

Offshore Insurance Regulations 1992

GN 127/1992

Repealed by [GN No. 13 of 2001]

Regulations made by the Minister under section 36 of the Mauritius Offshore Business Activities Act 1992

1. These regulations may be cited as the Offshore Insurance Regulations 1992.

2. In these regulations-

"captive insurance business" means insurance business where the insured is a related corporation of the insurer;

"insurance business"

(a) means the business of undertaking liability, by way of insurance, including reinsurance-

(i) to protect persons against loss or liability in respect of risks to which the persons may be exposed; or

(ii) to pay a sum of money or other thing of value upon the happening of an event; and

(b) includes captive insurance business;

"insurer" means an offshore company conducting insurance business;

"policy-holder" in relation to an insurance policy, means the person who is entitled to enforce any benefit provided for in the policy;

"reinsurance" means a contract whereby an insurer insures the risk insured by him, or part of that risk, with another insurer;

"related corporation" has the meaning given to it by section 2 (1) of the Companies Act 1984.

3. (1) Insurance business carried on by insurers shall be classified as-

(a) long term insurance business;

(b) general insurance business'

(2) For the purpose of these regulations-

(a) "long term insurance business" means insurance business of any or substantially any one of the following classes-

- (i) life assurance business;
- (ii) pension business; or
- (iii) permanent health insurance business;

(b) "general insurance business" means insurance business other than long term insurance business.

(3) The classes of insurance business are defined in accordance with First Schedule.

(4) The undertaking of liability under a contract whose principal object is life assurance business shall be taken to constitute the carrying on of that business, and no other, notwithstanding that the contract contains subsidiary provision giving cover for accident or disability benefits, or both.

(5) The reinsurance of risks under a contract of insurance shall be treated as insurance business of the class to which the contract would have belonged if it had been entered into by the reinsurer.

4. No insurer shall-

- (a) carry on insurance business unless it has a paid up share capital of not less than the amount set out in the second column of the Second Schedule in respect of the type of insurance business specified in the first column;
- (b) transfer or amalgamate any of its insurance business without the approval of the Authority.

5. (1) Every insurer shall-

- (a) have and maintain the margin of solvency determined in accordance with this regulation; and
- (b) shall furnish to the Authority at the end of its financial year a certificate of solvency in the form set out in the Third Schedule in accordance with the type of insurance business that is carried on.

(2) Where the margin of solvency of an insurer is less than that required under paragraph (1), the insurer shall-

- (a) make good the deficiency without delay;
- (b) not assume any new risks unless the deficiency is made good.

(3) Any risks assumed in contravention of paragraph (2) shall be null and void.

(4) No insurer shall declare, distribute or pay any dividend-

- (a) where its margin of solvency is less than that required under paragraph (1);
- (b) where the effect of such declaration, distribution or payment would be to reduce its margin of solvency to less than that required under paragraph (1).

(5) The minimum margin of solvency of an insurer shall be determined as follows-

- (a) in the case of an insurer carrying on general insurance and reinsurance business, the value of its admitted assets shall exceed the amount of its admitted liabilities by not less than US \$200,000 or 15% of the premium income, net of reinsurance premiums in the preceding financial year, whichever is the higher;
- (b) in the case of an insurer carrying on captive insurance business, the value of its admitted assets shall exceed the amount of its admitted liabilities by not less than US \$ 100,000 or 15% of the premium income net of reinsurance premiums, in the preceding financial year, whichever is the higher;
- (c) in the case of an insurer carrying on long term insurance business, the amount of its admitted liabilities in respect of policies issued shall not exceed the amount of its long term insurance fund, as certified by the insurer's actuary.

(6) For the purpose of calculating the margin of solvency under paragraph (5)-

(a) "admitted assets of an insurer" means any property, security, item or interest owned by it but shall not include-

- (i) an asset that is mortgaged or charged for the benefit of a person other than the insurer, to the extent that it is so mortgaged or charged;
- (ii) a loan to, debenture of, or share in any related corporation;
- (iii) an unpaid premium that has become due to the insurer more than 1 year previously;
- (iv) an intangible asset;
- (v) operational assets, including supplies, furniture, motor vehicles, office equipment and computers, in excess of their written-down values;
- (vi) prepaid expenses and deferred charges;
- (vii) amounts owed and due by reinsurers for more than 6 months;

(b) admitted liabilities "subject to sub-paragraph (c) means-

- (i) in the case of an insurer carrying on long term insurance business, liabilities shown in the balance sheet and the valuation liabilities as certified by the insurer's actuary;
- (ii) in the case of an insurer carrying on general insurance business, liabilities shown as current contingent or prospective liabilities in the accounts of the insurer in respect of policies issued;

(c) "admitted liabilities" shall not include-

(i) a liability in respect of share capital or a reserve in lieu of capital approved by the Authority;

(ii) a liability in respect of such matters as the Authority may by notice in writing direct.

