

INTRODUCTION

1. The Isle of Man Government is fully committed to encouraging the development of insurance business carried on from within the Island provided it is properly managed and adequately financed.
2. Government control is exercised by the Insurance Supervisor who is charged with the general administration of the Insurance Act 1986 and Regulations issued thereunder but is subject to any Directions that may be issued by the Insurance and Pensions Authority.
3. These notes set out the essential features of the Act, the Regulations and those Directions which are not specific to individual cases.
4. By Section 3 of the Act no one may carry on an insurance business in or from the Island and no Isle of Man company may carry on an insurance business outside the Island unless
 - (a) specifically authorised by the Insurance Supervisor, or
 - (b) the holder of a permit issued under Section 25 of the Act (see para 38) or
 - (c) exempted by the Regulations (see para 40)

SUBMISSION OF THE APPLICATION

5. An application for authorisation by the Insurance Supervisor may only be submitted by or on behalf of a company incorporated or to be incorporated in the Isle of Man.
6. Persons intending to apply for authorisation are advised to study the Act and Regulations before filing an application which should normally be submitted at least one month before the date on which it is desired to commence business.
7. The application should be on the form prescribed which must be signed by the promoter(s) or, in the case of an established company, two directors and be accompanied by the documents and information specified.
8. The Insurance Supervisor is prepared to discuss or give advice on a draft application or possible problems in completing an application and/or business plan.

REQUIREMENTS FOR AUTHORISATION

9. Before granting authorisation to a company the Insurance Supervisor must be satisfied on the basis of the application submitted and other information received that
 - (a) the company has been incorporated
 - (b) the Memorandum and Articles of Association are appropriate for the business to be carried on
 - (c) the ultimate beneficial interests in all shareholdings of the company that exceed 10 % of its issued capital have been disclosed
 - (d) the minimum capital or guarantee requirement (see para 16) has been paid up
 - (e) the company has adequate financial resources to support the business described in the application and provide the requisite margin of solvency (see para 20) during the first three years of operation
 - (f) reinsurance support is adequate, appropriate to the class(es) of business, prudently placed and properly spread. If the applicant intends to reinsure with its holding company, details of that company's reinsurance arrangements may be required
 - (g) the net premium retention after reinsurance will be not less than 15 % of the total premium written, unless the Authority agrees to a lower percentage in a particular case
 - (h) the company will not be operating solely or primarily as a "front" to earn risk-free income for itself or any connected party

- (i) the controllers, directors, chief executive and managers of the company are fit and proper persons to hold the positions concerned and collectively have the technical competence to carry on the classes of insurance business for which authorisation is sought. It is normally a requirement that at least two of the directors of the company will be resident in the Isle of Man or that the company is managed by a body registered under the provisions of Section 27 of the Act (see paras 34 and 35)
- (j) proper records, books of account and other documents appropriate to the business will be maintained on the Island and be available for inspection and investigation by the Insurance Supervisor or his appointed agent if he so wishes
- (k) the appointed auditors have experience of insurance business, carry professional indemnity insurance for not less than £10 million and have accepted the appointment
- (l) if the company is to carry on long-term business an actuary has been appointed and has agreed to the appointment

CLASSES OF BUSINESS

10. The categories and classes of insurance business for which authorisation may be applied are –

Category	Class	Description
Long-term	1	Linked long-term
	2	Long-term (other than linked)
General	3	Marine, Aviation & Transport
	4	Property (other than Classes 3 or 5)
	5	Motor
	6	Pecuniary Loss
	7	Liability (other than Classes 3 or 5)
	8	Credit & Suretyship
	9	Personal Miscellaneous including Accident, Health, Disability and such other insurance of a personal nature as is not, or is deemed by Regulations not to be, long-term business
Reinsurance	10	Reinsurance only of Classes 1 and 2
	11	Reinsurance only of Classes 3 to 9
Restricted	12	Contracts which are within classes 1 to 11 and are with related companies or members of a common industry or association or are within classes 10 or 11 and are with bodies corporate where the original insured is a body corporate which is a related company

