made and shall contain a statement that in the event of non-payment at or before the time named in the notice the shares, or any of them, in respect of which payment is not made will be liable to be forfeited.

(4) Where a notice has been issued under this section and the requirements of the notice have not been complied with, the directors may, at any time before tender of payment, by resolution of directors forfeit and either cancel the shares to which the notice relates or dispose of the same and retain the entire proceeds for the benefit of the company.

(5) The company is under no obligation to refund any moneys to the member whose shares have been cancelled or disposed of pursuant to subsection (4) and that member shall be discharged from further obligation to the company.

Amount of consideration for shares.

21.(1) Subject to any limitations in the Memorandum or Articles, shares in a company incorporated under this Act may be issued for such amount as may be determined from time to time by the directors, except that in the case of shares with par value, the amount shall not be less than the par value; and, in the absence of fraud, the decision of the directors as to the value of the consideration received by the company in respect of the issue is conclusive, unless a question of law is involved.

(2) A share issued by a company incorporated under this Act upon conversion of, or in exchange for, another share or a debt obligation or other security in the company, shall be treated for all purposes as having been issued for money equal to the consideration received or deemed to have been received by the company in respect of the other share, debt obligation or security.

(3) Subject to any limitations in the Memorandum or Articles, treasury shares may be disposed of by a company incorporated under this Act on such terms and conditions as the directors may determine.

Fractional shares.

22. Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may issue fractions of a share and unless and to the extent otherwise provided in the Memorandum or Articles, a fractional share has the corresponding fractional liabilities, limitations, preferences, privileges, qualifications, restrictions, rights and other attributes of a whole share of the same class or series of shares.

Authorised capital in several currencies.

23. The authorised capital, if any, of a company incorporated under this Act may be stated in more than one currency in which case the par value of the shares, if any, shall be expressed in the same currencies.

Capital and surplus accounts.

24.(1) Upon the issue by a company incorporated under this Act of a share with par value, the consideration in respect of the share constitutes capital to the extent of the par value and the excess constitutes surplus.

(2) Subject to any limitations in the Memorandum or Articles, upon the issue by a company incorporated under this Act of a share without par value, the consideration in respect of the share constitutes capital to the extent designated by the directors and the excess constitutes surplus, except that the directors must designate as

capital an amount of the consideration that is at least equal to the amount that the share is entitled to as a preference, if any, in the assets of the company upon liquidation of the company.

(3) Upon the disposition by a company incorporated under this Act of a treasury share, the consideration in respect of the share is added to surplus.

Dividend of shares.

25.(1) A share issued as a dividend by a company incorporated under this Act shall be treated for all purposes as having been issued for money equal to the surplus that is transferred to capital upon the issue of the share.

(2) In the case of a dividend of authorised but unissued shares with par value, an amount equal to the aggregate par value of the shares shall be transferred from surplus to capital at the time of the distribution.

(3) In the case of a dividend of authorised but unissued shares without par value, the amount designated by the directors shall be transferred from surplus to capital at the time of the distribution, except that the directors must designate as capital an amount that is at least equal to the amount that the shares are entitled to as a preference, if any, in the assets of the company upon liquidation of the company.

(4) A division of the issued and outstanding shares of a class or series of shares into a larger number of shares of the same class or series having a proportionately smaller par value does not constitute a dividend of shares.

Increase or reduction of authorised capital.

26.(1) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may, by a resolution of directors, amend its Memorandum to increase or reduce its authorised capital, and in connection therewith, the company may -

- (a) increase or reduce the number of shares which the company may issue;
- (b) increase or reduce the par value of any of its shares; or
- (c) effect any combination under paragraphs (a) and (b).

(2) Where a company reduces its authorised capital under subsection (1), then, for purposes of computing the capital of the company, any capital that immediately before the reduction was represented by shares but immediately following the reduction is no longer represented by shares shall be deemed to be capital transferred from surplus to capital.

(3) A company shall, in writing, inform the Registrar of any increase or decrease of its authorised capital.

Division and combination of shares.

27.(1) A company incorporated under this Act may amend its memorandum-

- (a) to divide the shares, including issued shares, of a class or series into a larger number of shares of the same class or series; or
- (b) to combine the shares, including issued shares, of a class or series into a smaller number of shares of the same class or series.

(2) Where shares are divided or combined under subsection (1), the aggregate par value of the new shares must be equal to the aggregate par value of the original shares.

Conversion of shares with par value into shares without par value and *vice versa*.

28.(1) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may, by a resolution of its directors, amend its Memorandum either:-

- (a) to convert any of its shares, including issued shares, with par value into shares without par value; or
- (b) to convert any of its shares, including issued shares, without par value into shares with par value.

(2) In the case of a conversion of shares with par value to shares without par value, an amount equal to the aggregate par value of the issued shares so converted shall be transferred from capital to surplus at the same time of the conversion.

(3) In the case of a conversion of shares without par value to shares with par value, an amount equal to the aggregate par value of the issued shares so converted shall be transferred from surplus to capital at the time of the conversion.

Character of a share.

29. Shares of a company incorporated under this Act are personal property and are not of the nature of real property.

Share certificates.

30.(1) A company incorporated under this Act must state in its Articles whether or not certificates in respect of its shares shall be issued.

(2) If a company incorporated under this Act issues certificates in respect of its shares, the certificates-

- (a) must be signed by two directors or two officers of the company, or by one director and one officer; or
- (b) must be under the common seal of the company, with or without the signature of any director or officer of the company,

and the Articles may provide for the signatures or common seal to be facsimiles.

(3) A certificate issued in accordance with subsection (2) specifying a share held by a member of the company is *prima facie* evidence of the title of the member to the share specified therein.

Share register.

31.(1) A company incorporated under this Act shall cause to be kept one or more registers to be known as "share registers" containing-

- (a) the names and addresses of the persons who hold registered shares in the company;
- (b) the number of each class and series of registered shares held by each person;
- (c) the date on which the name of each person was entered in the share register;
- (d) the date on which any person ceased to be a member;
- (e) in the case of shares issued to bearer, the total number of each class and series of

shares issued to bearer; and

(f) with respect to each certificate for shares issued to bearer:-

- (i) the identifying number of the certificate;
- (ii) the number of each class or series of shares issued to bearer specified therein; and
- (iii) the date of issue of the certificate,

but the company may delete from the register information relating to persons who are no longer members or information relating to shares issued to bearer that have been cancelled.

(2) The share register may be in any such form as the directors may approve but if it is in magnetic, electronic or other data storage form, the company must be able to produce legible evidence of its contents.

(3) A copy of the share register, commencing from the date of the registration of the company, shall be kept at the registered office of the company referred to in section 42 or at the office of the registered agent referred to in section 43.

(4) The share register is *prima facie* evidence of any matters directed or authorised by this Act to be contained therein.

(5) A company that wilfully contravenes this section is liable to a penalty of \$25 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Rectification of share register.

32.(1) If-

- (a) information that is required to be entered in the share register under section 31 is omitted therefrom or inaccurately entered therein; or
- (b) there is unreasonable delay in entering the information in the share register,

a member of the company, or any person who is aggrieved by the omission, inaccuracy or delay, may apply to the court for an order that the share register be rectified, and the court may either grant or refuse the application, with or without costs to be paid by the applicant, or order the rectification of the share register, and may direct the company to pay all costs of the application and any damages the applicant may have sustained.

(2) The court may, in any proceedings under subsection (1), determine any question relating to the right of a person who is a party to the proceedings to have his name entered in or omitted from the share register, whether the question arises between-

- (a) two or more members or alleged members; or
- (b) between members or alleged members and the company,

and generally the court may in the proceedings determine any question that may be necessary or expedient to be determined for the rectification of the share register.

Transfer of registered shares.

33.(1) Subject to any limitations in the Memorandum or Articles, registered shares of a company incorporated under this Act may be transferred by a written instrument of transfer signed by the transferor and containing the

name and address of the transferee.

(2) In the absence of a written instrument of transfer mentioned in subsection (1), the directors may accept such evidence of a transfer of shares as they consider appropriate.

(3) A company shall not be required to treat a transferee of a registered share in the company as a member until the transferee's name has been entered in the share register.

(4) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act must, on the application of the transferor or transferee of a registered share in the company, enter in its share register the name of the transferee of the share.

(5) A transfer of registered shares of a deceased, incompetent or bankrupt member of a company incorporated under this Act made by his personal representative, guardian or trustee, as the case may be, or a transfer of registered shares owned by a person as a result of a transfer from a member by operation of law, is of the same validity as if the personal representative, guardian, trustee or transferee had been the registered holder of the shares at the time of the execution of the instrument of transfer.

(6) For the purposes of subsection (5), what amounts to incompetence on the part of a person is a matter to be determined by the court after having regard to all the relevant evidence and the circumstances of the case.

Transfer of bearer shares.

34. A share issued to bearer is transferable by delivery of the certificate relating to the share.

Seizure.

35.(1) Where a governmental authority, whether it is legally constituted or not, in any jurisdiction outside Belize-

- (a) by or in connection with a nationalisation, expropriation, confiscation, coercion, force or duress, or similar action; or
- (b) by or in connection with the imposition of any confiscatory tax, assessment or other governmental charge,

takes or seizes any shares or other interest in a company incorporated under this Act, the company itself or a person holding shares or any other interest in the company, including an interest as a creditor, may apply to the court for an order that the company disregard the taking or seizure and continue to treat the person who would have held shares or any other interest in the company but for the taking or seizure of the shares or other interest as continuing to hold the shares or other interest.

(2) Without affecting subsection (1), where a person whose shares or other interests have been taken or seized as referred to in subsection (1) is other than a natural person, the person making the application under subsection (1), or the company itself, may apply to the court for an additional order for the company to treat the persons believed by the company to have held the direct or indirect beneficial interests in the shares or other interests in the company as the holder of those shares or other interests.

(3) The court may, upon application made to it under subsection (1) or (2):-

- (a) grant such relief as it considers equitable and proper; and
- (b) order that any shares of or other interests in the company vest in such trustees as the court may appoint upon such trusts and for such purposes as the court determines.

Acquisition of own shares.

36.(1) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may purchase, redeem or otherwise acquire and hold its own shares but only out of surplus or in exchange for newly issued shares of equal value.

(2) No purchase, redemption or other acquisition permitted under subsection (1) shall be made unless the directors determine that immediately after the purchase, redemption or other acquisition-

- (a) the company will be able to satisfy its liabilities as they become due in the ordinary course of its business; and
- (b) the realisable value of the assets of the company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in the books of account, and its capital,

and, in the absence of fraud, the decision of the directors as to the realisable value of the assets of the company is conclusive, unless a question of law is involved.

(3) A determination by the directors under subsection (2) is not required where shares are purchased, redeemed or otherwise acquired-

- (a) pursuant to a right of a member to have his shares redeemed or to have his shares exchanged for money or other property of the company;
- (b) by virtue of a transfer of capital pursuant to paragraph (b)(iii) of section 38(1);
- (c) by virtue of the provisions of section 91; and
- (d) pursuant to an order of the court.

(4) Subject to any limitations in the Memorandum or Articles, shares that a company purchases, redeems or otherwise acquires may be cancelled or held as treasury shares unless the shares are purchased, redeemed or otherwise acquired by virtue of a reduction in capital in a manner that would be a contravention of the requirements of section 38 (3) in which case they shall be cancelled but they shall be available for reissue; and upon the cancellation of a share, the amount included as capital of the company with respect to that share shall be deducted from the capital of the company.

Treasury shares disabled.

37. Where shares in a company incorporated under this Act-

- (a) are held by the company as treasury shares; or
- (b) are held by another company of which the first company holds, directly or indirectly, shares having more than 50 per cent of the votes in the election of directors of the other company,

the shares of the first company are not entitled to vote or to have dividends paid thereon and shall not be treated as outstanding for any purpose under this Act except for purposes of determining the capital of the first company.

Increase or reduction of capital.

38.(1) Subject to any limitations in the Memorandum or Articles and subject to subsections (3) and (4), the capital of a company incorporated under this Act may, by a resolution of directors, be:-

- (a) increased by transferring an amount of the surplus of the company to capital; or
- (b) reduced by-

- (i) returning to members any amount received by the company upon the issue of any of its shares, the amount being surplus to the requirements of the company,
- (ii) cancelling any capital that is lost or not represented by assets having a realisable value; or
- (iii) transferring capital to surplus for the purpose of purchasing, redeeming or otherwise acquiring shares that the directors have resolved to purchase, redeem or otherwise acquire.

(2) No reduction of capital shall be effected that reduces the capital of the company to an amount that is less than the sum of-

- (a) the aggregate par value of-
 - (i) all outstanding shares with par value; and
 - (ii) all shares with par value held by the company as treasury shares; and
- (b) the aggregate of the amounts designated as capital of-
 - (i) all outstanding shares without par value; and
 - (ii) all shares without par value held by the company as treasury shares that are entitled to a preference, if any, in the assets of the company upon liquidation of the company.

(3) No reduction of capital shall be effected under subsection (1) unless the directors determine that immediately after the reduction-

- (a) the company will be able to satisfy its liabilities as they become due in the ordinary course of its business; and
- (b) the realisable value of the assets of the company will not be less than its total liabilities, other than deferred taxes, as shown in the books of account, and its remaining capital,

and, in the absence of fraud, the decision of the directors as to the realisable value of the assets of the company is conclusive, unless a question of law is involved.

Dividends.

39.(1) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may, by a resolution of its directors, declare and pay dividends in money, shares or other property.

(2) Dividends shall only be declared and paid out of surplus.

(3) No dividend shall be declared and paid unless the directors determine that immediately after the payment of the dividend-

- (a) the company will be able to satisfy its liabilities as they become due in the ordinary course of its business; and
- (b) the realisable value of the assets of the company will not be less than the sum of its total liabilities, other than deferred taxes, as shown in the books of account, and its capital,

and, in the absence of fraud, the decision of the directors as to the realisable value of the assets of the company is conclusive, unless a question of law is involved.

Appreciation of assets.

40. Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may, by a resolution of directors, include in the computation of surplus for any purpose under this Act the net unrealised appreciation of the assets of the company, and, in the absence of fraud, the decision of the directors as to the value of the assets is conclusive, unless a question of law is involved.

Mortgages and charges of shares.

41.(1) A mortgage or charge of shares of a company incorporated under this Act must be in writing signed by, or with the authority of, the holder of the bearer share or the registered share to which the mortgage or charge relates.

(2) In the case of a bearer share, a mortgage or charge thereof is not valid and enforceable unless the certificate for the share to be mortgaged or charged is deposited with the mortgagee or chargee but the deposit of the certificate with the mortgagee or chargee shall not constitute a transfer of the bearer share, title to which shall only pass upon due compliance with the provisions of the law governing realisation of the security by the mortgagee or chargee.

(3) A mortgage or charge of shares of a company incorporated under this Act need not be in any specific form but it must clearly indicate-

- (a)* the intention to create a mortgage or charge; and
- (b)* the amount secured by the mortgage or charge or how that amount is to be calculated.

(4) A mortgage or charge of shares of a company incorporated under this Act may be governed by the law of a jurisdiction other than Belize but if a law other than the laws of Belize is specified as the governing law-

- (a)* the mortgage or charge must be in compliance with the requirements of its governing law in order for the mortgage or charge to be valid and binding on the company; and
- (b)* the remedies available to a mortgagee or chargee shall be governed by the governing law and the instrument creating the mortgage or charge save that the rights between the mortgagor or mortgagee as a member of the company and the company shall continue to be governed by the Memorandum and the Articles of the company and this Act.

(5) If no law is specified to govern a mortgage or charge of shares of a company incorporated under this Act, the instrument creating the mortgage or charge shall be governed by the laws of Belize and, in the case of a default by the mortgagor or chargor on the terms of the mortgage, the mortgagee or chargee is entitled to the following remedies:-

- (a)* subject to any limitations or provisions to the contrary in the instrument creating the mortgage or charge, the right to sell the shares; and
- (b)* the right to appoint a receiver who, subject to any limitations or provisions to the contrary in the instrument creating the mortgage or charge, may:-
 - (i)** vote the shares;
 - (ii)** receive dividends and other payments in respect of the shares; and
 - (iii)** exercise other rights and powers of the mortgagor or chargor in respect of the shares, until such time as the mortgage or charge is discharged.

(6) Subsection (5) also applies to a mortgage or charge of shares of a company incorporated under this Act where the law of Belize is specified as the governing law.

