

NATIONAL GAZETTE

NATIONAL DECREE, CONTAINING GENERAL PROVISIONS, of the 9th of May 1992 in execution of Article 7 of the Supervision Insurance Business National Ordinance (Nat. Gaz. 1990, No. 77).
(Lloyd's Underwriters National Decree)

IN THE NAME OF THE QUEEN !

THE GOVERNOR of the Netherlands Antilles,

Having considered that:

it is desirable, in execution of Article 7 of the Supervision Insurance Business National Ordinance (Nat. Gaz. 1990, No. 77). to establish regulations concerning the supervision of the indemnity insurance business carried out by Lloyd's Underwriters on behalf of the members of the Corporation of Lloyd's in the Netherlands Antilles;

After hearing the Privy Council, has decided:

Article 1

In this national decree, under national ordinance is understood: Supervision Insurance Business National Ordinance (Nat. Gaz. 1990, No. 77).

Article 2

Lloyd's Underwriters, who on behalf of the members of the Corporation of Lloyd's established in London, United Kingdom, conduct the indemnity insurance business, for the application of the national ordinance are together regarded as one insurer.

Article 3

Insofar as no special regulations are laid down in this decree with regard to Lloyd's Underwriters, the Bank in applying the regulations included in the national ordinance and the decrees based thereupon, shall take into account the special structure and management of Lloyd's Underwriters.

Article 4

As the indemnity insurance business, for the conducting of which

Lloyd's Underwriters requires a permit, are considered the contracts of direct indemnity insurance, that by or on behalf of them are entered upon with persons who take out insurances and reside or are established in the Netherlands Antilles.

Article 5

In deviation from Article 26, sixth paragraph, of the national ordinance the Bank stipulates models of statements which Lloyd's Underwriters pursuant to Article 26, first paragraph, of the national ordinance should annually submit to the Bank. The Bank also stipulates which statements should be published.

Article 6

In compliance with the obligation laid down in Article 27, second paragraph of the national ordinance, to submit to the Bank the annual account and annual report, Lloyd's Underwriters annually submit to the Bank their global report and accounts for the latest financial year closed. To this is added a statement that for each of the Lloyd's Underwriters involved a statement by an expert as referred to in Article 74 of the Commercial Code of the Netherlands Antilles has been issued, from which it is apparent that the responsibility resulting from the conducting of the indemnity insurance business is completely covered by assets.

Article 7

In deviation from Article 4 of the National Decree program of activities insurance business (Nat. Gaz. 1992, no. 51), Lloyd's Underwriters add to the program of activities, as referred to in Article 12, first paragraph of the national ordinance, the documents for each of the last three financial years closed as referred to in Article 6.

Article 8

This national decree can be referred to as: National Decree Lloyd's Underwriters.

Article 9

This national decree becomes effective as of the day following the date of issue of the National Gazette in which it has been included and is retroactive up to and including the 1st of December 1991.

Issued in Curaçao, the 9th of May 1992.
J.M. SALEH

The Minister of Finance,
G. DE PAULA

Given on the 11th of May 1992
The Minister of General Affairs,
M.PH. LIBERIA-PETERS

EXPLANATORY NOTE, pertaining to the Lloyd's Underwriters National Decree (10339-e/JAZ)

Lloyd's is not an insurance enterprise, but a corporation of private insurers, which originated at the end of the 17th century and since 1871 is recognized and organized by law as a association (the Association of Lloyd's), whose members are private persons who for their own account practice the insurance business. In the course of time Lloyd's has developed into the leading indemnity-insurance market of the world. Although the more than 30,000 members of Lloyd's are personally responsible with their whole capital for the commitments they entered upon, in practice they do not operate as a person, but they have grouped themselves in over 370 syndicates in which they participate with fixed shares. The members pertaining to a syndicate together appoint an underwriter, who accepts the insurances, settles claims and performs all other insurance activities for the syndicate. The members of the syndicate are not severally liable, but everyone for his/her own part. To be admitted as a member of Lloyd's, several conditions must be met, amongst other things capital position and depositing security. Another particularity of Lloyd's is, that Lloyd's Underwriters exclusively accept risks which are offered to them in the locality intended thereto in London by Lloyd's brokers, insurance brokers admitted by Lloyd's. In view of the prominent position which Lloyd's occupies in the international indemnity insurance business, it is of great importance that Lloyd's Underwriters should form part of the Antillian insurance market on the basis of a permit granted to them. The admission of Lloyd's Underwrites to the conducting of the direct indemnity insurance business here in this country, in some respects requires an adaptation of the regulations of the Supervision Insurance Business National Ordinance to the special structure of Lloyd's. The possibility thereto is given in Article 7 S.I.B.N.O. and the national decree in hand is therefore also based on that article.

It is true that Lloyd's insurances are entered upon by individual syndicates, but it would complicate the execution of the supervision as laid down in the S.I.B.N.O. and also the business execution by Lloyd's too much - and also unnecessarily -, if this supervision were to be directed towards the syndicates. Therefore Article 2 of the national decree explicitly stipulates that for the execution of the S.I.B.N.O. Lloyd's is considered to be an insurer. This entails among other things that the representative, who pursuant to Article 23 should be appointed, for the Bank of the Netherlands as supervisor is fully accountable as legal representative of all Underwriters. In Article 3 the Bank is given the opportunity to take into account, in the execution of the supervision, the special structure and business management of Lloyd's Underwrites in case this should prove to be necessary. From the circumstance that Lloyd's is in essence an insurance market and Lloyd's Underwrites only insure risks offered to them in London by Lloyd's Brokers, while the policies are also signed in London it follows that Lloyd's Underwriters do not enter upon

insurances from an establishment in this country in the sense of article 1, first paragraph, subsection k of the S.I.B.N.O. Therefore it has been stipulated in Article 4 that the S.I.B.N.O. extends to all agreements of direct indemnity insurance that Lloyd's underwriters have entered upon with insured persons who live or are established in this country. The scope and contents of the annual report by Lloyd's to the Bank is stipulated by the Bank pursuant to Article 5. This enables the Bank to attune this report to the specific situation of Lloyd's.

In Article 6 the special form of financial accountability which applies for Lloyd's and which replaces the annual accounts and reports which are customary in trade and commerce. In this context it should be noted that Lloyd's observes an administration according to signature years, which means that premiums and damages are not entered into the books in favour of or to the debit of the current financial year, but to favour of or to the debit of the year in which the insurance became effective or was extended. In this system the (signature) year is concluded only when all the premiums and damages falling upon that year have been processed. So the annual account remains open for a few years (with Lloyd's in general 3 years) and only after the termination of this period is the signature year concluded and the result over that year determined. That's why both in Article 6 and in Article 7 mention is made of the result account for "balanced" financial years.

The Minister of Finance,