11. Authorisation will not usually be granted to carry on both long-term and general business unless
- (a) the long-term business is restricted to reinsurance under Class 10, or
 - (b) the general business is restricted to Class 9, or
 - (c) both long-term and general business are within the restrictions of Class 12

BUSINESS PLAN

12. (a) **General Business and Restricted Long-Term Business**

In deciding whether an applicant has adequate financial resources to support the general business proposed, the Insurance Supervisor will require to examine a 3 year Business Plan indicating –

- (A) for each class of general business (including individual classes within Class 12)
 - (i) maximum net retention per risk or event and in aggregate after all reinsurance ceded based on –
 - (a) policy limits, or
 - (b) estimated maximum loss (if applicable and less than 65% of policy limits)

- (ii) reinsurance programme stating
 - (a) type of reinsurance contract(s)
 - (b) threshold and limit any one risk/event and in aggregate
 - (c) basis of premium payable and commission receivable
 - (d) names of reinsurers writing individually (or together with associated companies) 10% or more of any contract and their percentage lines
 - (iii) projected annual premium, gross and net of reinsurance
 - (iv) projected claims, gross and net of reinsurance, showing net amounts
 - (a) paid in year
 - (b) outstanding at each year end (reported claims)
 - (c) IBNR provisions at each year end
 - (B) projected Cash Flow stating interest rate and other assumptions used including the claims "run off" pattern by class of insurance
 - (C) projected Revenue or Fund Account(s)
 - (D) projected Profit & Loss Account
(or Income and Expenditure Account for a company not trading for profit)
 - (E) projected Balance Sheet
 - (F) A statement of the principal assumptions on which the Business Plan has been prepared
- } giving the details required in the prescribed formats to the extent they are relevant

12. (b) **Long Term Business (Other Than Restricted)**

In deciding whether an applicant has adequate financial resources to support the long-term business proposed the Insurance Supervisor will require to examine a 3 year Business Plan which should be updated and re-presented each year with the annual returns, indicating -

- (A) for each type of product within each class of long-term business (excluding such business within Class 12) which the applicant intends to sell within the period of the plan, estimated new business premium volumes and a profit profile showing -
 - (i) emerging cash strains and surpluses, monthly for at least the first two years and annually for the rest of the lifetime of the product. It should be assumed that initial and renewal expenses are equal to the corresponding expense loadings
 - (ii) the breakdown of any initial strains between indemnity commission, valuation strain and solvency margin requirement
 - (iii) a discounted present value
 - (iv) the assumptions made
- (B) For each class of long-term business, details of reinsurance arranged or to be arranged, including names of reinsurers
- (C) Projected cash flow showing -
 - (i) the consolidation of the individual product profit profiles and the estimated new business premium volumes, with initial and renewal expenses being shown separately
 - (ii) if initial expenses are expected to exceed the corresponding expense loadings, the expected excess
 - (iii) if renewal expenses are expected to exceed the corresponding expense loadings, the expected excess
 - (iv) fixed expenses
 - (v) other adjustments, including any allowances for reinsurance
 - (vi) the assumptions made

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| <ul style="list-style-type: none"> (D) Projected long-term Business Fund (E) Projected Profit and Loss Account (F) Projected long-term Balance Sheet (G) Projected Balance Sheet (H) A statement of the principal assumptions on which the Business Plan has been prepared. | } | <p>giving the details required in the prescribed formats to the extent they are relevant</p> |
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13. Authorisation will be restricted to those classes for which a projected Revenue or Fund Account has been submitted.
14. The appointed auditors are required to confirm that they consider the information provided in the Business Plan to have been properly prepared on the basis of the assumptions stated. If the company is to carry on long-term business, the appointed actuary is required to confirm that he considers the financing of the company to be sufficient to cover both technical reserves and the required margin of solvency and that he agrees with the information provided in the Business Plan in so far as it relates to long-term business.
15. When the projected claims experience for a class is more favourable than the ratio to net premium income normally expected on the basis of U.K. market experience, supporting justification, such as actual claims statistics for the risks to be insured, should be provided.

