

INSURANCE INTERMEDIARIES  
(GENERAL BUSINESS)  
REGULATIONS 1999

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## **INSURANCE INTERMEDIARIES (GENERAL BUSINESS) REGULATIONS 1999**

In exercise of the powers conferred on the Treasury by sections 13 and 17 of, and the Schedule to, the Insurance Intermediaries (General Business) Act 1996 <sup>(a)</sup>, and of all other enabling powers, and having consulted the Insurance and Pensions Authority and such other organisations and persons as appear to it to be likely to be affected, the following Regulations are made:-

### **Citation and commencement.**

1. These Regulations may be cited as the Insurance Intermediaries (General Business) Regulations 1999 and shall come into operation on 1st June 1999.

### **Interpretation**

2. In these Regulations, “the Act” means the Insurance Intermediaries (General Business) Act 1996.
3. [Revoked]

### **Register of general insurance intermediaries**

4. The register of insurance intermediaries required to be kept under section 3(1) of the Act shall include the following information -
  - (a) the name of the intermediary;
  - (b) the principal business address;
  - (c) the date of initial registration; and
  - (d) the name of the senior person in the Island who is responsible for the conduct of the business of the intermediary in or from the Island.

### **Directors, controllers and chief executives**

5. The notice required by section 6 (1) (a) of the Act shall contain the particulars specified in Schedule 1.

### **Professional indemnity insurance**

6. A registered insurance intermediary shall effect professional indemnity insurance which complies with the requirements of Schedule 2 with an insurer of good standing.

### **Advertising**

7. (1) A registered insurance intermediary shall in any advertisement state that it is “registered with the Insurance and Pensions Authority in respect of General Business”.
  - (2) In paragraph (1) “advertisement” includes every form of advertising in printed form and every form of advertising by means of broadcasting sound or images.

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(a) 1996 c.4

## **Notice**

8. (1) A registered insurance intermediary shall notify the Supervisor of any circumstances which give rise to or may give rise to the cancellation or termination of the professional indemnity insurance policy effected for the purposes of section 2(3) of the Act.  
  
(2) In the event of the cancellation or surrender of the registration of a registered insurance intermediary, he shall forthwith notify in writing all insurers for which he acts as an insurance intermediary and shall give written notification of that fact to the Supervisor.

## **Exempted general insurance intermediary businesses**

9. The following classes of insurance intermediaries are exempt from the requirement to register under the Act-
  - (a) Persons acting as an intermediary only in respect of “long term business” (within the meaning given by Schedule 3 of the Investment Business Order 1991<sup>(b)</sup>);
  - (b) Persons arranging insurance (where such insurance covers the risk of loss or damage to goods or services provided by that person) whose principal business is not that of insurance intermediary.
  - (c) An insurance intermediary who-
    - (i) is registered with and regulated by the Financial Services Authority under the terms of the Financial Services and Markets Act 2000 (an Act of Parliament); and
    - (ii) is not ordinarily resident on the Isle of Man

## **Audit**

10. A registered insurance intermediary shall prepare annual accounts and shall have them audited by a person qualified as an auditor of a private company under section 14 of the Companies Act 1982<sup>(c)</sup>.

## **Codes of practice**

11. A registered insurance intermediary shall comply with the General Insurance Intermediary Common Trading Practices set out in Schedule 3.

## **Contravention of the regulations**

12. Any person who contravenes the requirements of regulation 6, 7, 8 or 10 is guilty of an offence and shall be liable on summary conviction to a fine not exceeding £5000.

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(b) G.C. 366/91

(c) 1982 c.2

**SCHEDULE 1**

**Particulars of Directors, Controllers and Chief Executives**

If insufficient space is provided, please  
attach a separate sheet of paper

1. Name of company in connection with which this questionnaire is being completed.	
2. Surname  Forename(s)  Any previous name(s) by which you have been known.	.....  .....
3. Are you completing this questionnaire as a Director or a Controller or Chief Executive (See Note on Page 3).	
4. Private address.	
5. Previous private addresses during the last seven years.	
6. Place and date of birth.	
7. Nationality and former nationality.	
8. Present occupation or employment and occupations and employment during the last ten years, including the name of the employer, the nature of the business, the position held and relevant dates.	
9. Name any bodies corporate and the countries in which they are registered: (a) of which you are now a Director, Controller or Chief Executive. (b) of which you have been a Director, Controller or Chief Executive at any time during the last ten years.	.....  .....

