

INSURANCE INTERMEDIARIES (GENERAL BUSINESS) ACT 1996 (As it has effect at 1st June 1999)

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FOREWORD

INSURANCE INTERMEDIARIES (GENERAL BUSINESS) ACT 1996 “THE ACT”

This binder contains a copy of the Act, its regulations and schedules and an application for registration.

The principal object of the Act is to set up a system for registration and regulation of independent insurance intermediaries who deal in general insurance business (as opposed to life assurance).

Under the Act control is exercised by the Insurance Supervisor who is charged with the general administration of the Act and its attendant Regulations.

April 1999

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Arrangement of Sections

REGISTRATION OF INSURANCE INTERMEDIARIES

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Received Royal Assent: 16th April 1996
Passed: 16th April 1996

AN ACT

**to make new provision for the
registration and regulation of
insurance intermediaries; and for
connected purposes.**

REGISTRATION OF INSURANCE INTERMEDIARIES

**Restriction on
Acting as an
Insurance
intermediary.**

1. (1) No person shall, in the course of a business carried on in or from the Island, act as or hold himself out to be an insurance intermediary in respect of contracts of insurance the effecting or carrying out of which constitutes general insurance business unless that person is -
 - (a) registered in a register to be kept by the Supervisor in accordance with regulations; or
 - (b) exempted from registration by this Act or by regulations.
- (2) In subsection (1), “general insurance business” means any kind of insurance business which does not constitute long term business for the purposes of the Insurance Act 1986.
- (3) Without prejudice to the generality of subsection (1), a person is treated as acting in the course of a business carried on in or from the Island if that person is -
 - (a) a company incorporated under the Companies Acts 1931 to 1993; or
 - (b) a company incorporated outside the Island and is registered under Part XI of the Companies Act 1931; or
 - (c) a limited partnership registered in the Island under Part II of the Partnership Act 1909,
and carries on business outside the Island.
- (4) The following are exempted from registration under this Act –
 - (a) an insurance intermediary who acts only as an insurance agent;
 - (b) an insurance intermediary who –
 - (i) is registered in the register of insurance brokers maintained under the Insurance Brokers (Registration) Act 1977 (an Act of Parliament); and
 - (ii) is not ordinarily resident in the Island;
 - (c) an insurance intermediary who is registered as an insurance manager

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under section 27 of the Insurance Act 1986;

- (d) a person when acting in the capacity of an employee of an insurer.

- (5) For the purposes of subsection (4)(a), an insurance intermediary acts only as an insurance agent if every insurer on behalf of which the intermediary transacts business has, by written agreement or arrangements in writing,—
 - (a) appointed the intermediary as its agent; and
 - (b) bound itself to be responsible for the acts and omissions of the agent in respect of any matter pertaining to a contract of insurance offered, effected or carried out by it.

- (6) Any person who contravenes subsection (1) is guilty of an offence and shall be liable—
 - (a) on summary conviction to a fine not exceeding £5,000 or to a term of imprisonment not exceeding 6 months, or to both;
 - (b) on conviction on indictment to a fine or to a term of imprisonment not exceeding 2 years, or to both.

- (7) No contract shall be void or unenforceable and no right of action in civil proceedings in respect of any loss shall arise, by reason only of the commission of an offence under this section.

Registration

- 2. (1) Applications for registration shall be made in writing to the Supervisor.

- (2) An applicant for registration shall provide the Supervisor with such documents and information as may be required by the Supervisor.

- (3) The Supervisor shall not register an applicant unless the Supervisor is satisfied that—
 - (a) the applicant is a fit and proper person;
 - (b) in the case of an applicant which is a body corporate, its controller, directors and chief executive (if any) are fit and proper persons; and
 - (c) the applicant has effected a policy of professional indemnity insurance in a prescribed form, indemnifying him to such sum, in such manner, in respect of such matters, and valid for such minimum period as may be prescribed.

- (4) Registration shall unless previously cancelled or suspended expire on the anniversary of registration, and the provisions of this Act relating to application, fees and registration shall apply accordingly.

- (5) The Treasury may prescribe the fees which shall be paid by an applicant in respect of registration.

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Register of insurance intermediaries.

3. (1) The register of insurance intermediaries shall be in such form and contain such particulars as may be prescribed.
- (2) The register shall be kept at the office of the Insurance and Pensions Authority (in this Act referred to as “the Authority”).
- (3) The register shall be a public register and shall be open to inspection at any time during the ordinary office hours of the Authority.

Cancellation.