(7) Subject to any provisions to the contrary in the instrument of mortgage or charge of shares of a company incorporated under this Act, all amounts that accrue from the enforcement of the mortgage or charge shall be applied in the following manner:-

- (a) firstly, in meeting the costs incurred in enforcing the mortgage or charge;
- (b) secondly, in discharging the sums secured by the mortgage or charge; and
- (c) thirdly, in paying any balance due to the mortgagor or chargor.

(8) The remedies referred to in subsection (5) are not exercisable until:-

- (a) a default has occurred and has continued for a period of not less than 30 days, or such shorter period as may be specified in the instrument creating the mortgage or charge; and
- (b) the default has not been rectified within 14 days from service of the notice specifying the default and requiring rectification thereof.

(9) In the case of the mortgage or charge of registered shares, there may be entered in the share register of the company:-

- (a) a statement that the shares are mortgaged or charged;
- (b) the name of the mortgagee or chargee; and
- (c) the date on which the statement and name are entered in the share register.

PART IV - *Registered Office and Agent*

Registered office.

42. A company incorporated under this Act shall at all times have a registered office in Belize.

Registered agent.

43.(1) A company incorporated under this Act shall at all times have a registered agent in Belize.

(2) No person shall act or hold himself out as a registered agent for international business companies unless he has obtained a licence from the International Financial Services Commission established under the International Financial Services Commission Act, and every person who contravenes this provision commits an offence and shall be liable to the penalties prescribed under that Act.

Change of registered office or registered agent.

44.(1) A company incorporated under this Act may, by a resolution of directors, amend its Memorandum to change the place of its registered office or to change its registered agent.

(2) A resolution made pursuant to subsection (1) above to change the registered agent shall become effective three working days after notice of such change has been sent by registered mail properly addressed to the registered agent being so removed.

Register of registered agents.

45.(1) The Registrar shall maintain a register of registered agents in which the following details shall be recorded:-

- (a) the name of the registered agent;
- (b) the address of the registered agent;
- (c) the names of the individuals authorised to sign on behalf of any firm or corporation that is a registered agent; and
- (d) in a case where a registered agent ceases to be a registered agent, the date on which the registered agent ceased to be a registered agent.

(2) The Registrar shall, during the month of January in each year, publish in the *Gazette* a list of registered agents as appeared on the register of registered agents on 31st December in the preceding year.

(3) Any change in the details kept by the Registrar in the register of registered agents pursuant to subsection (1) shall be notified immediately by the registered agent to the Registrar, and, upon payment of such fee as may be prescribed by the Minister, the Registrar shall record the change in the register of registered agents.

(4) Where the registered agent of a company desires to cease to act as registered agent and the registered agent is unable to reach an agreement with the company for which he is registered agent concerning his replacement, the following provisions shall apply:-

- (a) the registered agent shall give not less than 90 days written notice to any director or officer of the company of which he is the registered agent at the director's or officer's last known address, or if the registered agent is not aware of the identity of any director or officer then the person from whom the registered agent last received instructions concerning the company, specifying the wish of the registered agent to resign as registered agent and shall together with the notice provide a list of all registered agents in Belize with their names and addresses;
- (b) the registered agent shall submit to the Registrar a copy of the notice and to the company a list of registered agents referred to in paragraph (a);
- (c) if, at the time of expiry of the notice, the company has not adopted a resolution to amend its Memorandum to change its registered agent, the registered agent shall inform the Registrar in writing that the company has not changed its registered agent whereupon the Registrar shall publish a notice in the *Gazette* that the name of the company will be struck off the register, unless the company, within 30 days from the date of the publication of the notice in the *Gazette*, registers with the Registrar a copy of a resolution amending its Memorandum to change its registered agent; and
- (d) if a company fails within 30 days from the date of the publication of the notice referred to in paragraph (c) to register with the Registrar a copy of a resolution amending its Memorandum to change its registered agent, the Registrar shall strike the name of the company off the Register and shall publish in the *Gazette* a notice that the name of the company has been struck off the Register.

(5) A company that has been struck off the Register under this section remains liable for all claims, debts, liabilities and obligations of the company, and the striking-off does not affect the liability of any of its members, directors, officers or agents.

Penalty for contravention of sections 42 and 43.

46. A company that wilfully contravenes section 42 or 43:-

- (a) is liable to a penalty of \$25 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty; and
- (b) without prejudice to paragraph (a) above, if the contravention continues for a period of 30 days the company shall be deemed to have commenced to wind-up and dissolve under section 98(2).

PART V - Directors, Officers, Agents and Liquidators

Management by directors.

47. Subject to any limitations in its Memorandum or Articles, the business and affairs of a company incorporated under this Act shall be managed by a board of directors that consists of one or more persons who may be individuals or companies.

Election, term and removal of directors.

48.(1) The first directors of a company incorporated under this Act shall be elected by the subscribers to the Memorandum; and thereafter, the directors shall be elected by the members for such term as the members may determine and where permitted by the Memorandum or Articles of a company incorporated under this Act, the directors may also elect directors for such term as the directors may determine.

(2) Each director holds office until his successor takes office or until his earlier death, resignation or removal.

(3) Subject to any limitations in the Memorandum or Articles-

- (a) a director may be removed from office by a resolution of members or by a resolution of directors; and
- (b) a director may resign his office by giving written notice of his resignation to the company and the resignation has effect from the date the notice is received by the company or from such later date as may be specified in the notice.

(4) Subject to any limitations in the Memorandum or Articles, a vacancy in the board of directors may be filled by a resolution of members or of a majority of the remaining directors.

Optional register of directors.

49.(1) A company incorporated under this Act may keep a register to be known as a register of directors containing:-

- (a) the names and addresses of the persons who are directors of the company;
- (b) the date on which each person whose name is entered in the register was appointed as a director of the company; and
- (c) the date on which each person named as a director ceased to be a director of the company.

(2) The register of directors may be in such form as the directors approve, but if it is in magnetic, electronic or other data storage form, the company must be able to produce legible evidence of its contents.

(3) A copy of the register of directors, commencing from the date of the registration of the company, shall be kept at the registered office of the company referred to in section 42.

Number of directors.

50. The number of directors shall be fixed by the Articles and, subject to any limitations in the Memorandum or Articles, the Articles may be amended to change the number of directors

Powers of directors.

51. The directors have all the powers of the company that are not reserved to the members under this Act or in the Memorandum or Articles.

Emoluments of directors.

52. Subject to any limitations in the Memorandum or Articles, the directors may, by a resolution of directors, fix the emoluments of directors in respect of services to be rendered in any capacity to the company.

Committees of directors.

53.(1) The directors may, by a resolution of directors, designate one or more committees, each consisting of one or more directors.

(2) Subject to any limitations in the Memorandum or Articles, each committee has such powers and authority of the directors, including the power and authority to affix the common seal of the company, as are set forth in the resolution of directors establishing the committee, except that no committee has any power or authority with respect to the matters requiring a resolution of directors under sections 48 and 59.

Meetings of directors.

54.(1) Subject to any limitations in the Memorandum or Articles, the directors of a company incorporated under this Act may meet at such times and in such manner and places within or outside Belize as the directors may determine to be necessary or desirable.

(2) A director shall be deemed to be present at a meeting of directors if-

- (a) he participates by telephone or other electronic means; and
- (b) all directors participating in the meeting are able to hear each other.

Notice of meetings of directors.

55.(1) Subject to a requirement in the Memorandum or Articles to give longer notice, a director shall be given not less than one day's notice of meetings of directors.

(2) Notwithstanding subsection (1), subject to any limitations in the Memorandum or Articles, a meeting of directors held in contravention of that subsection is valid if all of the directors, or such majority thereof as may be specified in the Memorandum or Articles entitled to vote at the meeting, have waived the notice of the meeting; and, for this purpose, the presence of a director at the meeting shall be deemed to constitute a waiver on his part.

(3) The inadvertent failure to give notice of a meeting to a director, or the fact that a director has not received the notice, does not invalidate the meeting.

Quorum for meetings of directors.

56. The quorum for a meeting of directors is that fixed by the Memorandum or Articles; but, where no quorum is so fixed, a meeting of directors is properly constituted for all purposes if at the commencement of the meeting one half of the total number of directors are present in person or by alternate.

Consents of directors.

57. Subject to any limitations in the Memorandum or Articles, an action that may be taken by the directors or a committee of directors at a meeting may also be taken by a resolution of directors or a committee of directors consented to in writing or by telex, telegram, cable or other written electronic communication, without the need for any notice.

Alternates for directors.

58.(1) Subject to any limitations in the Memorandum or Article, a director may by a written instrument appoint an alternate who need not be a director.

(2) An alternate for a director appointed under subsection (1) is entitled to attend meetings in the absence of the director who appointed him and to vote or consent in the place of the director.

Officers and agents.

59.(1) The directors may, by a resolution of directors, appoint any person, including a person who is a director, to be an officer or agent of the company.

(2) Subject to any limitations in the Memorandum or Articles, each officer or agent has such powers and authority of the directors, including the power and authority to affix the common seal of the company, as are set forth in the Articles or in the resolution of directors appointing the officer or agent, except that no officer or agent has any power or authority with respect to the matters requiring a resolution of directors under section 52 and this section.

(3) The directors may remove an officer or agent appointed under subsection (1) and may revoke or vary a power conferred on him under subsection (2).

Standard of care.

60.(1) Every director, officer, agent and liquidator of a company incorporated under this Act, in performing his functions, shall act honestly and in good faith with a view to the best interests of the company and exercise the care, diligence and skill that a reasonably prudent person would exercise in comparable circumstances.

(2) No provision in the Memorandum or Articles of a company incorporated under this Act or in any agreement entered into by the company relieves a director, officer, agent or liquidator of the company from the duty to act in accordance with the Memorandum or Articles or from any personal liability arising from his management of the business and affairs of the company.

Reliance on records and reports.

61. Every director, officer, agent and liquidator of a company incorporated under this Act, in performing his functions, is entitled to rely upon the share register kept under section 31, the books of accounts and records and the minutes and copies of consents to resolutions kept under section 73 and any report made to the company by any other director, officer, agent or liquidator or by any person selected by the company to make the report.

Conflicts of interest.

62.(1) Subject to any limitations in the Memorandum or Articles, if the requirements of subsection (2) or (3) are satisfied, no agreement or transaction between-

- (a) a company incorporated under this Act; and
- (b) one or more of its directors or liquidators, or any person in which any director or liquidator has a financial interest or to whom any director or liquidator is related, including as a director or liquidator of that other person,

is void or voidable for this reason only or by reason only that the director or liquidator is present at the meeting of directors or liquidators, or at the meeting of the committee of directors or liquidators, that approves the agreement or transaction or that the vote or consent of the director or liquidator is counted for that purpose.

(2) An agreement or transaction referred to in subsection (1) is valid if-

- (a) the material facts of the interest of each director or liquidator in the agreement or transaction and his interest in or relationship to any other party to the agreement or transaction are disclosed in good faith or are known by the other directors or liquidators; and
- (b) the agreement or transaction is approved or ratified by a resolution of directors or liquidators that has been approved:-
 - (i) without counting the vote or consent of any interested director or liquidator; or
 - (ii) by the unanimous vote or consent of all disinterested directors or liquidators if the votes or consents of all disinterested directors or liquidators is insufficient to approve a resolution of directors or liquidators.

(3) An agreement or transaction referred to in subsection (1) is valid if-

- (a) the material facts of the interest of each director or liquidator in the agreement or transaction and his interest in or relationship to any other party to the agreement or transaction are disclosed in good faith or are known by the members entitled to vote at a meeting of members; and
- (b) the agreement or transaction is approved or ratified by a resolution of members.

(4) Subject to any limitations in the Memorandum or Articles, a director or liquidator who has an interest in any particular business to be considered at a meeting of directors, liquidators or members may be counted for purposes of determining whether the meeting is duly constituted in accordance with section 56 or otherwise.

Indemnification.

63.(1) Subject to subsection (2) and any limitations in its Memorandum or Articles, a company incorporated under this Act may indemnify against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred in connection with legal, administrative or investigative proceedings any person who-

- (a) is or was a party or is threatened to be made a party to any threatened, pending or

completed proceedings, whether civil, criminal, administrative or investigative, by reason of the fact that the person is or was a director, an officer or a liquidator of the company; or

(b) is or was, at the request of the company, serving as a director, officer or liquidator of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise.

(2) Subsection (1) only applies to a person referred to in that subsection if the person acted honestly and in good faith with a view to the best interests of the company and, in the case of criminal proceedings, the person had no reasonable cause to believe that his conduct was unlawful.

(3) The decision of the directors as to whether the person acted honestly and in good faith and with a view to the best interests of the company and as to whether the person had no reasonable cause to believe that his conduct was unlawful is, in the absence of fraud, sufficient for the purposes of this section, unless a question of law is involved.

(4) The termination of any proceedings by any judgment, order, settlement, conviction or the entering of a *nolle prosequi* does not, by itself, create a presumption that the person did not act honestly and in good faith and with a view to the best interests of the company or that the person had reasonable cause to believe that his conduct was unlawful.

(5) If a person referred to in subsection (1) has been successful in defence of any proceedings referred to in subsection (1), the person is entitled to be indemnified against all expenses, including legal fees, and against all judgments, fines and amounts paid in settlement and reasonably incurred by the person in connection with the proceedings.

Insurance.

64. A company incorporated under this Act may purchase and maintain insurance in relation to any person who is or was a director, an officer or a liquidator of the company, or who at the request of the company is or was serving as a director, an officer or a liquidator, of, or in any other capacity is or was acting for, another company or a partnership, joint venture, trust or other enterprise, against any liability asserted against the person and incurred by the person in that capacity, whether or not the company has or would have had the power to indemnify the person against the liability under subsection (1) of section 63.

PART VI - Protection of Members and Creditors

Meetings of members.

65.(1) Subject to any limitations in the Memorandum or Articles, the directors of a company incorporated under this Act may convene meetings of the members of the company at such times and in such manner and places within or outside Belize as the directors consider necessary or desirable.

(2) Subject to a provision in the Memorandum or Articles for a lesser percentage, upon the written request of members holding more than fifty per cent of the votes of the outstanding voting shares in the company, the directors shall convene a meeting of members.

(3) Subject to any limitations in the Memorandum or Articles, a member shall be deemed to be present at a meeting of members if-

(a) he participates by telephone or other electronic means; and

(b) all members participating in the meeting are able to hear each other.

(4) A member may be represented at a meeting of members by a proxy who may speak and vote on behalf

of the member.

(5) The following apply in respect of joint ownership of shares:

- (a) if two or more persons hold shares jointly, each of them may be present in person or by proxy at a meeting of members and may speak as a member;
- (b) if only one of them is present in person or by proxy, he may vote on behalf of all of them; and
- (c) if two or more are present in person or by proxy, they must vote as one.

Notice of meetings of members.

66.(1) Subject to a requirement in the Memorandum or Articles to give longer notice, the directors shall give not less than 7 days notice of meetings of members to those persons whose names on the date the notice is given appear as members in the share register referred to in section 31 and are entitled to vote at the meeting.

(2) Notwithstanding subsection (1), and subject to any limitations in the Memorandum or Articles, a meeting of members held in contravention of the requirement to give notice is valid if members holding a majority of -

- (a) the total number of shares entitled to vote on all the matters to be considered at the meeting; or
- (b) the votes of each class or series of shares where members are entitled to vote thereon as a class or series together with an absolute majority of the remaining votes,

have waived notice of the meeting; and, for this purpose, the presence of a member at the meeting shall be deemed to constitute a waiver on his part.

(3) The inadvertent failure of the directors to give notice of a meeting to a member, or the fact that a member has not received the notice, does not invalidate the meeting.

Quorum for meetings of members.

67. The quorum for a meeting of members for purposes of a resolution of members is that fixed by the Memorandum or Articles; but, where no quorum is so fixed a meeting of members is properly constituted for all purposes if at the commencement of the meeting there are present in person or by proxy one-half of the votes of the shares of each class or series thereon and the same proportion of the votes of the remaining shares entitled to vote thereon.

Voting by members.

68.(1) Except as otherwise provided in the Memorandum or Articles, all shares vote as one class and each whole share has one vote.

(2) The directors of a company incorporated under this Act may fix the date notice is given of a meeting as the record date for determining those shares that are entitled to vote at the meeting.

Voting trusts.