FINANCING

16. The minimum requirements for paid up share capital or, in the case of a mutual, the guarantee fund depend on the classes of insurance for which authorisation is granted and are as follows:–

Classes 1 and/or 2	£500,000
Classes 3 to 9	£150,000
Classes 10 and/or 11	£100,000
Class 12	£ 50,000
17. However, an applicant (other than a mutual) is required to have initial financial resources sufficient
 - (a) to support the business proposed, allowing for projected capital expenditure, investment losses, bad debts and possible variation in the projected operating results or, in the case of life companies, new business and expense strain, and
 - (b) to provide the requisite margin of solvency during the three years following authorisation.
18. As a general rule the minimum capital requirement plus 10% of the difference between that requirement and the initial requirement, as determined by the Insurance Supervisor on the basis of the Business Plan, must be paid up in cash and deposited with an Isle of Man bank authorised under the Banking Act 1975. Except for the purchase of I.O.M. or U.K. Government Securities no transfer of or reduction in the required bank deposit may be made without the prior written consent of the Insurance Supervisor. The balance of the said initial requirement should be represented by admissible assets which may include an irrevocable letter of credit or independent guarantee acceptable to the Supervisor in support of uncalled capital or to provide for exceptional circumstances.
19. A mutual is required to satisfy the Insurance Supervisor that its rules, membership and limits of liability are such that its members would be able to make such contributions as may be necessary to maintain or reconstitute the solvency margin requirement, inclusive of the minimum guarantee fund which is required to be held in an authorised Isle of Man bank.

SOLVENCY MARGINS

20. A company is required to maintain at all times a minimum margin of solvency calculated as follows:-

Class 1	¼%	} of actuarial value of liabilities assumed net of reinsurance but not less than £500,000
Class 2	1%	
Classes 3 to 9	15%	of net premium written but not less than £150,000
Classes 10 and/or 11	£100,000	
Class 12	£50,000	plus 10% of net premium written (of general business) up to £2m, and 5% of net premium written (of general business) in excess of £2m, plus £100,000 if long-term business written.

The solvency margin requirement for a company carrying on both long-term and general business (other than by a restricted Class 12 authorisation) is the sum of that required for each category.

21. The format for calculating the solvency margin of a company, including details of non-admissible assets, is given in Schedule 7 of the Regulations (See Appendix A).

STATUTORY RESERVE

22. Until 30th December 1996 a special feature of the Isle of Man's regulations was the statutory reserve provisions. These required an insurer with an exposure ratio greater than 25% to put aside an additional reserve. The reserve can be released only in respect of exceptionally large claims or when the exposure ratio drops below 100%. In the latter case, distributions are allowed, provided they do not cause the margin of solvency of the insurer to fall below that required by the Insurance Act 1986, with the permission of the Insurance Supervisor.

23. The requirement to make transfers to the statutory reserve was abolished with effect from 30th December 1996.

24. The regulations in respect of transfers from the reserve still apply to existing reserves which had been put aside before that date.

ACCOUNTS

25. Every authorised insurer is required by Section 12 of the Act to submit to the Insurance Supervisor within 21 days after the date of the meeting at which the accounts were approved and in any event within six months after the close of the year to which they relate, a copy of its audited accounts to shareholders in the format prescribed by Regulations and supplemented as stated in para 28 below.

26. It should be noted that the disclosure exemptions available to insurance companies under the I.O.M. Companies Act have been revoked and replaced by a specific exemption which permits authorised insurers to include undisclosed reserves in provisions for claims or in general business or long-term business insurance funds provided the existence of any such reserves is disclosed in the accounts, whether or not the reserves are included in the calculation of solvency (Regulation 6 refers).

27. If the insurer carries on long-term business the annual accounts must incorporate a certificate from the appointed actuary that in his opinion the aggregate amount of liabilities in respect of long-term business as at the balance sheet date does not exceed the amount stated in the balance sheet as representing the Long Term Business Fund.

SUPPLEMENTARY INFORMATION FOR SUPERVISORY PURPOSES

28. The directors of a company are required to annex to its annual accounts, for submission to the Insurance Supervisor, such of the supplementary information prescribed by Regulations as may be relevant. This includes analyses of business written, claims run off, net retention, reinsurance arrangements, letters of credit and calculation of the solvency margin.