4. (1) The Supervisor may at any time, with the concurrence of the Authority, cancel—
- (a) the registration of a registered insurance intermediary; or
- (b) where a class of insurance intermediaries is exempted from registration under this Act, the exemption so far as it applies to a particular person.
- (2) The Supervisor shall give to the intermediary concerned written notice of intention to cancel the registration or exemption, and such notice shall include a statement of reasons for the proposed cancellation.
- (3) Except where the Authority is satisfied that urgent action is necessary, a notice under subsection (2) shall be served on the intermediary concerned not less than 8 weeks before the date on which registration or exemption is to be cancelled.
- (4) Subsection (3) shall not apply where the intermediary consents to the cancellation.
- (5) Where a registration or exemption has been cancelled under this section, the intermediary concerned shall, if required by the Supervisor, give notice of the cancellation in such manner and to such persons as the Supervisor may direct.
- (6) Any person who fails to comply with a direction of the Supervisor under subsection (5) is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

Review of cancellation.

5. (1) The intermediary on whom a notice is served under section 4(2) may within 4 weeks from the date of service of the notice, make written and, with the consent of the Treasury, oral representations to the Treasury.
- (2) The Treasury shall consider any representations made under subsection (1).
- (3) The Treasury shall within 8 weeks of the service of the notice, confirm, vary or reverse the decision specified in the notice and shall—
- (a) issue a direction to the Supervisor accordingly; and

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- (b) notify the intermediary of its decision.
- (4) The Authority and the Supervisor shall comply with a direction given by the Treasury under subsection (3)(a).

REGULATION OF INSURANCE INTERMEDIARIES

**Appointment
of directors,
etc.**

- 6. (1) No registered insurance intermediary which is a body corporate shall appoint a person as a director or chief executive of that body, nor shall a person become controller of that body, unless–
 - (a) a written notice containing such particulars as may be prescribed is served on the Supervisor by–
 - (i) the body corporate; or
 - (ii) in the case of a controller, the proposed controller; and
 - (b) either–
 - (i) the Supervisor has, before the expiration of the period of 8 weeks beginning with the date of service of the notice, notified it in writing that the Supervisor has no objection, or
 - (ii) that period has elapsed without the Supervisor having served a written notice of objection.
- (2) A notice of objection under subsection (1) may be served on the ground that it appears to the Supervisor that the person concerned is not a fit and proper person to be a director, chief executive or controller of an insurance intermediary, and the Supervisor shall not be obliged to disclose to any person any particulars of the ground on which the notice of objection is served.

**Power to
obtain
information.**

- 7. (1) The Supervisor may require a registered insurance intermediary to provide the Supervisor, at specified times or intervals, with information about specified matters relating to the intermediary being, if the Supervisor so requires, information verified in a specified manner or provided in a specified form.
- (2) Where by virtue of subsection (1) the Supervisor has required a registered insurance intermediary to provide information about specified matters and the intermediary has failed to provide that information, the Supervisor may, without prejudice to subsection (7), require the intermediary's auditor or banker to provide such information about those matters as is within their knowledge.
- (3) The Supervisor may require a registered insurance intermediary to produce, at such time and place as the Supervisor may specify, such documents as may be specified.

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- (4) Where by virtue of subsection (3) the Supervisor has power to require the production of any document from an insurance intermediary, the Supervisor shall have the like power to require the production of that document from any person who appears to the Supervisor to be in possession of it.
- (5) Where any person from whom a document is required to be produced under subsection (4) claims a lien on any document produced, the production shall be without prejudice to the lien.
- (6) Any power conferred under subsection (3) or (4) to require an insurance intermediary or other person to produce any document shall include a power to take copies of it or extracts from it.
- (7) Where the auditor of a registered insurance intermediary becomes aware of any matter relating to the business or affairs of the intermediary which—
 - (a) appears to be relevant to the exercise of any function of the Supervisor or the Authority under this Act; or
 - (b) appears to be evidence of an offence under this Act,the auditor shall forthwith advise the Supervisor of such matter.
- (8) No duty to which an auditor or banker of an insurance intermediary may be subject shall be regarded as contravened by reason of his communicating in good faith to the Supervisor, in compliance or purported compliance with this section.

Inspection and investigation.

- 8. (1) The Supervisor may investigate the transactions and inspect the books, accounts and other documents of a registered insurance intermediary.
- (2) The Supervisor shall have every such power of entry and access as may be necessary for the purposes of subsection (1), and the Supervisor may take possession of all such books, accounts and documents as, and for so long as, may be necessary for those purposes.
- (3) The Supervisor shall exercise the right of entry and access under subsection (2) only during reasonable hours.
- (4) The Supervisor may take copies of all books, accounts and documents in the possession of the Supervisor for the purposes of an inspection and investigation under this section.