69.(1) One or more members of a company incorporated under this Act may by agreement in writing deposit bearer shares with, or transfer registered shares to, any person authorized to act as trustee for the purpose of

vesting in such person, who may be designated voting trustee, the right to vote thereon and the following provisions shall apply:-

- (a) the period of time for which the trustee may vote shall not exceed 10 years;
- (b) subject to paragraph (a), the agreement may contain any other provisions not inconsistent with the purpose of the agreement;
- (c) a copy of the agreement shall be filed at the registered office of the company and shall be open to the inspection of members of the company:-
 - (i) in the case of any beneficiary of the trust under the agreement, daily during business hours; and
 - (ii) in the case of members of the company, subject to the provisions of section 74;
- (d) where certificates for registered shares have been issued for shares that are to be transferred to a trustee pursuant to this section, new certificates shall be issued to the voting trustee to represent the shares so transferred and the certificates formerly representing the shares that have been transferred shall be surrendered and cancelled;
- (e) where a certificate is issued to a voting trustee, an endorsement shall be made on the certificate that the shares represented thereby in the case of registered shares and the certificates in case of bearer shares are held by the person named therein pursuant to an agreement;
- (f) there shall be noted in the share register of the company against the record of the shares held by the trustee the fact that such an agreement exists;
- (g) the voting trustee may vote the shares so issued or transferred during the period specified in the agreement;
- (h) shares registered in the name of the voting trustee may be voted either in person or by proxy and, in voting the shares, the voting trustee shall not incur any liability as member or trustee, except in so far as he may be liable for his own conduct or acts;
- (i) where two or more persons are designated as voting trustees and the right and method of voting any shares registered in their name at any meeting of members or on any resolution of members are not fixed by the agreement appointing the trustees, the right to vote shall be determined by a majority of the trustees, or if they are equally divided as to the right and manner of voting the shares in any particular case, the votes of the shares in such case shall be divided equally among the trustees;
- (j) at any time within two years prior to the time of expiration of any voting trust agreement as originally fixed or as last extended as provided in this subsection, one or more beneficiaries of the trust under the voting trust agreement may, by written agreement and with the written consent of the voting trustee, extend the duration of the voting trust agreement for an additional period not exceeding ten years from the expiration date of the trust as originally fixed or as last extended; and
- (k) the voting trustee shall, prior to the time of expiration of a voting trust agreement, as originally fixed or as previously extended, as the case may be, file at the registered office of the company a copy of the extension agreement and of his consent thereto, and thereupon the duration of the voting trust agreement shall be extended for the period fixed in the extension agreement, but no extension agreement shall affect the rights or obligations of persons not parties thereto.

(2) Two or more members of a company incorporated under this Act may by agreement in writing provide that in exercising any voting rights, the shares held by them shall be voted-

- (a) as provided by the agreement;

- (b) as the parties may agree; or
- (c) as determined in accordance with such procedure as they may agree upon.

(3) No agreement made pursuant to subsection (2) shall be effective for a period of more than ten years from the date it is made, but at any time within the two years immediately preceding the date of the expiration of the agreement the parties may extend its duration for an additional period, not exceeding ten years at any one time, as they may desire.

(4) The validity of any voting trust or other voting agreement is not affected during a period of ten years from the date when it was created or last extended by reason only of the fact that under its terms it will or may last beyond a period of ten years.

(5) This section shall be deemed not to invalidate any voting or other agreement among members or any irrevocable proxy that is not otherwise illegal.

Consents of members.

70. Subject to any limitations in the Memorandum or Articles, an action that may be taken by members at a meeting of members may also be taken by a resolution of members consented to in writing or by telex, telegram, cable or other written electronic communication, without the need for any notice.

Service of notice on members.

71.(1) Any notice, information or written statement required under this Act to be given by a company incorporated under this Act to members must be served-

- (a) in the case of members holding registered shares:-
 - (i) in the manner prescribed in the Memorandum or Articles, as the case may be; or
 - (ii) in the absence of a provision in the Memorandum or Articles, by personal service or by mail addressed to each member at the address shown in the share register; and
- (b) in the case of members holding shares issued to bearer, in the absence of a provision in the Memorandum or Articles if the notice, information or written statement is published in a newspaper circulated in Belize and a newspaper in the place where the company has its principal office, if different.

(2) Subject to a requirement in the Memorandum or Articles to give a specific length of notice, the directors must give sufficient notice of meetings of members to members holding shares issued to bearer to allow a reasonable opportunity for them to take action in order to secure or exercise the right or privilege, other than the right or privilege to vote, that is the subject of the notice.

(3) For purposes of subsection (2), what amounts to sufficient notice is a matter of fact to be determined after having regard to all the circumstances.

Service of process, etc., on company.

72.(1) Any summons, notice, order, document, process, information or written statement to be served on a company incorporated under this Act may be served by leaving it, or by sending it by registered mail addressed to the company, at its registered office, or by leaving it with, or by sending it by registered mail to, the registered agent of the company.

(2) Service of any summons, notice, order, document, process, information or written statement to be served on a company incorporated under this Act may be proved by showing that the summons, notice, order, document, process, information or written statement:-

- (a) was mailed in such time as to admit to its being delivered in the normal course of delivery, within the period prescribed for service; and
- (b) was correctly addressed and the postage was prepaid.

Books, records and common seal.

73.(1) A company incorporated under this Act shall keep such accounts and records as the directors consider necessary or desirable in order to reflect the financial position of the company.

(2) A company incorporated under this Act shall keep:-

- (a) minutes of all meetings of-
 - (i) directors;
 - (ii) members;
 - (iii) committees of directors;
 - (iv) committees of officers; and
 - (v) committees of members; and
- (b) copies of all resolutions consented to by:-
 - (i) directors;
 - (ii) members;
 - (iii) committees of directors;
 - (iv) committees of officers; and
 - (v) committees of members.

(3) The books, records and minutes required by this section shall be kept at the registered office of the company or at such other place as the directors determine.

(4) A company incorporated under this Act shall have a common seal and an imprint thereof shall be kept at the registered office of the company.

(5) A company that wilfully contravenes this section is liable to a penalty of \$25 for each day or part thereof during which the contravention continues, and a director who knowingly permits the contravention is liable to a like penalty.

Inspection of books and records.

74.(1) A member of a company incorporated under this Act may, in person or by attorney and in furtherance of a proper purpose, request in writing, specifying the purpose, to inspect during normal business hours the share register of the company or the books, records, minutes and consents kept by the company and to make copies or extracts therefrom.

(2) For the purposes of subsection (1), a proper purpose is a purpose reasonably related to the member's

interest as a member.

(3) If a request under subsection (1) is submitted by an attorney for a member, the request must be accompanied by a power of attorney authorising the attorney to act for the member.

(4) If the company, by a resolution of directors, determines that it is not in the best interest of the company or of any other member of the company to comply with a request under subsection (1), the company may refuse the request.

(5) Upon refusal by the company of a request under subsection (1), the member may, before the expiration of a period of 90 days of his receiving notice of the refusal, apply to the court for an order to allow the inspection.

Contracts generally.

75.(1) Contracts may be entered into on behalf of a company incorporated under this Act as follows:-

- (a) a contract that, if entered into between individuals, is required by law to be in writing and under seal, may be entered into by or on behalf of the company in writing under the common seal of the company, and may, in the same manner, be varied or discharged;
- (b) a contract that, if entered into between individuals, is required by law to be in writing and signed by the parties, may be entered into by or on behalf of the company in writing and signed by a person acting under the express or implied authority of the company, and may, in the same manner, be varied or discharged; and
- (c) a contract that, if entered into between individuals, is valid although entered into orally, and not reduced to writing, may be entered into orally by or on behalf of the company by a person acting under the express or implied authority of the company, and may, in the same manner, be varied or discharged.

(2) A contract entered into in accordance with this section is valid and is binding on the company and its successors and all other parties to the contract.

(3) Without affecting paragraph (a) of subsection (1), a contract, agreement or other instrument executed by or on behalf of a company by a director or an authorised officer or agent of the company is not invalid by reason only of the fact that the common seal of the company is not affixed to the contract, agreement or instrument.

Contracts before incorporation.

76.(1) A person who enters into a written contract in the name of or on behalf of a company incorporated under this Act before the company comes into existence, is personally bound by the contract and is entitled to the benefits of the contract, except where-

- (a) the contract specifically provides otherwise; or
- (b) subject to any provisions of the contract to the contrary, the company adopts the contract under subsection (2).

(2) Within a reasonable time after a company incorporated under this Act comes into existence, the company may, by any action or conduct signifying its intention to be bound thereby, adopt a written contract entered into in its name or on its behalf before it came into existence.

(3) When a company adopts a contract under subsection (2):-

- (a) the company is bound by, and entitled to the benefits of, the contract as if the

company had been in existence at the date of the contract and had been a party to it; and

- (b) subject to any provisions of the contract to the contrary, the person who acted in the name of or on behalf of the company ceases to be bound by or entitled to the benefits of the contract.

Contracts for payment or transfer.

77.(1) If any contract, agreement, deed or other instrument relating to the payment of a claim or the delivering or transferring of property, whether real or personal, wherever situate, is entered into by a company incorporated under this Act and the contract, agreement, deed or other instrument designates a payee or beneficiary to receive the payment or property-

- (a) upon the death of the person making the designation;
- (b) upon the death of another person; or
- (c) upon the happening of any other event specified in the contract, agreement, deed or other instrument,

then, any such payment, delivery or transfer, the rights of any payee or beneficiary, and the ownership of any property received, are not impaired or defeated by any law or rule of law governing the transfer of property by will, gift or intestacy.

(2) Subsection (1) applies to a contract, agreement, deed or other instrument referred to in that subsection notwithstanding anything to the contrary in the law of any other jurisdiction, including the law of any jurisdiction where the person making the designation referred to in subsection (1) resides or is domiciled, and notwithstanding that-

- (a) the designation is revocable or subject to change; or
- (b) the claim or property-
 - (i) is not yet payable or transferable, as the case may be, at the time the designation is made; or
 - (ii) is subject to withdrawal, collection or assignment by the person making the designation.

Optional register of mortgages and charges.

78.(1) A company incorporated under this Act may create a mortgage, charge or other encumbrances over any of its assets situate in any part of the world in accordance with the law of any jurisdiction of the company's choice, and the mortgage, charge or other encumbrances shall be binding on the company to the extent, and in accordance with, the requirements of the chosen law.

(2) A company incorporated under this Act may maintain at its registered office a register of mortgages, charges and other encumbrances in which there shall be entered particulars regarding each mortgage, charge and other encumbrances as follows:-

- (a) the sum secured;
- (b) the assets secured;
- (c) the name and address of the mortgagee, chargee or other encumbrancer;
- (d) the date of creation of the mortgage, charge and other encumbrance; and

- (e) the date on which the particulars specified in paragraphs (a) to (d) in respect of the mortgage, charge or other encumbrances are entered in the register.

(3) In the event that an application is made to a court in Belize to enforce any mortgage, charge or other encumbrance created by a company incorporated under this Act and there are assets of the company which are subject to two or more mortgages, charges or other encumbrances, then, notwithstanding the provisions of any other law, priorities shall be determined in accordance with the dates of entry in the register of mortgages and charges, and, unregistered mortgages, charges and other encumbrances created after the date of commencement of this section shall rank after registered mortgages, charges and other encumbrances, but unregistered mortgages, charges and other encumbrances created prior to the date of commencement of this section shall have priority over mortgages, charges and other encumbrances registered pursuant to this provision and shall rank in order of their creation.

Notes and bills of exchange.

79. A promissory note or bill of exchange shall be deemed to have been made, accepted or endorsed by a company incorporated under this Act if it is made, accepted or endorsed in the name of the company-

- (a) by or on behalf or on account of the company; or
- (b) by a person acting under the express or implied authority of the company,

and if so endorsed, the person signing the endorsement is not liable thereon.

Power of attorney.

80.(1) A company incorporated under this Act may, by an instrument in writing, whether or not under its common seal, authorise a person, either generally or in respect of any specified matters, as its agent to act on behalf of the company and to execute contracts, agreements, deeds and other instruments on behalf of the company.

(2) A contract, agreement, deed or other instrument executed on behalf of the company by an agent appointed under subsection (1), whether or not under his seal, is binding on the company and has the same effect as if it were under the common seal of the company.

Authentication or attestation.

81.(1) A document requiring authentication or attestation by a company incorporated under this Act may be signed by a director, a secretary or by an authorised officer or agent of the company, and need not be under its common seal.

(2) If the signature of any director, officer or agent authenticating or attesting any document is verified in writing by the registered agent of a company, the company is bound by the document.

Company without members.

82. If at any time there is no member of a company incorporated under this Act, any person doing business in the name of or on behalf of the company is personally liable for the payment of all debts of the company contracted during the time and the person may be sued therefor without joinder in the proceedings of any other person.

PART VII - Merger, Consolidation, Sale of Assets, Forced Redemptions, Arrangements and Dissenters

Interpretation of words and phrases in this Part.

83. In this Part-

“consolidated company” means the new company that results from the consolidation of two or more constituent companies;

“consolidation” means the uniting of two or more constituent companies into a new company;

“constituent company” means an existing company that is participating in a merger or consolidation with one or more other existing companies;

“merger” means the merging of two or more constituent companies into one of the constituent companies;

“parent company” means a company that owns at least 90 per cent of the outstanding shares of each class and series of shares in another company;

“subsidiary company” means a company at least 90 per cent of whose outstanding shares of each class and series of shares are owned by another company;

“surviving company” means the constituent company into which one or more other constituent companies are merged.

Merger and consolidation.

84.(1) Two or more companies incorporated under this Act may merge or consolidate in accordance with subsections (3) to (5).

(2) One or more companies incorporated under this Act may merge or consolidate with one or more companies incorporated under the Companies Act in accordance with subsections (3) to (5), if the surviving company or the consolidated company will satisfy the requirements prescribed for an International Business Company under section 5.

(3) The directors of each constituent company that proposes to participate in a merger or consolidation must approve a written plan of merger or consolidation containing, as the case requires:-

- (a)* the name of each constituent company and the name of the surviving company or the consolidated company;
- (b)* in respect of each constituent company:-
 - (i)* the designation and number of outstanding shares of each class and series of shares, specifying each such class and series entitled to vote on the merger or consolidation; and
 - (ii)* a specification of each such class and series, if any, entitled to vote as a class or series;
- (c)* the terms and conditions of the proposed merger or consolidation, including the manner and basis of converting shares in each constituent company into shares, debt obligations or other securities in the surviving company or consolidated company, or money or other property, or a combination thereof;
- (d)* in respect of a merger, a statement of any amendment to the Memorandum or Articles of the surviving company to be brought about by the merger; and

- (e) in respect of a consolidation, everything required to be included in the Memorandum and Articles for a company incorporated under this Act, except statements as to facts not available at the time the plan of consolidation is approved by the directors.
- (4) Some or all shares of the same class or series of shares in each constituent company may be converted into a particular or mixed kind of property and other shares of the class or series, or all shares of other classes or series of shares, may be converted into other property.
- (5) The following apply in respect of a merger or consolidation under this section:-
- (a) the plan of merger or consolidation must be authorised by a resolution of members and the outstanding shares of a class or series of shares are entitled to vote on the merger or consolidation as a class or series if the Memorandum or Articles so provide or if the plan of merger or consolidation contains any provisions that, if contained in a proposed amendment to the Memorandum or Articles, would entitle the class or series to vote on the proposed amendment as a class or series;
 - (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of merger or consolidation, must be given to each member, whether or not entitled to vote on the merger or consolidation;
 - (c) if it is proposed to obtain the written consent of members, a copy of the plan of merger or consolidation must be given to each member, whether or not entitled to consent to the plan of merger or consolidation;
 - (d) after approval of the plan of merger or consolidation by the directors and members of each constituent company, articles of merger or consolidation must be executed by each company and must contain-
 - (i) the plan of merger or consolidation and, in the case of consolidation, any statement required to be included in the Memorandum and Articles for a company incorporated under this Act;
 - (ii) the date on which the Memorandum and Articles of each constituent company were registered by the Registrar;
 - (iii) the manner in which the merger or consolidation was authorised with respect to each constituent company;
 - (e) the articles of merger or consolidation must be submitted to the Registrar who must retain and register them in the Register; and
 - (f) upon the registration of the articles of merger or consolidation, the Registrar shall issue a certificate under his hand and seal certifying that the articles of merger or consolidation have been registered.
- (6) A certificate of merger or consolidation issued by the Registrar is *prima facie* evidence of compliance with all requirements of this Act in respect of the merger or consolidation.

Merger with subsidiary.