(7) An insurer shall make adequate provision in his accounts for liabilities in respect of unexpired risks,, outstanding aria incurred claims, including provisions for claims incurred but not reported, computed in accordance with internationally approved methods.

(8) An insurer who carries on long term insurance business and another class of insurance business, shall maintain and keep separate the relevant margin applicable to each class.

6. (1) An insurer carrying on long term insurance business shall, not less than once every 3 years, cause an investigation into its financial position to be made by its actuary.

(2) An investigation under paragraph (1) shall include-

(a) a valuation of the liabilities of the insurer attributable to the insurer's long term insurance business;

(b) a determination of any excess over those liabilities of the assets representing the fund or funds maintained by the insurer in respect of that business, and where any rights of any long term insurance policy-holders to participate in profits relate to particular parts of a fund, a determination of any excess of assets over liabilities in respect of each of those parts.

(3) A copy of the report of the actuary shall be submitted to the Authority within 6 months after the period to which the investigation relates.

(4) The actuary's report shall include-

(a) a statement of the valuation basis used;

(b) a statement showing the extent to which account has been taken of the nature and term of the assets available to meet the liabilities valued;

(c) the actuary's opinion on the value of the assets mentioned in item (b);

(d) a list of the assets so mentioned and their values, giving any equities held separately; and

(e) a consolidated revenue account for the period covered by the report.

(5) The basis of valuation adopted shall be such as to place a proper value upon the liabilities having regard to the mortality experience among the persons whose lives have been insured by the insurer, to the average rate of interest from investments and the expenses of management, including commission, and shall be such as to ensure that no policy is treated as an asset.

(6) Where, after an investigation, there is established a surplus which the actuary has recommended as available for distribution, the insurer shall not transfer or otherwise apply assets representing any part of that surplus unless the insurer has allocated to policy-holders of participating policies at least 90 per centum of that surplus.

7. (1) Every insurer carrying on long term insurance business shall have and maintain a long term insurance fund.

(2) An insurer shall pay a monies received in respect of any class of long term insurance business carried on by it into an appropriately named sub-fund of the long term insurance fund.

(3) The long term insurance fund of an insurer shall not be liable or chargeable for or in respect of any contract or transaction of the insurer other than that of the long term insurance business carried on by the insurer, and shall not be applied directly, or indirectly for any other purpose.

FIRST SCHEDULE
(regulation 3)

For the purpose of determining the classes of long term insurance business and of general insurance business under regulation 3-

"life assurance business" means the business of undertaking liability under contracts upon human life or contracts to pay annuities on human life,, but excludes permanent health insurance business and personal accident insurance business;

"pension business" means the business of effecting and carrying on of-

(a) contracts to manage pension funds or the investment of pension funds;

(b) contracts of the kind mentioned in paragraph (a) that are combined with contract of insurance covering either conservation of capital or payment of a minimum interest; or

(c) contracts on a group basis to provide pensions during the lifetime of employees as from their retirement and to their dependants should they die in service or on pension;

"permanent health insurance business" means the business of undertaking liability under contracts to provide specified benefits against risks of persons becoming incapacitated in consequence of sustaining injury as a result of an accident or of an accident of a specified class or of sickness or infirmity, being contracts that either are not expressed to be terminable by the insurer, or are expressed to be so terminable only in special circumstances mentioned in the contract;

"personal accident insurance business" means the business of undertaking liability under contracts, otherwise than incidentally on a contract whose principal object is some other class of insurance business, to pay a certain sum or certain sums of money to, or provide any other benefit for a particular person in the event of an accident or sickness causing the death or injury or disability of a particular personal.

SECOND SCHEDULE
(regulation 4)

Minimum paid up Share Capital

Type of Insurance Business	Amount
General Insurance Business	US \$ 200,000 or equivalent in another currency
Long Term Insurance Business	US \$ 250,000 or equivalent in another currency
Reinsurance Business	US \$ 300,000 or equivalent another currency
Captive Insurance Business	US \$ 100,000 or equivalent another currency

THIRD SCHEDULE
(regulation 5 (1) (b))

FORM A

Certificate as to solvency of an insurer who carries on long term insurance business

I hereby certify that to the best of my knowledge and belief the admitted liabilities as at in respect of policies issued under each class of long term insurance business by do not exceed the amount of the respective insurance

Date

.....
Actuary of Insurer name and Signature

FORM B

Certificate as to solvency of an insurer who carries on general insurance business

We hereby certify that to the best of our knowledge and belief, the value of the admitted assets as at..... in respect of all classes of general insurance business carried on by

.....exceeds the amount of the admitted liabilities (calculated in accordance with regulation 5 of the Offshore Insurance Regulations 1992) in respect of those classes of insurance business by the prescribed amount.

.....
Chairman name and Signature

.....
Director name and Signature

.....

.....
Insurance Manager
(as applicable)
Name and Signature

.....

Auditor name and Signature

Date