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- (5) The powers provided by this section may be exercised in relation to—
- (a) any person who is, on reasonable grounds, suspected by the Supervisor of acting as, or holding himself out to be, an insurance intermediary in contravention of section 1(1); or
 - (b) a person whose registration or exemption from registration has been cancelled, but only in respect of matters relating to the period when the person was a registered insurance intermediary or had the benefit of the exemption.

**Sections 7 & 8:
supplemental.**

9. (1) In sections 7 and 8, references to the Supervisor shall include any person appointed by the Authority in writing.
- (2) Any person who—
- (a) fails to furnish information or to produce any document when required to do so by the Supervisor in accordance with section 7; or
 - (b) intentionally obstructs the Supervisor acting in the execution of any power under section 8(1), (2) or (3),
- is guilty of an offence and shall be liable—
- (i) on summary conviction to a fine not exceeding £5,000 or to a term of imprisonment not exceeding 6 months, or to both;
 - (ii) on conviction on information to a fine or to a term of imprisonment not exceeding 2 years, or to both.

**Confidential
information.**

10. Any person who communicates, or attempts to communicate, any information obtained by virtue of the powers conferred by section 7 or 8 except—
- (a) in so far as it is necessary for the discharge of any functions under this Act or the Insurance Act 1986; or
 - (b) with the consent of the person to whom the information relates; or
 - (c) to the Financial Supervision Commission; or
 - (d) to authorities which appear to the Supervisor to exercise in a country or territory outside the Island functions corresponding to those of the Authority and the Supervisor; or
 - (e) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise and whether in the Island or elsewhere,
- shall be guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5,000.

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Publication of information.

11. (1) The Supervisor may–
- (a) issue a public statement concerning an insurance intermediary; or
 - (b) pass information about an insurance intermediary to any insurer, if it appears to the Supervisor to be desirable to make the statement or pass the information for the protection of any client of the intermediary.
- (2) When issuing a public statement or passing information under subsection (1), the Supervisor shall send to the intermediary concerned a written notice of the proposed statement or information and of the reasons for which he intends to act.

Indemnity.

12. The Treasury, the Authority and the Supervisor shall not, nor shall any member, officer or person acting pursuant to any authority conferred by the Treasury, the Authority or the Supervisor, as the case may be, be liable to any action, suit or proceeding for, or in respect of, any act or matter done or omitted to be done in good faith in the exercise, or purported exercise, of the functions conferred by or under this Act or any regulations made under this Act.

Regulations.

13. (1) The Treasury may make regulations to provide for any of the matters mentioned in the Schedule.
- (2) Before making any regulations the Treasury shall consult with the Authority and such other organisations and persons as appear to it to be likely to be affected by the proposed regulations.
- (3) Regulations shall be laid before Tynwald as soon as practicable after they are made, and if Tynwald at the sitting at which the regulations are laid or at the next following sitting fails to approve them, the regulations shall cease to have effect.

False statements, etc.

14. Any person who–
- (a) causes or permits to be included in any book or document provided or produced to the Supervisor, a statement which he knows to be false in a material particular or recklessly causes or permits to be so included any statement which is false in a material particular; or
 - (b) in purported compliance with any provision of this Act or a requirement imposed under any such provision, provides information which he knows to be false in a material particular or recklessly provides information which is false in a material particular,
- is guilty of an offence and shall be liable–

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- (i) on summary conviction to a fine not exceeding £5,000 or to a term of imprisonment not exceeding 6 months, or to both;
- (ii) on conviction on information to a fine or to a term of imprisonment not exceeding 2 years, or to both.

**Offences:
general.**

- 15.** (1) In proceedings against a person for an offence under this Act or regulations it shall be a defence for the person to show that he took all reasonable steps and exercised all due diligence to avoid committing the offence.
- (2) Where an offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in such a capacity, he, as well as the body corporate, is guilty of the offence and liable to be proceeded against and punished accordingly.
- (3) Where the affairs of a body corporate are managed by its members, subsection (2) applies in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

**Financial
Provision.**

- 16.** (1) There shall be paid out of monies provided by Tynwald any increase in the expenses of the Authority which are attributable to this Act.
- (2) Any fees payable under this Act shall form part of the General Revenue of the Isle of Man.

Interpretation.