85.(1) A parent company incorporated under this Act may merge with one or more subsidiary companies incorporated under this Act or under the Companies Act, without the authorization of the members of any company, in accordance with subsections (2) to (6), if the surviving company is a company incorporated under this Act and will satisfy the requirements prescribed for an International Business Company under section 5.

(2) The directors of the parent company must approve a written plan of merger containing-

- (a) the name of each constituent company and the name of the surviving company;

- (b) in respect of each constituent company:-
 - (i) the designation and number of outstanding shares of each class and series of shares; and
 - (ii) the number of shares of each class and series of shares in each subsidiary company owned by the parent company; and
 - (c) the terms and conditions of the proposed merger, including the manner and basis of converting shares in each company to be merged into shares, debt obligations or other securities in the surviving company, or money or other property, or a combination thereof.
- (3) Some or all shares of the same class or series of shares in each company to be merged may be converted into property of a particular or mixed kind and other shares of the class or series, or all shares of other classes or series of shares, may be converted into other property; but, if the parent company is not the surviving company, shares of each class and series of shares in the parent company may only be converted into similar shares of the surviving company.
- (4) A copy of the plan of merger or an outline thereof must be given to every member of each subsidiary company to be merged unless the giving of that copy or outline has been waived by that member.
- (5) Articles of merger must be executed by the parent company and must contain-
- (a) the plan of merger;
 - (b) the date on which the Memorandum and Articles of each constituent company were registered by the Registrar; and
 - (c) if the parent company does not own all shares in each subsidiary company to be merged, the date on which a copy of the plan of merger or an outline thereof was made available to the members of each subsidiary company.
- (6) The articles of merger must be submitted to the Registrar who must retain and register them in the Register.
- (7) Upon the registration of the articles of merger, the Registrar shall issue a certificate under his hand and seal certifying that the articles of merger have been registered.
- (8) A certificate of merger issued by the Registrar is *prima facie* evidence of compliance with all requirements of this Act in respect of the merger.

Effect of merger or consolidation.

86.(1) A merger or consolidation is effective on the date the articles of merger or consolidation are registered by the Registrar or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of merger or consolidation.

- (2) As soon as a merger or consolidation becomes effective-
- (a) the surviving company or the consolidated company in so far as is consistent with its Memorandum and Articles, as amended or established by the articles of merger or consolidation, has all rights, privileges, immunities, powers, objects and purposes of each of the constituent companies;
 - (b) in the case of a merger, the Memorandum and Articles of the surviving company are automatically amended to the extent, if any, that changes in its Memorandum and Articles are contained in the articles of merger;
 - (c) in the case of a consolidation, the statements contained in the articles of

consolidation, that are required or authorised to be contained in the Memorandum and Articles of a company incorporated under this Act, are the Memorandum and Articles of the consolidated company;

- (d) property of every description, including choses in action and the business of each of the constituent companies, immediately vests in the surviving company or the consolidated company; and
- (e) the surviving company or the consolidated company is liable for all claims, debts, liabilities and obligations of each of the constituent companies.

(3) Where a merger or consolidation occurs-

- (a) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause existing against a constituent company or against any member, director, officer or agent thereof, is released or impaired by the merger or consolidation; and
- (b) no proceedings, whether civil or criminal, pending at the time of a merger or consolidation by or against a constituent company, or against any member, director, officer or agent thereof, are abated or discontinued by the merger or consolidation, but:-
 - (i) the proceedings may be enforced, prosecuted, settled or compromised by or against the surviving company or the consolidated company or against the member, director, officer or agent thereof, as the case may be; or
 - (ii) the surviving company or the consolidated company may be substituted in the proceedings for a constituent company.

(4) The Registrar shall strike off the Register-

- (a) a constituent company that is not the surviving company in a merger; or
- (b) a constituent company that participates in a consolidation.

Merger or consolidation with foreign company.

87.(1) One or more companies incorporated under this Act may merge or consolidate with one or more companies incorporated under the laws of jurisdictions outside Belize in accordance with subsections (2) to (4), including where one of the constituent companies is a parent company and the other constituent companies are subsidiary companies, if the merger or consolidation is permitted by the laws of the jurisdictions in which the companies incorporated outside Belize are incorporated.

(2) The following apply in respect of a merger or consolidation under this section:-

- (a) a company incorporated under this Act shall comply with the provisions of this Act with respect to the merger or consolidation, as the case may be, of companies incorporated under this Act and a company incorporated under the laws of a jurisdiction outside Belize shall comply with the laws of that jurisdiction; and
- (b) if the surviving company or the consolidated company is to be incorporated under the laws of a jurisdiction outside Belize, it must submit to the Registrar-
 - (i) an agreement that a service of process may be effected on it in Belize in respect of proceedings for the enforcement of any claim, debt, liability or obligation of a constituent company incorporated under this Act or in respect of proceedings for the enforcement of the rights of a dissenting member of a constituent company incorporated under this Act against the surviving company or the consolidated company;

- (ii) an irrevocable appointment of the Registrar as its agent to accept service of process in proceedings referred to in subparagraph (i);
- (iii) an agreement that it will promptly pay to the dissenting members of a constituent company incorporated under this Act the amount, if any, to which they are entitled under this Act with respect to the rights of dissenting members; and
- (iv) a certificate of merger or consolidation issued by the appropriate authority of the foreign jurisdiction where it is incorporated; or, if no certificate of merger is issued by the appropriate authority of the foreign jurisdiction, then, such evidence of the merger or consolidation as the Registrar considers acceptable.

(3) The effect under this section of a merger or consolidation is the same as in the case of a merger or consolidation under section 84 if the surviving company or the consolidated company is incorporated under this Act, but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside Belize, the effect of the merger or consolidation is the same as in the case of a merger or consolidation under section 84 except in so far as the laws of the other jurisdiction otherwise provide.

(4) If the surviving company or the consolidated company is incorporated under this Act, the merger or consolidation is effective on the date the articles of merger or consolidation are registered by the Registrar or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of merger or consolidation; but if the surviving company or the consolidated company is incorporated under the laws of a jurisdiction outside Belize, the merger or consolidation is effective as provided by the laws of that other jurisdiction.

Disposition of assets.

88. Any sale, transfer, lease, exchange or other disposition of more than 50 per cent of the assets of a company incorporated under this Act, other than a transfer pursuant to the power described in subsection (2) of section 9, if not made in the usual or regular course of the business carried on by the company, shall be made as follows:

- (a) the proposed sale, transfer, lease, exchange or other disposition must be approved by the directors;
- (b) upon approval of the proposed sale, transfer, lease, exchange or other disposition, the directors must submit the proposal to the members for it to be authorised by a resolution of members;
- (c) if a meeting of members is to be held, notice of the meeting, accompanied by an outline of the proposal, must be given to each member, whether or not he is entitled to vote on the sale, transfer, lease, exchange or other disposition; and
- (d) if it is proposed to obtain the written consent of members, an outline of the proposal must be given to each member, whether or not he is entitled to consent to the sale, transfer, lease, exchange or other disposition.

Redemption of minority shares.

89.(1) Subject to any limitations in the Memorandum or Articles:-

- (a) members holding 90 per cent of the votes of the outstanding shares entitled to vote; and
- (b) members holding 90 per cent of the votes of the outstanding shares of each class and series of shares entitled to vote as a class or series,

on a merger or consolidation under section 84, may give a written instruction to a company incorporated under this Act directing the company to redeem the shares held by the remaining members.

(2) Upon receipt of the written instruction referred to in subsection (1), the company shall redeem the shares specified in the written instruction irrespective of whether or not the shares are by their terms redeemable.

(3) The company must give written notice to each member whose shares are to be redeemed stating the redemption price and the manner in which the redemption is to be effected.

Arrangements.

90.(1) In this section, “arrangement” means:-

- (a) an amendment to the Memorandum or Articles;
- (b) a reorganisation or reconstruction of a company incorporated under this Act;
- (c) a merger or consolidation of one or more companies incorporated under this Act with one or more other companies, if the surviving company or the consolidated company is a company incorporated under this Act;
- (d) a separation of two or more businesses carried on by a company incorporated under this Act;
- (e) any sale, transfer, exchange or other disposition of any part of the property, assets or business of a company incorporated under this Act to any person in exchange for shares, debt obligations or other securities of that other person, or money or other property, or a combination thereof;
- (f) any sale, transfer, exchange or other disposition of shares, debt obligations or other securities in a company incorporated under this Act held by the holders thereof for shares, debt obligations or other securities in the company or money or other property, or a combination thereof;
- (g) a winding-up and dissolution of a company incorporated under this Act; and
- (h) any combination of any of the things specified in paragraphs (a) to (g).

(2) If the directors of a company incorporated under this Act determine that it is in the best interests of the company or the creditors or members thereof, the directors of the company may, by a resolution of directors, approve a plan or arrangement that contains the details of the proposed arrangement, even though the proposed arrangement may be authorised or permitted by any other provision of this Act or otherwise permitted.

(3) Upon approval of the plan of arrangement by the directors, the company must make application to the court for approval of the proposed arrangement.

(4) The court may, upon an application made to it under subsection (3), make an interim or a final order that is not subject to an appeal unless a question of law is involved and in which case notice of appeal must be given within the period of 20 days immediately following the date of the order, and in making the order the court may-

- (a) determine what notice, if any, of the proposed arrangement is to be given to any person;
- (b) determine whether approval of the proposed arrangement by any person should be obtained and the manner of obtaining the approval;
- (c) determine whether any holder of shares, debt obligations or other securities in the company may dissent from the proposed arrangement and receive payment of the fair

value of his shares, debt obligations or other securities under section 91;

- (d) conduct a hearing and permit any interested person to appear; and
- (e) approve or reject the plan of arrangement as proposed or with such amendments as it may direct.

(5) Where the court makes an order approving a plan of arrangement, the directors of the company, if they are still desirous of executing the plan, shall confirm the plan of arrangement as approved by the court whether or not the court has directed any amendments to be made thereto.

(6) The directors of the company, upon confirming the plan of arrangement, shall-

- (a) give notice to the persons to whom the order of the court requires notice to be given; and
- (b) submit the plan of arrangement to those persons for such approval, if any, as the order of the court requires.

(7) After the plan of arrangement has been approved by those persons by whom the order of the court may require approval, articles of arrangement must be executed by the company and must contain-

- (a) the plan of arrangement;
- (b) the order of the court approving the plan of arrangement; and
- (c) the manner in which the plan of arrangement was approved, if approval was required by the order of the court.

(8) The articles of arrangement must be submitted to the Registrar who must retain and register them in the Register.

(9) Upon the registration of the articles of arrangement, the Registrar shall issue a certificate under his hand and seal certifying that the articles of arrangement have been registered.

(10) A certificate of arrangement issued by the Registrar is *prima facie* evidence of compliance with all requirements of this Act in respect of the arrangement.

(11) An arrangement is effective on the date the articles of arrangement are registered by the Registrar or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of arrangement.

Rights of dissenters.

91.(1) A member of a company incorporated under this Act is entitled to payment of the fair value of his shares upon dissenting from-

- (a) a merger, if the company is a constituent company, unless the company is the surviving company and the member continues to hold the same or similar shares;
- (b) a consolidation, if the company is a constituent company;
- (c) any sale, transfer, lease, exchange or other disposition of more than 50 per cent of the assets or business of the company, if not made in the usual or regular course of the business carried on by the company, but not including:-
 - (i) a disposition pursuant to an order of the court having jurisdiction in the matter;
 - (ii) a disposition for money on terms requiring all or substantially all net proceeds to be distributed to the members in accordance with their

respective interests within one year after the date of disposition; or

(iii) a transfer pursuant to the power described in subsection (2) of section 9;

(d) a redemption of his shares by the company pursuant to section 89; and

(e) an arrangement, if permitted by the court.

(2) A member who desires to exercise his entitlement under subsection (1) must give to the company, before the meeting of members at which the action is submitted to a vote, or at the meeting but before the vote, written objection to the action; but an objection is not required from a member to whom the company did not give notice of the meeting in accordance with this Act or where the proposed action is authorised by written consent of members without a meeting.

(3) An objection under subsection (2) must include a statement that the member proposes to demand payment for his shares if the action is taken.

(4) Within 20 days immediately following the date on which the vote of members authorising the action is taken, or the date on which written consent of members without a meeting is obtained, the company must give written notice of the authorisation or consent to each member who gave written objection or from whom written objection was not required, except those members who voted for, or consented in writing to, the proposed action.

(5) A member to whom the company was required to give notice who elects to dissent must, within 20 days immediately following the date on which the notice referred to in subsection (4) is given, give to the company a written notice of his decision to elect to dissent, stating:-

(a) his name and address;

(b) the number and classes or series of shares in respect of which he dissents; and

(c) a demand for payment of the fair value of his shares,

and a member who elects to dissent from a merger under section 85 must give to the company a written notice of his decision to elect to dissent within 20 days immediately following the date on which the copy of the plan of merger or an outline thereof is given to him in accordance with section 85.

(6) A member who dissents must do so in respect of all shares that he holds in the company.

(7) Upon the giving of a notice of election to dissent, the member to whom the notice relates ceases to have any of the rights of a member except the right to be paid the fair value of his shares.

(8) Within 7 days immediately following the date of the expiration of the period within which members may give their notices of election to dissent, or within 7 days immediately following the date on which the proposed action is put into effect, whichever is later, the company or, in the case of a merger or consolidation, the surviving company or the consolidated company, must make a written offer to each dissenting member to purchase his shares at a specified price that the company determines to be their fair value; and if, within 30 days immediately following the date on which the offer is made, the company making the offer and the dissenting member agree upon the price to be paid for his shares, the company shall pay to the member the amount in money upon the surrender of the certificates representing his shares.

(9) If the company and a dissenting member fail, within the period of 30 days referred to in subsection (8), to agree on the price to be paid for the shares owned by the member, within 20 days immediately following the date on which the period of 30 days expires, the following shall apply:-

(a) the company and the dissenting member shall each designate an appraiser;

(b) the two designated appraisers together shall designate a third appraiser;

(c) the three appraisers shall fix the fair value of the shares owned by the dissenting member as of the close of business on the day prior to the date on which the vote of members authorising the action was taken or the date on which written consent of

members without a meeting was obtained, excluding any appreciation or depreciation directly or indirectly induced by the action or its proposal, and that value is binding on the company and the dissenting member for all purposes; and

- (d) the company shall pay to the member the amount in money upon the surrender by him of the certificates representing his

(10) Shares acquired by the company pursuant to subsection (8) or (9) shall be cancelled but if the shares are shares of a surviving company, they shall be available for reissue.

(11) The enforcement by a member of his entitlement under this section excludes the enforcement by the member of a right to which he might otherwise be entitled by virtue of his holding shares, except that this section does not exclude the right of the member to institute proceedings to obtain relief on the ground that the action is illegal.

PART VIII - Continuation

Continuation.

92.(1) A company incorporated under the Companies Act or incorporated under the laws of a jurisdiction outside Belize may, if it will satisfy the requirements prescribed for an International Business Company under section 5, continue as a company incorporated under this Act as follows:-

- (a) articles of continuation, written in the English language or if written in a language other than the English language, accompanied by a certified translation into the English language, must be approved-
- (i) by a majority of the directors or the other persons who are charged with exercising the powers of the company; or
 - (ii) in such other manner as may be established by the company for exercising the powers of the company;
- (b) the articles of continuation must contain-
- (i) the name of the company and the name under which it is being continued;
 - (ii) the jurisdiction under which it is incorporated;
 - (iii) the date on which it was incorporated;
 - (iv) the information required to be included in a Memorandum under subsection (1) of section 12; and
 - (v) the amendments to its Memorandum and Articles, or their equivalent, that are to be effective upon the registration of the articles of continuation;
- (c) the articles of continuation, accompanied by a copy of the Memorandum and Articles of the company, or their equivalent, written in the English language or, if written in a language other than the English language, accompanied by a certified translation into the English language and in the case of a foreign company, evidence satisfactory to the Registrar that the company is in good standing, must be submitted to the Registrar who must retain and register them in the Register; and
- (d) upon the registration of the articles of continuation, the Registrar shall issue a certificate of continuation under his hand and seal certifying that the company is incorporated under this Act.

(2) A company incorporated under the laws of a jurisdiction outside Belize is entitled to continue as a company incorporated under this Act notwithstanding any provision to the contrary in the laws of the jurisdiction under which it is incorporated.

(3) Notwithstanding any provisions of the Companies Act, a company incorporated under that Act may, by resolution of the directors, continue the incorporation of the company under this Act.