<p>10. Professional qualifications and year in which they were obtained.</p>	
<p>11. Have you at any time been convicted of any offence (other than (a) an offence committed when you were under the age of 18 years unless the same was committed within the last ten years, or (b) an offence in connection with the use or ownership of a motor vehicle which was tried in a court of summary jurisdiction) by any court, whether civil or military? If so, give full particulars of the court by which you were convicted, the offence and the penalty imposed and the date of conviction.</p>	
<p>12. Have you been censured, disciplined or criticised by any professional body to which you belong or belonged or have you ever held a practising certificate subject to conditions? If so, give full particulars.</p>	
<p>13. Have you, or any body corporate, partnership or unincorporated institution with which you are, or have been associated as a Director, Controller or Chief Executive, been the subject of an investigation by a governmental, professional or other regulatory body? If so, give full particulars.</p>	
<p>14. Have you been dismissed from any office or employment or barred from entry to any profession or occupation? If so, give full particulars.</p>	
<p>15. Have you been adjudicated bankrupt by a court? If so, give full particulars.</p>	
<p>16. Have you failed to satisfy any debt adjudged due and payable by you as a judgement-debtor under an order of a court? If so, give full particulars.</p>	

<p>17. Have you, in connection with the formation or management of any body corporate, partnership or unincorporated institution been adjudged by a court civilly liable for any fraud, misfeasance or other misconduct by you towards such a body or company or towards any members thereof? If so, give full particulars.</p>	
<p>18. Has any body corporate, partnership or unincorporated institution with which you were associated as a Director, Controller or Chief Executive been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either while you were associated with it or within one year after you ceased to be associated with it? If so, give full particulars.</p>	
<p>19. In carrying out your duties will you be acting on the directions or instructions of any other person? If so, give full particulars.</p>	
<p>20. Provide the name and address of two persons who can provide references appropriate to your profession and who have known of your business activities over the last 5 years or more.</p>	

I certify that the above information is complete and correct to the best of my knowledge and belief.

I became a Director/Controller/Chief Executive of .....

(institution referred to in question 1) on .....(date)

Date .....

Signed .....

**NOTE**

Directors, Controllers and Chief Executives.

The term "Controller" should be taken to include a person, whether an individual or a body corporate, in accordance with whose directions or instructions any of the Directors of a company are accustomed to act or who, either alone or with associates, is entitled to exercise control of one third or more of the voting power at any general meeting of the company or its parent. Where a controller is a body corporate, the Insurance Supervisor may wish to look through that body to the ultimate controller or controllers from whom appropriate information as described above may be sought.

In the case of a company whose principal place of business is outside the Isle of Man, the expression "Chief Executive" includes individuals responsible for the conduct of its Isle of Man insurance business, whether located in the company's branch or elsewhere. Companies which are in doubt about whether they need to supply details of particular individuals should consult the Insurance Supervisor.

**Schedule 2**

**Professional Indemnity Insurance**

1. The policy shall at inception and at each renewal date, which shall be no more than 12 months from inception or the last renewal date, provide a minimum limit of indemnity of £250,000 in respect of each and every loss.
2. The policy shall indemnify the insured -
  - (a) against losses arising from claims made against the insured
    - (i) for breach of duty in connection with the business by reason of any negligent act, error or omission; and
    - (ii) in respect of libel or slander, committed in the conduct of the business by the insured, any employee or former employee of the insured, and where the business is or was carried on in partnership, any partner or former partner of the insured; and
    - (iii) by reason of any dishonest or fraudulent act or omission committed or made in the conduct of the business by any employee (other than a director of a body corporate) or former employee (other than a director of a body corporate) of the insured; and
  - (b) against claims in connection with the business in respect of legal liability incurred by reason of loss of documents and costs and expenses incurred in replacing or restoring such documents.

### Schedule 3

#### Common Trading Practices

A person acting or holding himself out to be a registered insurance intermediary shall at all times conduct his general insurance business with the utmost good faith and integrity and the nature and conduct of his business should not be such as may in the opinion of the Insurance and Pensions Authority bring the Isle of Man into disrepute or damage its standing as a financial centre.