- 17.** (1) In this Act-

"associate" means, in relation to any person-

- (a) the wife or husband or minor son, step-son, daughter or step-daughter of that person;
- (b) any company of which that person is a director;
- (c) any person who is an employee or partner of that person;
- (d) if that person is a body corporate–
 - (i) any director of that body;
 - (ii) any subsidiary of that body;
 - (iii) any holding company of that body;
 - (iv) any subsidiary of that holding company;
 - (v) any director or employee of any such holding company or subsidiary;

“the Authority” has the meaning given by section 3(2);

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“chief executive” means, in relation to an insurance intermediary which is a body corporate, an employee of such body, who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the business of the body;

“contract of insurance” includes any contract the effecting of which constitutes the carrying on of insurance business;

“controller” means, in relation to an insurance intermediary which is a body corporate, a person—

- (a) in accordance with whose directions or instructions the directors of the body are accustomed to act; or
- (b) who either alone or with any associate or associates is entitled to exercise, or control the exercise of, one third or more of the voting power at any general meeting of the body unless the appointed director or directors are accustomed so to act by reason only that they do so on advice given by that person in a professional capacity;

“director” means any person appointed as a director of any body corporate and includes—

- (a) any person occupying the position of director by whatever name called;
- (b) any person in accordance with whose directions or instructions one or more of the appointed directors are accustomed to act unless the appointed director or directors are accustomed to so act by reason only that they do so on advice given by that person in a professional capacity;

“insurance business” has the meaning given by section 34 of the Insurance Act 1986;

“insurance intermediary” means—

- (a) a person who holds an appointment in writing from an insurer enabling him to conclude contracts of insurance on behalf of, or place insurance business with, that insurer; or
- (b) a person who brings together, either directly or through the agency of a third party, with a view to the insurance of risks, persons seeking insurance and insurers, and carries out work preparatory to the conclusion of contracts of insurance;

“insurer” means a person carrying on insurance business;

“register” means the register of insurance intermediaries to be kept by the Supervisor under this Act, and “registration” and “registered” shall be

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construed accordingly;

“regulations” means regulations made by the Treasury under section 13 and the Schedule;

“subsidiary” has the meaning given by section 1 of the Companies Act 1974;

“Supervisor” means the Insurance Supervisor appointed under section 2 of the Insurance Act 1986.

- (2) References in this Act to imprisonment shall be construed as references to custody.

Minor amendment.

- 18.** In section 26(3)(c) of the Companies Act 1992, after “1991” insert “ or the Insurance Intermediaries (General Business) Act 1996”.

Short title and commencement.

- 19.** (1) This Act may be cited as the Insurance Intermediaries (General Business) Act 1996.
- (2) This Act shall come into operation on such day as may be appointed by order made by the Treasury and different days may be so appointed for different provisions and for different purposes.

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Section 13

SCHEDULE

MATTERS IN RESPECT OF WHICH REGULATIONS MAY BE MADE

1. Anything which, under this Act, is required to be, or may be prescribed or which may be provided for by regulations.
2. (1) Provisions requiring registered insurance intermediaries to effect a bond, in a specified form, to such value, in respect of such events and for the benefit of such persons as the regulations may specify.

(2) Provisions requiring that—
 - (a) arrangements in relation to the bond shall be entered into only with persons specified in the regulations;
 - (b) bonds shall be in such form and valid for such minimum period as may be specified in the regulations;
 - (c) a copy of the bond shall be displayed, for the information of the public, in a prominent position in all premises occupied by a registered insurance intermediary in which he carries on business as an insurance intermediary.
3. Provisions specifying practices to be followed by registered insurance intermediaries in their dealings with clients, insurers and other persons.
4. Provisions concerning—
 - (a) the keeping of accounts and other records by registered insurance intermediaries, their form, content, inspection and audit;
 - (b) the financial resources of registered insurance intermediaries;
 - (c) the treatment to be afforded to money received by registered insurance intermediaries;
 - (d) the form and content of advertisements (whether printed or broadcast) by registered insurance intermediaries (including matters which must be, as well as matters which may not be included in the advertisements).
5. Provision for the disclosure of the amount or value, or of arrangements for the payment or provision, of commissions or other inducements in connection with registered insurance intermediaries' business and the matters by reference to which or the manner in which their amount or value may be determined.
6. Provision requiring registered insurance intermediaries to give notice to the Supervisor and such other persons as may be specified in the regulations, of the

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occurrence of such events as may be so specified.

7. Provision requiring registered insurance intermediaries to comply with such rules, regulations, codes or standards as are from time to time in force and made or issued by any authority or professional organisation (whether established in the Island or elsewhere) which regulates, or prescribes standards which relate to,—
 - (a) insurance intermediaries; or
 - (b) the practice of any profession.

8. Provision for the exemption of specified classes of insurance intermediaries from registration under this Act.

9. Provision that, in the case of such contravention of the regulations as is prescribed, such persons as are so prescribed shall each be guilty of an offence and liable on summary conviction to a fine not exceeding £5,000.