(4) Where a company incorporated under the Companies Act has continued its incorporation under this Act, the Registrar General shall within 30 days of such continuation strike the name of the company off the Register maintained under that Act and publish notice of the striking-off in the *Gazette*.

Provisional registration.

93.(1) A company incorporated under the laws of a jurisdiction outside Belize that is permitted under section 92 to continue as a company incorporated under this Act may, after complying with paragraphs (a) and (b) of subsection (1) of section 92, submit to the Registrar the following documents:-

- (a) articles of continuation, accompanied by a copy of its Memorandum and Articles, or their equivalent, written in the English language, or if written in a language other than the English language accompanied by a certified translation into the English language; and
- (b) a written authorisation designating one or more persons who may give notice to the Registrar, by telex, telegram, cable or by registered mail, that the articles of continuation should become effective.

(2) The Registrar shall not, prior to the receipt of the notice referred to in subsection (1), permit any person to inspect the documents referred to in subsection (1) and shall not divulge any information in respect thereof.

(3) Upon receipt of the notice referred to in subsection (1), the Registrar shall:-

- (a) register the documents referred to in subsection (1) in the Register; and
- (b) issue a certificate of continuation under his hand and seal certifying that the company is incorporated under this Act.

(4) For purposes of subsection (3), the Registrar may rely on a notice referred to in subsection (1) sent, or purported to be sent, by a person named in the written authorisation.

(5) Prior to the registration of the documents referred to in subsection (1), a company may rescind the written authorisation referred to in subsection (1) by delivering to the Registrar a written notice of rescission.

(6) If the Registrar does not receive a notice referred to in subsection (1) from a person named in the written authorisation within one year immediately following the date on which the documents referred to in subsection (1) were submitted to the Registrar, the articles of continuation are rescinded.

(7) A company entitled to submit to the Registrar the documents referred to in subsection (1) may authorise the Registrar to accept as resubmitted the documents referred to in that subsection, before or after the documents previously submitted referred to in subsection (1) have been rescinded.

Certificate of continuation.

94. A certificate of continuation issued by the Registrar under paragraph (d) of subsection (1) of section 92 or under subsection (3) of section 93 is *prima facie* evidence of compliance with all requirements of this Act in respect of continuation.

Effect of continuation.

95.(1) From the time of the issue by the Registrar of a certificate of continuation under paragraph (d) of subsection (1) of section 92 or under subsection (3) of section 93-

- (a) the company to which the certificate relates:-
 - (i) continues to be a body corporate, incorporated under this Act, under the name designated in the articles of continuation;
 - (ii) is capable of exercising all powers of a company incorporated under this Act; and
 - (iii) is no longer to be treated as a company incorporated under the Companies Act or a company incorporated under the laws of a jurisdiction outside Belize;
- (b) the Memorandum and Articles of the company, or their equivalent, as amended by the articles of continuation, are the Memorandum and Articles of the company;
- (c) property of every description, including choses in action and the business of the company, continue to be vested in the company; and
- (d) the company continues to be liable for all of its claims, debts, liabilities and obligations.

(2) Where a company is continued under this Act-

- (a) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause existing, against the company or against any member, director, officer or agent thereof, is released or impaired by its continuation as a company under this Act; and
- (b) no proceedings, whether civil or criminal, pending at the time of the issue by the Registrar of a certificate of continuation under paragraph (d) of subsection (1) of section 92 or under subsection (3) of section 93 by or against the company, or against any member, director, officer or agent thereof, are abated or discontinued by its continuation as a company under this Act, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent thereof, as the case may be.

(3) All shares in the company that were outstanding prior to the issue by the Registrar of a certificate of continuation under paragraph (d) of subsection (1) of section 92 or under subsection (3) of section 93 in respect to the company shall be deemed to have been issued in conformity with this Act, but a share that at the time of the issue of the certificate of continuation was not fully paid shall be paid up no later than one year immediately following the date of the issue of the certificate of continuation and until the share is paid up, the member holding the share remains liable for the amount unpaid on the share.

(4) If at the time of the issue by the Registrar of a certificate of continuation under paragraph (d) of subsection (1) of section 92 or under subsection (3) of section 93 in respect to the company any provisions of the Memorandum and Articles of the company do not in any respect accord with this Act-

- (a) the provisions of the Memorandum and Articles continue to govern the company until the provisions are amended to accord with this Act or for a period of two years immediately following the date of the issue of the certificate of continuation, whichever is the sooner;
- (b) any provisions of the Memorandum and Articles of the company that are in any respect in conflict with this Act cease to govern the company when the provisions are amended to accord with this Act or after the expiration of a period of two years after the date of the issue of the certificate of continuation, whichever is the sooner; and

- (c) the company shall make such amendments to its Memorandum and Articles as may be necessary to accord with this Act within a period that is not later than two years immediately following the date of the issue of the certificate of continuation.

Continuation under foreign law.

96.(1) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act may, by a resolution of directors or by a resolution of members, continue as a company incorporated under the laws of a jurisdiction outside Belize in the manner provided under those laws.

(2) A company incorporated under this Act that continues as a company incorporated under the laws of a jurisdiction outside Belize does not cease to be a company incorporated under this Act unless the laws of the jurisdiction outside Belize permit the continuation and the company has complied with those laws and in addition, the company has notified the Registrar that it no longer requires itself to be treated as a company incorporated under this Act.

(3) A company incorporated under this Act that continues as a company incorporated under the laws of a jurisdiction outside Belize may within 30 days of the continuation of the company under the laws of the foreign jurisdiction submit to the Registrar an affidavit to the effect that the company has continued its incorporation under the laws of the named foreign jurisdiction and the Registrar shall retain and register the affidavit.

(4) Upon the registration of the affidavit referred to in subsection (3), the Registrar shall:-

- (a) strike the name of the company off the Register;
- (b) issue a certificate of discontinuance; and
- (c) publish the strike off in the *Gazette*.

(5) Where a company incorporated under this Act is continued under the laws of a jurisdiction outside Belize-

- (a) the company continues to be liable for all of its claims, debts, liabilities and obligations that existed prior to its continuation as a company under the laws of the jurisdiction outside Belize;
- (b) no conviction, judgment, ruling, order, claim, debt, liability or obligation due or to become due, and no cause existing, against the company or against any member, director, officer or agent thereof, is released or impaired by its continuation as a company under the laws of the jurisdiction outside Belize; and
- (c) no proceedings, whether civil or criminal, pending by or against the company, or against any member, director, officer or agent thereof, are abated or discontinued by its continuation as a company under the laws of the jurisdiction outside Belize, but the proceedings may be enforced, prosecuted, settled or compromised by or against the company or against the member, director, officer or agent thereof, as the case may be.

PART IX - Winding-Up, Dissolution and Striking Off

Compulsory winding-up and dissolution.

97. A company incorporated under this Act shall commence to wind-up and dissolve by a resolution of directors upon expiration of such time as may be prescribed by its Memorandum or Articles for its existence.

Voluntary winding-up and dissolution.

98.(1) A company incorporated under this Act that has never issued shares may voluntarily commence to wind-up and dissolve by a resolution of directors.

(2) Subject to any limitations in its Memorandum or Articles, a company incorporated under this Act that has previously issued shares may voluntarily commence to wind-up and dissolve by a resolution of members.

Powers of directors in a winding-up and dissolution.

99. Upon the commencement of a winding-up and dissolution required under section 97 or permitted under section 98, the directors may only-

- (a)* authorise a liquidator, by a resolution of directors, to carry on the business of the company if the liquidator determines that to do so would be necessary or in the best interests of the creditors or members of the company; and
- (b)* determine to rescind the articles of dissolution as permitted under section 103.

Duties of liquidator.

100.(1) A liquidator shall, upon his appointment in accordance with this Part and upon the commencement of a winding-up and dissolution, proceed-

- (a)* to identify all assets of the company;
- (b)* to identify all creditors of and claimants against the company;
- (c)* to pay or provide for the payment of, or to discharge, all claims, debts, liabilities and obligations of the company;
- (d)* to distribute any surplus assets of the company to the members in accordance with the Memorandum and Articles;
- (e)* to prepare or cause to be prepared a statement of account in respect of the actions and transactions of the liquidator; and
- (f)* to send a copy of the statement of account to all members if so required by the plan of dissolution required by section 102.

(2) A transfer, including a prior transfer, described in subsection (2) of section 9 of all or substantially all of the assets of a company incorporated under this Act for the benefit of the creditors and members of the company, is sufficient to satisfy the requirements of paragraphs *(c)* and *(d)* of subsection (1).

Powers of liquidator.

101. In order to perform the duties imposed on him under section 100, a liquidator has all powers of the company that are not reserved to the members under this Act or in the Memorandum or Articles, including, but not limited to, the power-

- (a)* to take custody of the assets of the company and, in connection therewith, to register any property of the company in the name of the liquidator or that of his nominee;
- (b)* to sell any assets of the company at public auction or by private sale without any notice;

- (c) to collect the debts and assets due or belonging to the company;
- (d) to borrow money from any person for any purpose that will facilitate the winding-up and dissolution of the company and to pledge or mortgage any property of the company as security for any such borrowing;
- (e) to negotiate, compromise and settle any claim, debt, liability or obligation of the company;
- (f) to prosecute and defend, in the name of the company or in the name of the liquidator or otherwise, any action or other legal proceedings;
- (g) to retain solicitors, accountants and other advisers and appoint agents;
- (h) to carry on the business of the company, if the liquidator has received authorisation to do so in the plan of liquidation or by a resolution of directors permitted under section 99, as the liquidator may determine to be necessary or to be in the best interests of the creditors or members of the company;
- (i) to execute any contract, agreement or other instrument in the name of the company or name of the liquidator; and
- (j) to make any distribution in money or in other property or partly in each, and if in other property, to allot the property, or an undivided interest therein, in equal or unequal proportions.

(2) Notwithstanding paragraph (h) of subsection (1), a liquidator shall not, without the permission of the court, carry on for a period in excess of two years the business of a company that is being wound-up and dissolved under this Act.

Procedure on winding-up and dissolution.

102.(1) The directors of a company required under section 97 or proposing under section 98 to wind-up and dissolve the company must approve a plan of dissolution containing-

- (a) a statement of the reason for the winding-up and dissolving;
- (b) a statement that the company is, and will continue to be, able to discharge or pay or provide for the payment of all claims, debts, liabilities and obligations in full;
- (c) a statement that the winding-up will commence on the date when articles of dissolution are submitted to the Registrar or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of dissolution;
- (d) a statement of the estimated time required to wind-up and dissolve the company;
- (e) a statement as to whether the liquidator is authorised to carry on the business of the company if the liquidator determines that to do so would be necessary or in the best interests of the creditors or members of the company;
- (f) a statement of the name and address of each person to be appointed a liquidator and the remuneration proposed to be paid to each liquidator; and
- (g) a statement as to whether the liquidator is required to send to all members a statement of account prepared or caused to be prepared by the liquidator in respect of his actions or transactions.

(2) If a winding-up and dissolution is being effected in a case where subsection (2) of section 98 is applicable:-

- (a) the plan of dissolution must be authorised by a resolution of members, and the holders of the outstanding shares of a class or series of shares are entitled to vote on the plan of dissolution as a class or series only if the Memorandum or Articles so provide;
- (b) if a meeting of members is to be held, notice of the meeting, accompanied by a copy of the plan of dissolution, must be given to each member, whether or not entitled to vote on the plan of dissolution; and
- (c) if it is proposed to obtain the written consent of members, a copy of the plan of dissolution must be given to each member, whether or not entitled to consent to the plan of dissolution.

(3) After approval of the plan of dissolution by the directors, and if required, by the members in accordance with subsection (2), articles of dissolution must be executed by the company and must contain-

- (a) the plan of dissolution; and
- (b) the manner in which the plan of dissolution was authorised.

(4) Articles of dissolution must be submitted to the Registrar who must retain and register them in the Register and within 30 days immediately following the date on which the articles of dissolution are submitted to the Registrar, the company must cause to be published, in the *Gazette*, in a publication of general circulation in Belize and in a publication of general circulation in the country or place where the company has its principal office, a notice stating-

- (a) that the company is in dissolution;
- (b) the date of commencement of the dissolution;
- (c) the names and addresses of the liquidators.

(5) A winding-up and dissolution commences on the date the articles of dissolution are registered by the Registrar or on such date subsequent thereto, not exceeding 30 days, as is stated in the articles of dissolution.

(6) A liquidator shall, upon completion of a winding-up and dissolution, submit to the Registrar a statement that the winding-up and dissolution has been completed, and upon receiving the notice, the Registrar shall:-

- (a) strike the company off the Register; and
- (b) issue a certificate of dissolution under his hand and seal certifying that the company has been dissolved.

(7) Where the Registrar issues a certificate of dissolution under his hand and seal certifying that the company has been dissolved-

- (a) the certificate is *prima facie* evidence of compliance with all requirements of this Act in respect of dissolution; and
- (b) the dissolution of the company is effective from the date of the issue of the certificate.

(8) Immediately following the issue by the Registrar of a certificate of dissolution under subsection (6), the liquidator shall cause to be published, in the *Gazette*, in a publication of general circulation in Belize and in a publication of general circulation in the country or place where the company has its principal office, a notice that the company has been dissolved and has been struck off the Register.

(9) A company that wilfully contravenes subsection (4) is liable to a penalty of \$50 for every day or part thereof during which the contravention continues, and a director or liquidator who knowingly permits the contravention is liable to a like penalty.

Rescission of winding-up and dissolution.

103.(1) In the case of a winding-up and dissolution permitted under section 98, a company may, prior to submitting to the Registrar a notice specified in subsection (4) of section 102, rescind the articles of dissolution by-

- (a) a resolution of directors in the case of a winding-up and dissolution under subsection (1) of section 98; or
- (b) a resolution of members in the case of a winding-up and dissolution under subsection (2) of section 98.

(2) A copy of a resolution referred to in subsection (1) must be submitted to the Registrar who must retain and register it in the Register.

(3) Within 30 days immediately following the date on which the resolution referred to in subsection (1) has been submitted to the Registrar, the company must cause a notice stating that the company has rescinded its intention to wind-up and dissolve to be published in the *Gazette*, in a publication of general circulation in Belize and in a publication of general circulation in the country or place where the company has its principal office.

Winding-up and dissolution of company unable to pay its claims, etc.

104.(1) Where-

- (a) the directors or, as the case may be, the members of a company that is required under section 97 or permitted under section 98 to wind-up and dissolve, at the time of the passing of the resolution to wind-up and dissolve the company, have reason to believe that the company will not be able to pay or provide for the payment of or discharge all claims, debts, liabilities and obligations of the company in full; or
- (b) the liquidator after his appointment has reason so to believe,

then, the directors, the members or the liquidator, as the case may be, shall immediately give notice of the fact to the Registrar.

(2) Where a notice has been given to the Registrar under subsection (1), all winding-up and dissolution proceedings after the notice has been given shall be in accordance with the provisions of the Companies Act relating to winding-up and dissolution and those provisions shall apply *mutatis mutandis* to the winding-up and dissolution of the company.

Winding-up and dissolution by the court.

105. Notwithstanding the provisions of this Act relating to winding-up and dissolution, a company incorporated under this Act may be wound-up by the court under any of the circumstances, in so far as they are applicable to a company incorporated under this Act, in which a company incorporated under the Companies Act may be wound-up by the court and, in that case, the provisions of the Companies Act relating to winding-up and dissolution apply *mutatis mutandis* to the winding-up and dissolution of the company.

Receivers and managers.

106. The provisions of the Companies Act regarding receivers and managers govern *mutatis mutandis* the appointment, duties, powers and liabilities of receivers and managers of the assets of any company incorporated under this Act.

Striking off.

107.(1) Notwithstanding section 6, where the Registrar has reasonable cause to believe that a company incorporated under this Act no longer satisfies the requirements prescribed for an international business company under section 5 of this Act, the Registrar shall serve on the company a notice that the name of the company shall be struck off the register, unless the company or another person satisfies the Registrar within 30 days immediately following the date thereof that the name of the company should not be struck off.

(2) If the Registrar:-

- (a)* receives from the company a notice stating that the company no longer satisfies the requirements prescribed for an international business company under section 5 of this Act; or
- (b)* does not receive a reply to the notice served on the company under subsection (1) above, or receives a reply which the Registrar finds unsatisfactory,

the Registrar shall strike the name of the company off the Register, and shall inform the registered agent of the company accordingly.

(3) The Registrar shall publish notice of the striking off in the *Gazette*.