#### 1. General sales principles

- (a) A registered insurance intermediary shall -
  - (i) where appropriate, make a prior appointment to call. Unsolicited or unarranged calls shall be made at an hour likely to be suitable to the prospective policyholder;
  - (ii) when he makes contact with the prospective policyholder, identify himself and explain as soon as possible that the arrangements he wishes to discuss could include insurance;
  - (iii) make it known that he is an independent intermediary seeking to act on behalf of the prospective policyholder and not for a particular insurance company;
  - (iv) ensure as far as possible that the policy proposed is suitable to the needs and resources of the prospective policyholder;
  - (v) give advice only on those insurance matters in which he is knowledgeable and seek or recommend where not competent other specialist advice (including that provided by an insurance company);
  - (vi) treat all information supplied by the prospective policyholder as completely confidential to himself and to the company or companies to which the business is being offered; and
  - (vii) execute clients' instructions promptly and in a timely fashion.
- (b) A registered insurance intermediary shall not -
  - (i) inform the prospective policyholder that his name has been given by another person, unless he is prepared to disclose that person's name if requested to do so by the prospective policyholder and has that person's consent to make that disclosure.
  - (ii) make inaccurate unsubstantiated or unfair criticism of any insurer;
  - (iii) make comparisons with other types of policy unless he makes clear the differing characteristics of each policy.

## **2. Explanation of the contract**

A registered insurance intermediary shall -

- (i) identify the insurance company;
- (ii) explain all the essential provisions of the cover afforded by the policy, or policies, which he is recommending, so as to ensure as far as possible that the prospective policyholder understands what he is buying;
- (iii) draw attention to any restrictions and exclusions applying to the policy;
- (iv) if necessary, obtain from the insurance company specialist advice in relation to items (ii) and (iii) above;
- (v) not impose any charge in addition to the premium required by the insurance company without disclosing the amount and purpose of such charge; and
- (vi) disclose his commission on request.

## **3. Disclosure of underwriting information**

A registered insurance intermediary shall, in obtaining the completion of the proposal form or any other material -

- (i) avoid influencing the prospective policyholder and make it clear that all the answers or statements are the latter's own responsibility; and
- (ii) ensure that the consequences of non-disclosure and inaccuracies are pointed out to the prospective policyholder by drawing his attention to the relevant statement in the proposal form and by explaining them himself to the prospective policyholder.

## **4. Accounts and financial aspects**

A registered insurance intermediary shall -

- (i) keep proper account of all financial transactions with a prospective policyholder which involve the transmission of money in respect of insurance, such money to be held in a designated client's account;
- (ii) acknowledge receipt (which, unless the intermediary has been otherwise authorised by the insurance company, shall be on his own behalf) of any payment received in cash form in connection with an insurance policy and shall distinguish the premium from any other payment included in the transaction; and
- (iii) remit any monies collected in strict conformity with any agency agreement in place.

## **5. Documentation**

A registered insurance intermediary shall not withhold from the policyholder any written evidence or documentation relating to the contract of insurance.

## **6. Existing policyholders**

A registered insurance intermediary shall abide by the principles set out in this Code to the extent that they are relevant to his dealings with existing policyholders.

## **7. Claims**

If the policyholder advises the registered insurance intermediary of an incident which might give rise to a claim, the intermediary shall inform the company without delay, and in any event within three working days, and thereafter give prompt advice to the policyholder of the company's requirements concerning the claim, including the provision as soon as possible of information required to establish the nature and extent of the loss. Information received from the policyholder shall be passed to the company without delay.

## Appendix 1

Details to be supplied with applications for registration and renewal of registration as a general insurance intermediary

1. Name .....
2. Principal business address .....
3. If a company, state :
  - a) date and number of incorporation .....
  - b) authorised share capital .....
  - c) issued share capital .....
  - d) paid up share capital .....
4. Staff numbers at date of application and estimates for the following three years hence, split between
  - a) managerial .....
  - b) professional/trainees .....
  - c) secretarial/clerical .....
5. State the name and address of:
  - a) the business's Auditors .....
  - b) the business's Bankers .....
6. Name of the senior person in the Isle of Man responsible for the good conduct of the business. ....

In making this application to be registered as a general insurance intermediary I submit the following documents:

1. Copy of the business's audited accounts for the most recent past year
2. Proof that the requirements of regulation 6 (professional indemnity insurance) are satisfied
3. Controller, Director or Chief Executive questionnaires (in respect of initial applications only) and declare that the information given is correct to the best of my knowledge and belief.

Date .....

Signed .....  
(State the capacity in which this application is made)