The directors are required to certify the information submitted and the auditors are required to report that, in their opinion and according to the information and explanations they have received,

- (i) all of the prescribed information as is relevant has been properly prepared and submitted, and
- (ii) it was reasonable for the persons giving the certificate to have made the statements to which it relates.

QUARTERLY STATEMENTS

29. Every authorised insurer is required to submit to the Insurance Supervisor, within three months of each quarter end, a statement that includes the following, at or for the year to date -

For General Business and Restricted Long-term Business

- (a) premiums written, gross and net of reinsurance
- (b) commission and other expenses
- (c) claims paid/benefits payable, net of reinsurance
- (d) reported claims outstanding
- (e) amounts due from reinsurers
- (f) cash balances including deposits
- (g) value of investments
- (h) details of any material change, made or projected, in business written, net retentions or reinsurance ceded from the information last provided.

For Long-Term Business (Other Than Restricted)

- (a) premiums written, gross and net of reinsurance, sub-divided by the separate products identified in the business plan
- (b) commission and expenses
- (c) details of any material change in any aspect of the business since the previous annual returns
- (d) a profit profile, as defined in GN12(b), for any product which is planned to be introduced before the next annual return
- (e) cash balances including deposits
- (f) value of investments.

These requirements may be waived, at the Supervisor's discretion, when audited accounts have been submitted for at least three years.

FEES

30. A registration fee of £1,500 and the initial business fee, calculated pro rata from the date of authorisation to 5th April next, is payable on notification that authorisation has been granted.

31. The annual business fee payable on or before the 6th April each year is, in the case of an insurer which is authorised to carry on insurance business within classes 1 and 2, £10,000; or, in the case of any other insurer, £3,000. These fees are payable whether or not the company applies for tax exemption under the Income Tax (Exempt Insurance Companies) Act 1981 (for which there is no fee).

CONTROL

32. The ownership and the ultimate beneficial interests in the ownership of a company must be fully disclosed to the Insurance Supervisor if not stated on the application form. This includes any person who has power to secure that the affairs of the company are conducted in accordance with his wishes or is able to control, directly or indirectly, the exercise of one third or more of the voting power at any general meeting of the company. Ownership by a discretionary trust is not acceptable.

MANAGEMENT

33. If management of a company is to be exercised solely by the directors and controllers it is normally a requirement that at least two of the directors will be resident in the Isle of Man. Staffing must be adequate and competent for the business conducted.
34. Section 27 of the Act requires any person, not being an employee of an insurer, who provides management services for one or more insurers or who holds himself out as a manager in relation to one or more insurers to apply for registration as an insurance manager unless such services are limited to the keeping of insurance business accounts for an authorised insurer or registered insurance manager.
35. (a) If the company appoints a registered insurance manager to carry out the day to day management and that person or body is considered competent to act in such capacity for the business conducted, the Insurance Supervisor may agree to a reduction in the number of directors otherwise required to be resident in the Island.
35. (b) Whether the management of the company is exercised by a registered insurance manager or otherwise, those business activities conducted by (or on behalf of) a company and from which the company generates its profits must be substantially controlled from and carried out in the Isle of Man. Normally such activities will include
- (i) new business processing and the determination of terms;
 - (ii) the acceptance and maintenance of all insurance contracts;
 - (iii) the processing of claims and policy redemptions;
 - (iv) statutory reporting, financial and actuarial;
 - (v) the management and collection of premiums;
 - (vi) bank account and cash control.

Accommodation and systems must be sufficient to enable these functions to be performed in the Isle of Man. Staffing must be adequate and competent.

35. (c) Consistent with sound corporate management, agreements by a company with a registered insurance manager will require to evidence that adequate operational arrangements are in place and governed by the law of the Isle of Man.

DECISION ON THE APPLICATION

36. The Insurance Supervisor will advise the applicant in writing whether or not authorisation will be granted and, if so, the conditions if any that will be imposed. If the decision is not to grant authorisation the applicant will be told the general nature of any reason so that, if changes can be made, a new application may be submitted.