(4) If a company has failed to pay the increased licence fee due under subsection (2) of section 114, the Registrar shall, within 30 days immediately following the date specified in that subsection, publish in the *Gazette* and serve on the company a notice stating the amount of the licence fee due under sub-section (3) of section 114 and stating that the name of the company will be struck off the Register if the company fails to pay the licence fee on or before the 31st December next ensuing.

(5) If a company fails to pay the increased licence fee stated in the notice referred to in subsection (4) by the 31st December referred to in that subsection, the Registrar shall strike the name of the company off the Register from the 1st January next ensuing.

(6) A company that has been struck off the Register under this section remains liable for all claims, debts, liabilities and obligations of the company, and the striking off does not affect the liability of any of its members, directors, officers or agents.

Restoration to Register.

108.(1) If the name of a company has been struck off the Register under subsection (4) of section 107, the company, or a creditor, member or liquidator thereof, may apply to the court to have the name of the company restored to the Register.

(2) If upon an application under subsection (1) the court is satisfied that-

- (a)* at the time the name of the company was struck off the Register, the company did satisfy the requirements prescribed for an International Business Company under section 5; and
- (b)* it would be fair and reasonable for the name of the company to be restored to the Register,

the court may order the name of the company to be restored to the Register upon payment to the Registrar of all fees due under section 113 and all licence fees due under section 114 without any increase for late payment, and upon restoration of the name of the company to the Register, the name of the company is deemed never to have been struck off the Register.

(3) If the name of a company has been struck off the Register under subsection (6) of section 107, the company, or a creditor, member or liquidator thereof, may, within 3 years immediately following the date of the

striking off, apply to the Registrar to have the name of the company restored to the Register, and upon payment to the Registrar of-

- (a) all fees due under section 113;
- (b) the licence fee stated in the notice referred to in subsection (5) of section 107; and
- (c) a licence fee in the amount stated in the notice referred to in paragraph (b) for each year or part thereof during which the name of the company remained struck off the Register,

the Registrar shall restore the name of the company to the Register and upon restoration of the name of the company to the Register, the name of the company shall be deemed never to have been struck off the Register.

(4) For purposes of this Part, the appointment of an official receiver under section 110 operates as an order to restore the name of the company to the Register.

Effect of striking off.

109.(1) Where the name of a company has been struck off the Register, the company, and the directors, members, liquidators and receivers thereof, may not legally:-

- (a) commence legal proceedings, carry on any business or in any way deal with the assets of the company;
- (b) defend any legal proceedings, make any claim or claim any right for, or in the name of, the company; or
- (c) act in any way with respect to the affairs of the company.

(2) Notwithstanding subsection (1), where the name of the company has been struck off the Register, the company, or a director, member, liquidator or receiver thereof, may:-

- (a) make application for restoration of the name of the company to the Register;
- (b) continue to defend proceedings that were commenced against the company prior to the date of the striking-off; and
- (c) continue to carry on legal proceedings that were instituted on behalf of the company prior to the date of striking-off.

(3) The fact that the name of a company is struck off the Register does not prevent-

- (a) the company from incurring liabilities;
- (b) any creditor from making a claim against the company and pursuing the claim through to judgment or execution; or
- (c) the appointment by the court of an official liquidator for the company under section 110.

Appointment of official liquidator.

110. The court may appoint a person to be the official liquidator in respect of a company the name of which has been struck off the Register.

Dissolution of company struck off.

111.(1) If the name of a company has been struck off the Register under section 107 and remains struck off continuously for a period of three years, the company shall be deemed to have been dissolved, but the Registrar may apply to the court on or before the expiration of the period of three years, to have the company put into liquidation, and a person appointed by the court shall be the official liquidator thereof.

(2) The duties of an official liquidator in respect of a company in liquidation pursuant to subsection (1) are limited to-

- (a)* identifying and taking possession of all assets of the company;
- (b)* calling for claims by advertisement in the *Gazette* and in such other manner as he deems appropriate, requiring all claims to be submitted to him within a period of not less than 90 days immediately following the date of the advertisement; and
- (c)* applying those assets that he recovers in the following order of priority:-
 - (i)** in satisfaction of all outstanding fees, licence fees and penalties due to the Registrar; and
 - (ii)** in satisfaction *pari passu* of all other claims admitted by the official liquidator.

(3) In order to perform the duties with which he is charged under subsection (2), the official liquidator may exercise such powers as the court may consider reasonable to confer on him.

(4) The official liquidator may require such proof as he considers necessary to substantiate any claim submitted to him and he may admit, reject or settle claims on the basis of the evidence submitted to him.

(5) When the official liquidator has completed his duties, he shall submit a written report of his conduct of the liquidation proceedings to the Registrar and, upon receipt of the report by the Registrar, all assets of the company, wherever situate, that are not disposed of, vest in the Crown and the company is dissolved.

(6) The official liquidator is entitled to such remuneration out of the assets of the company for his services as the court approves, but if the company is unable to discharge all of its claims, debts, liabilities and obligations, payment of the official liquidator's remuneration shall be a charge on the Consolidated Fund.

(7) No liability attaches to an official liquidator:-

- (a)* to account to creditors of the company who have not submitted claims within the time allowed by him; or
- (b)* for any failure to locate any assets of the company.

Security for Registrar's costs.

112. In any action or legal proceeding in which a company incorporated under this Act is plaintiff and the Registrar is joined as defendant or otherwise, the court may, on the application of the Registrar, order the plaintiff to provide sufficient security for the Registrar's costs, and may order that all proceedings in the action shall be stayed until the said security has been provided.

PART X - Fees and Penalties

Fees.

113. There shall be paid to the Registrar fees as follows:-

- (a) \$100 upon the registration by the Registrar of a company incorporated under this Act the authorised capital of which does not exceed \$50,000 and all the shares of which have a par value;
- (b) \$1,000 upon the registration by the Registrar of a company incorporated under this Act the authorised capital of which exceeds \$50,000;
- (c) upon registration by the Registrar of an amendment to the Memorandum or Articles of a company incorporated under this Act:-
 - (i) \$25 if the registration is within 30 days immediately following the passing of the resolution authorising the amendment;
 - (ii) \$50 if the registration is within 60 days immediately following the passing of the resolution authorising the amendment;
 - (iii) \$75 if the registration is within 90 days immediately following the passing of the resolution authorising the amendment; and
 - (iv) \$100 if the registration is later than 90 days following the passing of the resolution authorising the amendment;
- (d) upon the registration by the Registrar of articles of merger or consolidation, but \$700 in the case of articles of merger or consolidation that also constitute the Memorandum of a company the authorised capital of which exceeds \$50,000 or that amend the Memorandum of a surviving company to increase the authorised capital from \$50,000 or less to more than \$50,000;
- (e) \$500 upon the registration by the Registrar of articles of arrangement, but \$700 in the case of articles of arrangement that also constitute the Memorandum of a company the authorised capital of which exceeds \$50,000 or that amend the Memorandum of a company to increase the authorised capital from \$50,000 or less to more than \$50,000;
- (f) \$250 upon the submission to the Registrar of articles of continuation for a company incorporated under the Companies Act the authorised capital of which does not exceed \$50,000, and, in addition, in the case of a company that continues its incorporation under this Act before 30th April in any year, such sum as would have been payable by that company under the Companies Act if that company had not so continued its incorporation under this Act;
- (g) \$1,000 upon the submission to the Registrar of articles of continuation for a company incorporated under the Companies Act the authorised capital of which exceeds \$50,000, and, in addition, in the case of a company that continues its incorporation under this Act before 30th April in any year, such sum as would have been payable by that company under the Companies Act if that company had not so continued its incorporation under this Act;
- (h) \$500 upon the submission to the Registrar of articles of continuation for a company not incorporated under the Companies Act the authorised capital of which does not exceed \$50,000;
- (i) \$1,000 upon the submission to the Registrar of articles of continuation for a company not incorporated under the Companies Act the authorised capital of which exceeds \$50,000;
- (j) \$100 upon the registration by the Registrar of articles of dissolution;
- (k) \$100 upon the registration by the Registrar of a resolution rescinding articles of dissolution;

- (l) \$25 upon the issue by the Registrar of a certificate of incorporation, merger, consolidation, arrangement, continuation, dissolution or good standing, other than at the time of the registration of a company incorporated under this Act or at the time of the merger, consolidation, arrangement or dissolution, as the case may be;
- (m) \$15 upon the issue by the Registrar of a copy or extract, whether or not certified, of a document or a part of a document, other than a certificate of incorporation, merger, consolidation, arrangement, continuation, dissolution or good standing;
- (n) \$10 for an inspection of the documents kept by the Registrar pursuant to this Act;
- (o) upon restoration by the Registrar to the Register of a company incorporated under this Act, the name of which was struck off the Register:-
 - (i) \$300 if the restoration is applied for within six months immediately following the striking of the name off the Register; or
 - (ii) \$600 if the restoration is applied for more than six months immediately following the striking of the name off the Register;
- (p) \$25 for the reservation of a name as provided for in subsection (7) of section 11;
- (q) \$10 for an inspection of each entry in the Register of International Business Companies;
- (r) \$500 upon submission to the Registrar of documents referred to in subsection (1) of section 93;
- (s) \$100 upon resubmission to the Registrar of the documents referred to in subsection (7) of section 93;
- (t) \$350 upon the registration by the Registrar of a company incorporated under this Act:-
 - (i) if the authorised capital of the company does not exceed \$50,000 and some or all of its shares have no par value; or
 - (ii) the company has no authorised capital and all of its shares have no par value;
- (u) \$25 upon the registration by the Registrar of a notice of increase or decrease of authorised capital of a company incorporated under this Act, but \$700 in the case of a notice of increase of authorised capital from \$50,000 or less to more than \$50,000; and
- (v) \$4,000 upon the entry by the Registrar of a statement to the effect that a company is a public investment company.

Licence fees.

114.(1) A company the name of which is on the Register on the 31st December in a year shall, before the 31st July of the following year, pay to the Registrar an annual licence fee as follows:

- (a) \$100 if its authorised capital does not exceed \$50,000 and all its shares have par value;
- (b) \$1,000 if its authorised capital exceeds \$50,000;
- (c) \$350 if-

- (i) its authorised capital does not exceed \$50,000 and some or all of its shares have no par value; or
 - (ii) it has no authorised share capital and all its shares have no par value; and
- (d) \$4,000 (in addition to the licence fee payable under paragraphs (a) to (c) above) if the company is a public investment company.

(2) If a company fails to pay the amount due as the licence fee under subsection (1) by the date specified therein, the licence fee increases by 10 per cent of that amount.

(3) If a company fails to pay the amount due as an increased licence fee under subsection (2) by the 31st October, then, the licence fee increases by 50 per cent of the licence fee specified in subsection (1).

Penalties to be paid to Registrar.

115. Any penalty incurred under this Act shall be paid to the Registrar.

Recovery of penalties, etc.

116. Any fee, licence fee or penalty payable under this Act that remains unpaid for 30 days immediately following the date on which demand for payment is made by the Registrar is recoverable at the instance of the Attorney General before a magistrate in civil proceedings as a debt due to the Crown notwithstanding the amount sought to be recovered.

Company struck off liable for fees, etc.

117. A company incorporated under this Act continues to be liable for all fees, licence fees and penalties payable under this Act notwithstanding that the name of the company has been struck off the Register and all those fees, licence fees and penalties have priority to all other claims against the assets of the company.

Fees, etc., to be paid into Consolidated Revenue Fund.

118. All fees, licence fees and penalties paid under this Act shall be paid by the Registrar into the Consolidated Revenue Fund.

Fees payable to Registrar.

119.(1) The Registrar may refuse to take any action required of him under this Act for which a fee is prescribed until all fees have been paid.

(2) The Registrar may refuse to continue under this Act a company incorporated under the Companies Act until all fees prescribed as payable by the company under the Companies Act have been paid.

PART XI - *Public Investment Companies*

Definitions and application.

120. In this Part:-

“Approved Stock Exchange” means the International Stock Exchange of the United Kingdom and Republic of Ireland Limited (including the Unlisted Securities Market of the International Stock Exchange), the New York Stock Exchange, the American Stock Exchange, the National Association of Securities Dealers’ Automated Quotation System of the United States of America or any other stock exchange approved for this purpose by the Minister;

“Central Bank” means the Central Bank of Belize established under the Central Bank of Belize Act;

“connected person” means a person over whom another person has control, and in the case of a company, means a company over whom another person has the power to secure that the affairs of the company are conducted in accordance with the wishes of that person;

“financial year” means the period of one year to the last day of which the company prepared its accounts;

“gross tangible asset value” means the value of the aggregate of the tangible assets of the company as shown in the most recent audited accounts of the company or as certified by the auditor of the company, leaving out of account any debt or other obligation owed by a connected person of the company but in each case taking into account where appropriate and in accordance with internationally accepted accounting principles the value of the aggregate of the tangible assets of any subsidiary or subsidiaries of the company as if they were assets of the company;

“Minister” means the Minister of the Government of Belize for the time being responsible for finance;

“net income” means the net income derived from Belize before taxation for a financial year as shown in the audited accounts of the company for that financial year or as certified by the auditor of the company, taking into account where appropriate and in accordance with internationally accepted accounting principles the net income of any subsidiary as if it were the net income of the company;

“net tangible asset value” means the excess of the gross tangible asset value over the aggregate of the liabilities of the company as shown in the most recent audited accounts of the company or as certified by the auditor of the company, taking into account the liabilities of any subsidiary (being a subsidiary whose assets are taken into account in determining the gross tangible asset value) as if they were liabilities of the company;

“subsidiary” means a company more than 50 per cent of the voting shares in which are beneficially owned directly or indirectly by another company;

“tangible assets” means tangible assets in Belize but excluding (except in the case of a licensed financial institution within the meaning of the Banks and Financial Institutions Act) cash and liquid assets.

(2) References in this Part to audited accounts, balance sheets, profit and loss accounts or certificates of an auditor of a company shall mean such accounts, balance sheets, profit and loss accounts or certificates prepared in accordance with internationally accepted accounting principles and any certificate of an auditor shall be accompanied by a balance sheet or profit and loss accounts as appropriate.

(3) References in this Part to the most recent audited accounts means the accounts made up to a date not more than fifteen months earlier than the date of any application under this Part.

(4) This Part and subsections (2), (3) and (4) of section 134 apply only to a public investment company (PIC) which was existing prior to 1st November, 1995, and, subject to (13) of section 124, to any other company which may from time to time be comprised in the PIC Group.

Procedure for registration as a public investment company.

121.(1) A company incorporated under this Act or which has applied for incorporation under this Act and which fulfils all of the following requirements:-

- (a) the company has a net tangible asset value of not less than \$2,500,000 (or such higher amount as the Minister may by regulations specify);
- (b) the company has a gross tangible asset value of not less than \$25,000,000 (or such other amount as the Minister may by regulations specify);
- (c) either:-
 - (i) the company and its principal operating subsidiaries (if any); or
 - (ii) in the case of a company incorporated within the previous twenty-four months, the principal operating subsidiaries of the company,

have carried on business in Belize for a continuous period of twenty-four months (or such period as the Minister may by regulations specify);
- (d) the company had a net income for the most recent financial year of not less than \$500,000 (or such other amount as the Minister may by regulations specify);
- (e) the company had an average net income for each of the two previous complete financial years of not less than \$375,000 (or such other amount as the Minister may by regulations specify);
- (f) no enterprise of the company or of any of its subsidiaries has been declared to be a development enterprise or an approved enterprise under the Fiscal Incentives Act or any similar such Act subsequently enacted;
- (g) either:-
 - (i) the company and its subsidiaries (if any); or
 - (ii) in the case of a company incorporated within the previous twenty-four months, the subsidiaries of the company,

have together during a continuous period of not less than twenty-four months (or such other period as the Minister may by regulations specify) provided full-time employment for an average of not fewer than fifty persons resident in Belize; and
- (h) either:-
 - (i) the shares of the company are listed, quoted or otherwise dealt in on an Approved Stock Exchange; or
 - (ii) the company intends that its shares shall be so listed, quoted or otherwise dealt in within twenty-four months of the date of its application,

may submit to the Minister an application for registration as a public investment company in such form as the Minister may by regulation specify.

(2) A company incorporated under this Act which has a net tangible asset value less than that required by subsection (1) (a), a gross tangible asset value less than that required by subsection (1) (b), a net income less than that required by subsection (1) (d) or an average net income less than that required by subsection (1) (e) or all or any of these may nevertheless apply for registration as a public investment company provided that:-

- (a) the company has entered into a contract or other arrangement to acquire such assets or subsidiaries as would ensure that the company fulfilled the requirements of subsection (1) and such contract or other arrangement provides for the acquisition of such assets or subsidiaries within 30 days of the company becoming a public investment company; and
- (b) the company supplies to the Minister such evidence as the Minister may require of the contract or other arrangement and of the value of the assets to be acquired or the

amount of the net income of the subsidiaries to be acquired under such contract or other arrangement.

