

Statutory Document No. 0735/2012



*Insurance Act 2008*

## **INSURANCE INTERMEDIARIES (GENERAL BUSINESS) (AMENDMENT) REGULATIONS 2012**

*Laid before Tynwald:*

*Coming into Operation:*

*1 March 2013*

The Insurance and Pensions Authority, having consulted the Treasury and such other organisations and persons as appear to it to be likely to be affected, makes the following Regulations under section 50 of the Insurance Act 2008.

### **1 Title**

These Regulations are the Insurance Intermediaries (General Business) (Amendment) Regulations 2012.

### **2 Commencement**

These Regulations come into operation on 1 March 2013.

### **3 Amendment to the Insurance Intermediaries (General Business) Regulations 1999**

The Insurance Intermediaries (General Business) Regulations 1999<sup>1</sup> are amended in accordance with the following provisions.

### **4 Regulation 9 substituted**

For regulation 9 substitute –

#### **9 Exemptions**

- (1) The following classes of insurance intermediary are exempted from the requirement to register under the Act –

<sup>1</sup> SD 88/99

Price £0.80 (£0.96 inclusive of VAT)

- (a) persons acting as an intermediary only in respect of long-term insurance;
  - (b) persons arranging insurance that covers the risk of loss or damage to goods or services provided by the person if the person's 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 (of Parliament); and
    - (ii) is not ordinarily resident in the Island.
- (2) A person acting as an intermediary is exempted from regulations 3, 4, 5, 7 and 10 –
- (a) only in respect of long term insurance; and
  - (b) if the person is the holder of a licence issued by the Financial Supervision Commission under section 7 of the Financial Services Act 2008 permitted to conduct regulated activities falling within Class 2 (investment business) subclasses (3) and (7) of Schedule 1 to the Regulated Activities Order 2011<sup>2</sup>.
- (3) However, if the person also carries on insurance intermediation business that is not long term insurance, the exemption under paragraph (2) does not apply.
- (4) In this regulation “long term insurance” has the meaning assigned by the Regulated Activities Order 2011 save that for paragraphs (2) and (3) that definition has effect without the exclusions in paragraphs (a) to (d) of the definition. **22**.

## 5 Regulation 10 amended

Renumber the existing text of regulation 10 (audit) as paragraph (1) and after that text insert –

- 23**(2) A copy of the audited annual accounts of every registered insurance intermediary shall be produced to the Supervisor within 21 days after the date of the meeting at which the accounts were approved by the board of directors and in any event within 6 months after the close of the year to which they relate.
- (3) In the case of persons who are registered insurance intermediaries at 1 March 2013, paragraph 2 need not be complied with until 31 May 2013. **24**

<sup>2</sup> SD 0884/11

**6 Schedule 2 substituted**

For Schedule 2 substitute the Schedule to these Regulations.

MADE 12 December 2012

Peter Pell-Hiley

**P. F. PELL-HILEY**  
*Chairman, Insurance and Pensions Authority*



**SCHEDULE**

[Regulation 6]


**SCHEDULE 2 SUBSTITUTED**

**▣ SCHEDULE 2**

[Regulation 6]

**PROFESSIONAL INDEMNITY INSURANCE**

- (1) The contract of professional indemnity insurance must incorporate terms that make provision for the following in respect of the insured.
- (2) The policy must 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;
    - (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;
  - (b) against awards of the Ombudsman made against the insured;
  - (c) against claims in connection with the business in respect of legal liability incurred by reason of loss of documents for which the insured is responsible and costs and expenses incurred in replacing or restoring such documents; and
  - (d) against legal defence costs.
- (3) The policy must at inception and at each renewal date provide the following —
  - (a) subject to sub-paragraph (b), minimum limits of indemnity in respect of each and every loss and aggregate per year of £1,000,000 in respect of the covers required under paragraph (2)(a) to (c), or such higher amounts as appropriate to the nature and size of the business undertaken by the insured; and
  - (b) legal defence costs in addition to the limits of indemnity referred to in paragraph (3)(a) as appropriate to the nature and size of the business undertaken by the insured.

- (4) A maximum policy excess in respect of any one loss must be no higher than an amount that is capable of being met by the insured.
- (5) In this Schedule –
- “award” means any financial award and the cost of taking any steps that the insured is required by the Ombudsman to take in relation to a complainant;
- “business” means the business of the insured;
- “insured” means the registered insurance intermediary or person exempt under regulation 9(2);
- “Ombudsman” means the Isle of Man Financial Services Ombudsman Scheme and any other equivalent ombudsman service whose awards, if made against the insured, the insured would be obliged to pay; and
- “policy” means the contract of professional indemnity insurance.
- (6) In the case of persons who are registered insurance intermediaries, or persons who are exempt under regulation 9(2), at the date of the coming into operation of the Insurance Intermediaries (General Business) (Amendment) Regulations 2012, this Schedule need not be complied with until the date of the registered insurance intermediary’s next renewal of its professional indemnity insurance following 1 March 2013. .

#### *EXPLANATORY NOTE*

*(This note is not part of the Regulations)*

These Regulations amend the Insurance Intermediaries (General Business) Regulations 1999.

Under these regulations persons licensed by the Financial Supervision Commission to give advice on and/or arrange deals in relation to long-term insurance contracts which contain an investment element, are exempted from the requirement to register as an insurance intermediary with the Insurance and Pensions Authority to carry on intermediation activity in relation to long-term insurance contracts without an investment element (*regulation 4*).

In addition, in respect of registered insurance intermediaries, these regulations introduce submission timeframes for audited accounts (*regulation 5*) and update the requirements for professional indemnity insurance (*regulation 6* and *Schedule*).