(3) An application for registration as a public investment company shall specify the date upon which the company desires to become a public investment company (which shall be not earlier than the date of the application itself) and shall be accompanied by:-

- (a) such accounts or certificates as are mentioned in section 120 above or in this section;
- (b) either:-
 - (i) a copy of such listing particulars or other evidence as shall be satisfactory to the Minister showing that the shares of the company are listed, quoted or otherwise dealt in on an Approved Stock Exchange; or
 - (ii) a declaration that the company intends to seek a listing, quotation or dealing facility for its shares on an approved Stock Exchange within the time limit specified in subsection (1) (h) (ii) of this section; and
- (c) (where appropriate) such evidence as is required by subsection (2) above.

(4) Where the Minister is satisfied that a company fulfils the requirements for registration as a public investment company he shall within thirty days of receipt of the application give to the company a written statement to that effect which shall indicate the period of exemption for the purposes of section 122 (if that period is less than thirty years).

(5) Where the Minister is not satisfied that a company fulfils the requirements for registration as a public investment company he shall within thirty days of receipt of the application give to the company a written statement of the reasons why he considers that the company does not fulfil those requirements.

(6) Within thirty days after the receipt of a written statement from the Minister under subsection (4) of this section the company shall supply to the Registrar a copy of the written statement of the Minister and the Registrar shall then:-

- (a) enter on the Register a statement to the effect that the company is a public investment company; and
- (b) issue to the company a certificate stating that the company is a public investment company and the date from which the company shall be so regarded (which date shall be the date specified in its application for registration),

and the company shall then be a public investment company from the date specified in its application for registration.

(7) Where a company fails to supply to the Registrar a copy of the written statement of the Minister within the period specified in subsection (6) above, the application of the company for registration as a public investment company shall be deemed to have lapsed.

(8) Subject to subsection (9) below, where a company has obtained registration as a public investment company on the basis that the company intended to obtain a quotation on an Approved Stock Exchange within the period specified in subsection (1) (h) (ii) of this section and the company fails to obtain a quotation within that period, then:

- (a) the company shall be regarded for all purposes of this Act as if the company had at no time been a public investment company;
- (b) the company shall notify the Registrar of the failure to obtain a quotation within one month of the end of the period specified or of the failure to obtain a quotation (whichever shall first occur) and return to the Registrar the certificate issued under subsection (6) of this section; and
- (c) on receipt of such notification, the Registrar shall remove from the Register the

statement to the effect that the company is a public investment company and cancel the certificate.

(9) (a) In this subsection:-

“*bona fide* shareholders” means the beneficial owners of shares in a public investment company and shall exclude any holder who is party to an arrangement or understanding designed to achieve satisfaction of the condition set out in subparagraph (b) (iii) below including, but not limited to, any arrangement or understanding with other holders of shares in the company or with any other person which fragments a holding of shares in the company or provides for the transfer of shares in the company upon request;

“fully diluted share capital” means the aggregate of all the issued shares in the company and any shares which would be issued if all securities of the company which are convertible into shares were so converted.

(b) Where a company:-

- (i) had obtained registration as a public investment company on the basis that the company intended to obtain a quotation on an Approved Stock Exchange within the period specified in subsection (1) (h) (ii) of this section;
- (ii) the company had failed to obtain a quotation within that period;
- (iii) at the end of that period not less than twenty per cent of the fully diluted share capital of the company is owned by not fewer than 500 *bona fide* shareholders,

then subsection (8) shall not apply to such company and the company shall continue to be regarded as a public investment company;

(10) Where a company has applied for or obtained registration as a public investment company in accordance with the provisions of subsection (2) of this section and the company fails to acquire the assets or subsidiaries mentioned in that subsection within the period specified in subsection (2) (a), then:

- (a) if the company has not yet been entered on the Register as a public investment company, the company shall notify the Minister within one week of the end of that period of the failure to acquire the assets and the application of the company for registration shall immediately be deemed to have lapsed;
- (b) if the company has been entered on the Register as a public investment company:-
 - (i) the company shall be regarded for all purposes of this Act as if the company had at no time been a public investment company;
 - (ii) the company shall notify the Registrar within one week of the end of that period of the failure to acquire the assets and shall return to the Registrar the certificate issued under subsection (6) of this section; and
 - (iii) on receipt of such information the Registrar shall remove from the Register the statement to the effect that the company is a public investment company and cancel the certificate.

(11) Any company which fails to notify the Minister in accordance with subsection (10) (a) or the Registrar in accordance with subsection (8) or subsection (10) (b) within the relevant time limit set out in those subsections shall be liable to a fine of two hundred fifty dollars per day from the date of expiration of the time limit until the company does so notify the Minister or the Registrar as appropriate.

Further exemptions.

122.(1) In addition and without prejudice to the exemptions from taxes and duties conferred on companies incorporated under this Act by section 130 of this Act, a public investment company shall be exempted from all forms of taxes and duties whether computed on revenue, profits or income of any kind or by reference to any capital asset, gain or appreciation, and whether in the nature of income tax, corporation tax, revenue tax, withholding tax, stamp duty, land tax, capital duty, sales tax, value added tax, customs or import duty or of any tax or duty of other nature, and whether presently existing or hereafter enacted, for a period of thirty years from the date on which the company first becomes a public investment company or such lesser period as the Minister shall in a particular case and at the time of making his written determination under subsection (4) of section 121 determine.

(2) The Minister may by notice in writing to a public investment company extend the period of exemption granted to that company under subsection (1) above and such notice shall specify the period of the extension.

Further provisions respecting public investment companies.

123.(1) If the directors of a public investment company shall so resolve, section 74 shall thenceforth not apply to that company.

(2) Section 88 and section 91 (1) (c) shall not apply to a public investment company.

(3) (a) Where a public investment company has prepared a prospectus or similar document in compliance with the requirements of an Approved Stock Exchange and has filed a copy thereof with the Registrar, the company shall be entitled (but not required) to distribute that prospectus or similar document in Belize.

(b) Where a public investment company distributes a prospectus or similar document in accordance with paragraph (a) of this subsection, the company shall be deemed to have complied with all requirements of the law of Belize whatsoever with respect to the content, circulation, distribution and filing of such prospectus or similar document.

(4) Where, but for the provisions of paragraph (b) of subsection (1) of section 5, a company would be a public investment company, the company shall be deemed to have complied with the requirements of the said subsection.

(5) Notwithstanding anything contained in section 5 of this Act, a public investment company may own an interest in real property situate in Belize.

(6) In its application to a public investment company, the word "business" in paragraph (1) (a) of section 5 shall not include the management of funds belonging to persons resident in Belize.

(7) Subject to any provisions contained in the Articles of a public investment company, where a scheme or contract involving the transfer of shares or any class of shares in a public investment company (in this section referred to as "the transferor company") to another company, whether a company within the meaning of this Act 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 50% in value of the shares whose transfer is involved other than shares already held at the date of the offer by, or by a nominee for, the transferee company or its subsidiary and by the directors of the transferor company, the transferee company may, at any time within six months after the making of the offer, give notice to any dissenting shareholder that it desires to acquire his shares, and when such a notice is given the transferee company shall 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:

Provided that where shares in the transferor company of the same class or classes as the shares whose transfer is involved are already held as aforesaid to a value greater than one-tenth of the aggregate of their value and that of the shares, other than those already held as aforesaid, whose transfer is involved, the foregoing provisions of this subsection shall not apply unless the transferee company offers the same terms to all holders of the shares, other than those already held as aforesaid, whose transfer is involved, or, where those shares include shares of different classes, of each class of them.

(8) Subject to any provisions contained in the Articles of a public investment company, where, in pursuance of any such offer and such scheme or contract as is referred to in subsection (7) above, shares in a company are transferred to another company or its nominee, and those shares together with any other shares in the first-mentioned company held by, or by a nominee for, the transferee company or its subsidiary at the date of the transfer comprise or include 90% in value of the shares in the first-mentioned company or of any class of those shares, then:-

- (a) the transferee company shall within one month from the date of the transfer, unless on a previous transfer in pursuance of the scheme or contract it has already complied with this requirement, give notice of that fact to the holders of the remaining shares or of the remaining shares of that class, as the case may be, who have not assented to the scheme or contract; and
- (b) any such holder may within three months from the giving of the notice to him, himself give notice requiring the transferee company to acquire the shares in question,

and where a shareholder gives notice under paragraph (b) of this subsection with respect to any shares, the transferee company shall be entitled and bound to acquire those shares on the terms on which under the scheme or contract the shares of the approving shareholders were transferred to it, or on such other terms as may be agreed or as the court on the application of either the transferee company or the shareholder thinks fit to order.

(9) Where a notice has been given by the transferee company under subsection (7) of this section, the transferee company shall, on the expiration of one month from the date on which the notice has been given, transmit a copy of the notice to the transferor company together with an instrument of transfer executed on behalf of the shareholder by any person appointed by the transferee company and on its own behalf by the transferee 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.

(10) Any sums received by the transferor company under subsection (9) of 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.

(11) In subsections (7) and (9) of 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.

(12) In its application to a public investment company, section 11 (1) shall include the words "Public Limited Company" and "Public Limited Corporation" and the abbreviations "PLC" and "PL Corp".

PIC Group

124.(1) In this Part and Part XIII, the expression "PIC Group" means all companies incorporated otherwise than under this Act-

- (a) more than 50% of the voting share capital of which is owned by a public investment company (in this section and section 125 called "the Group Holiday Company"); and
- (b) which are carrying on substantial business in Belize or abroad, or act as intermediate holding companies in the PIC Group, provided that each such company has issued and fully paid up share capital of not less than \$25,000.

(2) Notwithstanding anything contained in the Income and Business Tax Act, a company comprised in a PIC Group shall pay income at a rate of twenty cents per dollar less than the rate prescribed by section 21 of the Income and Business Tax Act.

(3) Section 22 of the Income and Business Tax Act shall not apply to the payment of any dividend by any

company comprised in a PIC Group to another company comprised in the PIC Group or to the Group Holding Company.

(4) (a) No deduction of an accounting for tax on mortgage and debenture interest shall apply to any payment by a company comprised in a PIC Group; and

(b) any other provision of the Income and Business Tax Act which requires that a sum in respect of tax shall be withheld on the making of any payment whatsoever shall not apply to any payment by a company comprised in a PIC Group.

(5) Subsection (3) of section 130 of this Act shall apply to a company comprised in a PIC Group as it is expressed to apply to a company incorporated under this Act.

(6) Notwithstanding anything contained in the Income and Business Tax Act, any payment by a company comprised in a PIC Group of:-

(a) a dividend or other distribution (whether by way of distribution of a profit of an income or capital nature); or

(b) of interest or principal on any indebtedness, to the Group Holding Company or to another company comprised in the PIC Group shall not be regarded as the income of the recipient.

(7) Notwithstanding anything contained in the Exchange Control Regulations Act or the regulations made thereunder, a company comprised in a PIC Group shall not be required to obtain exchange control permission for:-

(i) the repayment of the principal of any indebtedness;

(ii) the payment of any interest on any indebtedness; or

(iii) the payment of any dividend or other distribution (whether by way of distribution of profit of an income or capital nature):

Provided that a company so exempted shall nevertheless if so requested by the Central Bank, furnish the Central Bank with particulars of the amount, date and type of payment or repayment so made.

(8) Subsection (2) of section 71 of the Companies Act shall have effect as regards a company comprised in a PIC Group as if paragraph (b) thereof were omitted.

(9) A company comprised in a PIC Group may if so authorised by its Articles, purchase its own shares and sections 48 to 58 of the Companies Act shall not apply to any reduction of capital consequential thereto but section 36 of this Act shall apply as if the company were incorporated under this Act.

(10) Section 27 of the Companies Act shall not apply to a company comprised in a PIC Group.

(11) Notwithstanding any restriction provided by the Companies Act on the power of a company to alter its Memorandum or Articles, a company comprised in a PIC Group may by special resolution adopt or make any amendment to its Memorandum or Articles, such adoption or amendment not to take effect until approved by the Minister.

(12) Notwithstanding anything contained in the Exchange Control Regulations Act or the regulations made thereunder, a company comprised in a PIC Group shall not be required to obtain exchange control permission for the purpose of entering into any loan or other liability to the Group Holding Company.

Fiscal unity of a PIC Group.

125.(1) This section shall apply to those companies which are comprised in a PIC Group and are specified in subsection (2) below, notwithstanding anything contained in the Income and Business Tax Act.

(2) All companies which are comprised in a particular PIC Group at the end of a particular basis year (the “group companies”) shall be charged to income tax on their combined chargeable income for that basis year, and for the purpose of ascertaining that combined chargeable income they shall be treated as if they were a single company.

(3) The single company referred to in subsection (2) above in respect of a particular basis year shall for the purpose of the carrying forward of losses under section 15 of the Income and Business Tax Act be treated as the same single company as that in respect of any other basis year, notwithstanding any change in the identity of the group companies from one basis year to another.

(4) The single company referred to in subsection (2) above shall for the purpose of the carrying forward of losses under section 15 of the Income and Business Tax Act be treated as carrying on the trade in which the loss was sustained for so long as any group company in any basis year actually carries on any trade or business.

(5) A group company which is not comprised in the PIC Group at the beginning of the relevant basis year shall in respect of the preceding basis years of that group company be treated for the purpose of the carrying forward of losses under section 15 of the Income and Business Tax Act as if it were the same company as the single company referred to in subsection (2) above, except that this subsection shall not apply to a group company which does not during the relevant basis year carry on the trade or business in which the loss was sustained.

(6) A return of the deemed income of the single company referred to in subsection (2) above (a “group return”) shall be filed by any group company. The group company which actually files the group return shall be liable to pay the income tax on the deemed chargeable income of that single company at the rate specified in section 124 (2) above to the exclusion of all other group companies.

(7) In default of payment of the tax referred to in subsection (6) above when payment of that tax is due, the group companies shall be jointly and severally liable for the payment of such tax.

(8) The Minister may by regulations prescribe the form of the group return.

(9) In subsection (2) above:-

(a) “chargeable income” has the same meaning as in the Income and Business Tax Act; and

(b) “basis year” means the period (not exceeding twelve months) for which the Group Holding Company of the particular PIC Group to which that subsection refers makes up its accounts.

(10) Where a company becomes comprised in a PIC Group, or where the Group Holding Company of the PIC Group changes the period (not exceeding twelve months) for which it makes up its accounts, the period between the last day of the company’s preceding basis year and the first day of the basis year as defined in subsection (9) above shall itself constitute a “basis year” for the purposes of the Income and Business Tax Act.

(11) Where this section applies, the reference:

(a) in section 31 (1) of the Income and Business Tax Act to “a return.....in the form prescribed” shall be construed as a reference to a group return; and

(b) in section 31 (5) of the Income and Business Tax Act to “tax” shall be construed as a reference to the income tax on the deemed chargeable income of the single company referred to in subsection (2) above.

(12) The deemed chargeable income of the single company referred to in subsection (2) above shall not exceed the amount which would, apart from this section, have been the aggregate of the chargeable income of the relevant group companies. In particular, where a group company is not a person resident in Belize and derives income from outside Belize, that income shall not be treated as income of the single company referred to in subsection (2) above.

(13) Nothing contained in the Income and Business Tax Act shall require the Group Holding Company of a PIC Group to furnish any information relating to itself, including (but not limited to) its accounts.

Employees.

126. If and so often as a public investment company or a member of a PIC Group shall employ an individual who immediately before his employment was not a person resident in Belize and shall certify to the Minister that it had used its best endeavours and had failed to find a person resident in Belize with like qualifications and willing to enter into such employment, such employee shall (notwithstanding anything contained in the Income and Business Tax Act) be exempt from income tax on his income (including all forms of income and benefits in kind) whether or not derived from the employment.

Exchange control.

127.(1) Subject to the provisions of this section, a person resident in Belize for the purposes of the Exchange Control Regulations Act or the regulations made thereunder (in this section called “a Resident”) shall (notwithstanding anything therein contained) be at liberty to purchase shares or securities in a public investment company and make payment to the vendor thereof (or his agent or representative) wherever resident.

(2) In this section “approved financial institution” means a company incorporated under the Companies Act which is a licensed financial institution within the meaning of the Banks and Financial Institutions Act nominated by the public investment company in question and approved by the Minister for the purpose.

(3) Any purchase or sale of shares or securities in a public investment company by a Resident shall be effected through the agency of the relevant approved financial institution, which institution shall on behalf of the Resident make and receive any payments in foreign currency and receive and make corresponding payments from and to the Resident in dollars.

(4) An approved financial institution shall, if so requested, report to the Central Bank all purchases and sales made by it in accordance with the provisions of this subsection.

(5) Notwithstanding anything contained in the Exchange Control Regulations Act or the regulations made thereunder, a Resident or an approved financial institution shall not be required to obtain permission under those Regulations for any action taken in accordance with this section.

(6) In accordance with section 134, a public investment company shall not be required (notwithstanding anything contained in the Exchange Control Regulations Act or the regulations made thereunder) to obtain exchange control permission for the making of any payment to or for the credit of any Resident:

Provided that a company so exempted shall nevertheless, if so requested by the Central Bank subsequent to the making of such payment, furnish the Central Bank with particulars of the amount, date and type of payment so made.

Register and certificates.

128. Where a company incorporated under this Act is a public investment company, the Registrar shall indicate that fact and the date of expiry of the period of exemption under section 122 in any certificate given under section 136 of this Act.

Power to make amendments by regulations.

129.(1) The Minister may by regulations:-

- (a)** add to section 121 (1) further requirements to be satisfied by a company seeking registration as a public investment company and this power may be exercised either generally or in relation to a particular company either before or after its application (but not after the Minister has issued a written statement in respect of that company

under section 121 (4);

- (b) make (but shall not be required so to do) any other amendment which has been requested by a public investment company in relation to that company, such amendments to include, but not to be limited to, any amendments clarifying the meaning of any provision of this Part or providing for the method of application of any provision of this Part,

and any such amendment shall take effect from such date (not being a date earlier than the date on which the regulations are made) as the regulations shall specify.

(2) Save as aforesaid or otherwise expressly provided in this Part, the Minister shall not be empowered to make any amendments to any provision of this Part.

PART XII - Exemption from Tax

Exemptions from tax, etc.

130.(1) Notwithstanding any provision of the Income and Business Tax Act, but subject to the provisions of this section:-

- (a) all income of a company incorporated under this Act;
- (b) all dividends or other distributions paid by the company to persons who are not resident in Belize;
- (c) all interest, rent, royalties, compensations and other amounts paid by the company to persons who are not persons resident in Belize; and
- (d) capital gains realised with respect to any shares, debt obligations or other securities of a company incorporated under this Act by persons who are not persons resident in Belize,

are exempt from all provisions of the Income and Business Tax Act.

(2) Notwithstanding any provision of the Stamp Duties Act, but subject to the provisions of this section:-

- (a) all instruments relating to transfers of any property to a company incorporated under this Act;
- (b) all instruments relating to transactions in respect of the shares, debt obligations or other securities of a company incorporated under this Act; and
- (c) all instruments relating in any way to the assets or activities of a company incorporated under this Act,

are exempt from the payment of stamp duty.

(3) For the removal of doubts, it is hereby declared that the word "instruments" occurring in subsection (2) above does not include customs warrants or other customs documents, for goods imported into Belize.

(4) The exemptions from taxes or duties contained in this section shall not apply to a company incorporated under this Act (other than a public investment company existing prior to 1st November, 1995):-

- (a) if such company holds shares, debt obligations or other securities in a company incorporated under the Companies Act; or
- (b) if any shares, stock, debt obligations or other securities of such company are

beneficially held by a person resident in Belize or by a company incorporated under the Companies Act.

PART XIII - General

Appointment of Registrar, etc., and regulations.

131.(1) The Minister shall appoint a person to be Registrar of International Business Companies.

(2) The Registrar may, with the approval of the Minister, appoint one or more persons to be Deputy Registrar of International Business Companies.

(3) The Minister may make regulations with respect to the duties to be performed by the Registrar under this Act and in so doing may prescribe the place or places where the office for the registration of International Business Companies is located.

Optional registration of registers.

132.(1) A company incorporated under this Act may elect to submit for registration by the Registrar certified copies of any of the following registers:-

- (a)* its share register;
- (b)* its register of directors; or
- (c)* its register of mortgages and charges.

(2) A company that has elected to submit for registration a copy of a register shall, until it otherwise notifies the Registrar pursuant to subsection (3), submit for registration any changes in a register by submitting for registration a copy of the register containing the changes.

(3) A company that submits for registration a copy of a register with the Registrar may elect to cease registration of changes in the register by so informing the Registrar in writing.

(4) If a company elects to submit for registration any register pursuant to subsection (1), then, until such time as the company informs the Registrar pursuant to subsection (3) that it elects to cease to register changes in any register, the company is bound by the contents of each copy register submitted to the Registrar, which shall be *prima facie* evidence of its contents.

Optional registration of mortgages and charges.

133. A company incorporated under this Act may submit to the Registrar for registration-

- (a)* any document or copy of a document creating a mortgage, charge or other encumbrance over some or all of its assets;
- (b)* any document or copy of a document amending any document referred to in paragraph *(a)*; and
- (c)* any document releasing or discharging a mortgage, charge or other encumbrance over any or all of its assets,

and the Registrar shall retain and register the document or, as the case may be, the copy thereof.

Exchange control.

134.(1) This section applies only to companies to which Part IX applies, and a company incorporated under this Act shall be deemed to be not resident in Belize for the purposes of the Exchange Control Regulations 1976.

(2) The expression “body corporate” in Regulation 28 thereof shall exclude any company comprised in a PIC Group.

(3) Part III of the said Regulations shall not apply to securities issued by a company incorporated under this Act or by a company comprised in a PIC Group.

(4) For the purposes of this section, a company which becomes a company comprised in a PIC Group by reason of any transaction shall be deemed to be a company comprised in a PIC Group immediately prior to and during the course of such transaction.

Form of certificate.

135. Any certificate or other document required to be issued by the Registrar under this Act shall be in such form as the Minister may approve.

Certificate of good standing.

136.(1) The Registrar shall, upon request by any person, issue a certificate of good standing under his hand and seal certifying that a company incorporated under this Act is of good standing if the Registrar is satisfied that-

- (a)* the name of the company is on the Register; and
- (b)* the company has paid all fees, licence fees and penalties due and payable.

(2) The certificate of good standing issued under subsection (1) must contain a statement as to whether:-

- (a)* the company has submitted to the Registrar articles of merger or consolidation that have not yet become effective;
- (b)* the company has submitted to the Registrar articles of arrangement that have not yet become effective;
- (c)* the company is in the process of being wound up and dissolved; or
- (d)* any proceedings to strike the name of the company off the Register have been instituted.

Inspection of documents.

137.(1) Except as provided in subsection (2) of section 93, a person may:-

- (a)* inspect the documents kept by the Registrar pursuant to this Act; and
- (b)* require a certificate of incorporation, merger, consolidation, arrangement, continuation, dissolution or good standing of a company incorporated under this Act, or a copy or an extract of any document or any part of a document, of which he has custody, to be certified by the Registrar; and a certificate of incorporation, merger,

consolidation, arrangement, continuation, dissolution or good standing or a certified copy or extract is *prima facie* evidence of the matters contained therein.

(2) A document or a copy or an extract of any document or any part of a document certified by the Registrar under subsection (1) is admissible in evidence in any proceedings as if it were the original document.

Language in documents.

138. Any document required or desired to be filed or registered with the Registrar under any provision of this Act may be filed or registered in any language other than the English language, provided that it is accompanied by a certified English translation, and every such English translation shall be treated as the authoritative text.

Double taxation agreements.

139. A company incorporated under this Act shall not be a resident of Belize for the purposes of any order made pursuant to section 50 of the Income and Business Tax Act.

Jurisdiction.

140. For the purposes of determining matters relating to title and jurisdiction but not for purposes of taxation, the situs of the ownership of shares, debt obligations or other securities of a company incorporated under this Act is in Belize.

Declaration by court.

141.(1) A company incorporated under this Act may, without the necessity of joining any other party, apply to the court, by summons supported by an affidavit, for a declaration on any question of interpretation of this Act or of the Memorandum or Articles of the company.

(2) A person acting on a declaration made by the court as a result of an application under subsection (1) shall be deemed, in so far as regards the discharge of any fiduciary or professional duty, to have properly discharged his duties in the subject matter of the application.

Judge in chambers.

142. A judge of the Supreme Court may exercise in chambers any jurisdiction that is vested in the court by this Act, and in the exercise of that jurisdiction, the judge may award costs as may be just.

General penalty, savings and transitional provisions.

143.(1) Where a duty is imposed by this Act on any company incorporated under this Act, or on any director, secretary or officer thereof, then any such company, director, secretary or officer who commits a breach of such obligation commits an offence and shall, unless some other penalty is specifically provided, be liable on summary conviction to a fine not exceeding five thousand dollars, and if it is a continuing offence, to an additional fine of fifty dollars for every day such breach continues.

(2) Where at the commencement of this section¹ a company incorporated under this Act other than an existing public investment company holds shares, debt obligations or other securities in a company incorporated under the Companies Act, or has any of its shares, debt obligations or other securities beneficially owned by any

person or company resident in Belize, it may after such commencement continue to hold such shares, debt obligations or other securities or continue to allow its shares, debt obligations or other securities to be beneficially owned by persons or companies resident in Belize, but subject to the following conditions:-

- (a) it shall not acquire any more shares, debt obligations or other securities in a company incorporated under the Companies Act;
- (b) it shall not issue any further of its shares, debt obligations or other securities to any person or company resident in Belize except to a registered agent in a nominee capacity; and
- (c) it shall not enjoy any exemption from taxes or duties under section 130 of this Act.

Alteration of fees and penalties.

144.(1) The fees and penalties prescribed in this Act may from time to time be varied by the Minister by Order published in the *Gazette*.

(2) Any Order made under subsection (1) shall, as soon may be after the making thereof, be placed before the National Assembly and shall be subject to negative resolution.

Regulations in general.

145. The Minister may make regulations for the better carrying out of the provisions of this Act and for prescribing anything that needs to be prescribed.

PART XIV - Limited Duration Companies

Interpretation of words used in this Part.

146. In this Part, unless the context otherwise requires, “transfer” means, with respect to any shares, the transfer, sale, assignment, mortgage, pledge, lien, charge, or encumbrance over, or grant of any option, interest or other rights in, or other disposition of any such shares, or any part thereof or interest therein, whether by agreement, operation of the law or otherwise.

Application for registration as a Limited Duration Company.

147.(1) An application may be made at any time to the Registrar to register an International Business Company as a limited duration company.

(2) An application under subsection (1) of this section shall in addition to any other fee that may be payable, be accompanied by a fee of \$100.00

Registration procedure.

148.(1) The Registrar shall register an International Business Company which applies pursuant to this Part to be registered as a limited duration company if:-

- (a) the company includes in its memorandum of association a provision which limits the duration of the company to any period up to a maximum of fifty years from the date of its first registration as a limited duration company; and
- (b) the company's name includes at its end the expression "Limited Duration Company" or the abbreviation "L.D.C."; or
- (c) the company was already registered as a company prior to the application for such registration and the company has supplied the Registrar with:-
 - (i) a certified copy of a special resolution of the company duly altering its memorandum of association to limit the duration of the company to any period up to a maximum of fifty years from the date of such first registration as a limited duration company; and
 - (ii) a certified copy of a special resolution of the company altering its memorandum of association pursuant to subsection (3) of section 11 above, so as to change its name including the expression "Limited Duration Company" or the abbreviations "L.D.C." at the end thereof.

(2) On registering an International Business Company as a limited duration company under this Part, the Registrar shall:-

- (a) in the case of an International Business Company referred to in subsection (1) (a) and (b) above, certify on its certificate of incorporation issued pursuant to section 15 above, or on the certificate of registration by way of continuation issued pursuant to paragraph (d) of subsection (1) of section 92 above or under paragraph (b) of subsection (3) of section 93 above that the company is registered as a limited duration company; and
- (b) in the case of an International Business Company referred to in paragraph (c) of subsection (1) above, certify under his hand and seal of office that the company is registered as a limited duration company; stating therein the date of such registration and the duration of the life of the company

(3) A special resolution passed for the purposes of subsection (1) (c) (ii) above shall have no effect until and unless the company is registered as a limited duration company.

Maximum duration.

149. A limited duration company may by special resolution alter its memorandum of association to extend the duration of the company to such period or periods not exceeding in the aggregate fifty years from the date of the first registration of such company as a limited duration company.

Contents of the Articles of Association.

150. The articles of association of a limited duration company may:-

- (a) prohibit the transfer of any share or other interest of a member of the company absolutely, or may provide that the transfer of any share or other interest of a member requires either the unanimous resolution of all the members or a resolution passed by such proportion of the members as the articles of association may specify;
- (b) provide that a person ceases to be a member of the company upon the happening of any one or more of the events specified in the articles of association and may further provide that the rights of such former members shall be limited to an entitlement to receive such value for their shares in the company, as may be determined by the articles of association;

- (c) provide that the affairs of the company be managed by its members in their capacity as such, or by some person designated as manager with such rights, powers and duties as may be specified in the articles of association; and in such case the company shall be exempted from the requirement to have a Board of Directors under section 47 of this Act;
- (d) designate a person to be the liquidator of the company in the event of the company being in dissolution pursuant to section 150 and failing such designation, for the directors or manager to become the liquidator; and
- (e) provide for the authorised share capital of the company to be divided into various classes of shares carrying either limited or unlimited liability.

Winding-up.

151.(1) Subject to this section, a limited duration company shall be considered to have commenced voluntary winding-up and dissolution:-

- (a) when the period fixed for the duration of the company expires; or
- (b) before the expiration of the period fixed for its duration, if the members thereof pass a resolution placing the company in dissolution; or
- (c) subject to any contrary provisions in the articles of association, upon the happening of any one or more of the following events:
 - (i) the bankruptcy, death, insanity, retirement, resignation, withdrawal, expulsion, termination, cessation, or dissolution of a member; or
 - (ii) the transfer of any share or other interest in the company in contravention of the articles of association; or
 - (iii) the redemption, repurchase or cancellation of all the shares of a member of the company; or
 - (iv) the occurrence of any event (whether or not relating to the company or a member) upon which it is provided in the articles of association that the company is to be dissolved.

(2) Notice of the commencement of winding-up and dissolution shall be published in the *Gazette* by the company.

(3) The provisions of sections 97 to 111 above, inclusive, shall apply to the winding-up of a limited duration company to the extent that they are not excluded or modified by subsections (4), (5), and (6) of this section.

(4) Section 102 (1) (f) above shall not apply to a limited duration company if a person has been designated as liquidator in the articles of association of the limited duration company; and the reference to “liquidator” or “liquidators” in sections 99 to 111 above shall be construed as a reference to the liquidator or liquidators, as the case may be, as designated in the articles of association of the limited duration company.

(5) Any reference to the passing of a resolution for the winding-up of a company in sections 97 to 111 above, inclusive, shall be deemed to include, where appropriate, a reference to the happening of an event causing a limited duration company to be in dissolution.

(6) Where a limited duration company is in dissolution by virtue of subsection (1) (c) above, the winding-up of such limited duration company may be discontinued by the unanimous resolution of all the members of the company passed within thirty days of the events specified in that subsection, resolving to discontinue the winding-up and to continue the existence of the limited duration company as if the winding-up and dissolution had never occurred.

Cancellation of registration.

152. A company shall cease to be limited duration company if:-

- (a) the Registrar issues a certificate of change of name in accordance with subsection (5) of section 11 above, which records a change of name of the company and which does not include at its end the expression "Limited Duration Company" or the abbreviation "L.D.C."; or
- (b) the company passes a resolution to alter its memorandum of association to provide for a period of duration for the company which exceeds or is capable of exceeding fifty years from the date of its first incorporation as a limited duration company,

and the limited duration company pays a de-registration fee of one hundred dollars.

(2) Upon a company ceasing to be a limited duration company, the Registrar shall, where such cessation is by virtue of subsection (1) (a) or (b) above, cancel its certificate of incorporation and issue to the company a new certificate of incorporation altered to meet the circumstances of the case.

(3) The certificate of incorporation cancelled by virtue of subsection (2) above shall cease to have effect from the date of such cancellation.

(4) A resolution passed for the purpose of subsection (1) (b) above shall have no effect until a certificate of incorporation is issued by the Registrar pursuant to subsection (2) above.