ISSUE OF AUTHORISATION

37. When the Insurance Supervisor is satisfied that the applicant has complied with all requirements the authorisation will be issued and sent by post to the applicant or the appointed manager. Receipt should be acknowledged in writing and the Insurance Supervisor should be advised of the date on which business in each class is commenced and the date on which the first financial year will end. Failure to commence a class of business within one year from the date of authorisation may result in the authorisation for that class being withdrawn.

PERMIT HOLDERS

38. An insurance company incorporated outside the Isle of Man may apply to the Insurance Supervisor under Section 25 of the Act for a permit to carry on insurance business from an establishment on the Island.

39. A permit will not be granted unless the Supervisor is satisfied that –

- (a) the company is authorised to carry on the same or equivalent class or classes of insurance in the U.K., or
- (b) the company is carrying on insurance business in a country other than the Island and the U.K. in accordance with the laws of that country, and that the business is adequately supervised in that country, or
- (c) the company –
 - (i) could be authorised under Section 6 of the Act but for its incorporation outside the Island, and
 - (ii) will comply with all the provisions of the Act and the Regulations made thereunder as apply to an authorised Manx insurer (subject to such exceptions, adaptations and modifications as may be specified).

EXCEPTION BY REGULATION

40. Section 3 of the Act does not apply to –

- (a) industrial assurance business carried on by a Friendly Society registered under the enactments relating to such societies
- (b) insurance business carried on by a trade union or employers' association and limited to the provision of provident benefits or strike benefits to its members
- (c) general business within Classes 6 (pecuniary loss) or 8 (credit and suretyship) carried on solely in the course of and for the purpose of banking business
- (d) an insurer authorised by the U.K./E.U. that does not have a fixed place of business on the Island
- (e) a person who is a member of the Society incorporated by the Lloyd's Act 1871 in respect of insurance business carried on as such a member.

EXEMPTION FROM INCOME TAX

41. A company applying for authorisation or permission to carry on insurance business in or from the Isle of Man may apply, through the Insurance Supervisor, under the provisions of the Income Tax (Exempt Insurance Companies) Act 1981 for exemption from liability to tax on profits or income and in respect of payment to non-residents of dividends, interest, share of profit or remuneration of directors.

42. A company seeking exemption from tax will need to satisfy the Assessor that its underwriting profits and losses arise from risks outside the Island and its other profits and income arise outside the Island or from approved financial institutions or approved investment companies in the Island. Companies may be exempted from this requirement by the Treasury if income arises from the underwriting of risks within the Island which, in relation to the company's total business, may be regarded as insignificant.

VALUE ADDED TAX

43. (a) VAT applies in the Isle of Man on the same basis as in the U.K. Services by authorised or permitted insurers in the I.O.M. are normally exempt or zero-rated depending on whether the policyholder (or other client) “belongs” within or outside the E.U.
- (b) Services supplied to an I.O.M. insurer by a management company in the Island or elsewhere may be partly standard rated and partly exempt whilst some specific services if performed abroad may be zero-rated. Recovery by an I.O.M. insurer of input tax is dependent on its status but is generally limited to the tax attributable to its taxable supplies i.e. other than exempt.
- (c) Any query on VAT by an applicant should be addressed to the nominated manager, accountant or advocate.

NAME OF COMPANY

44. Application for name approval should be made to the Registrar who will refer to the Insurance Supervisor.

REDOMICILIATION TO THE ISLE OF MAN

45. (i) An insurance company incorporated outside the Isle of Man and writing only “captive” business, either direct or as a reinsurer, may apply to the Insurance Supervisor under Section 25A of the Insurance Act 1986 for redomiciliation to the Isle of Man and authorisation to carry on an insurance business within classes 11 and/or 12.
- (ii) Applications for redomiciliation to the Isle of Man should be made to the Insurance Supervisor, but only in respect of the following categories and classes of insurance business and in each instance only in respect of contracts with associated companies or members of a common industry or association.

Category	Class	Description
Reinsurance	11	Reinsurance only of Classes 3 to 9
Restricted	12	Classes 1 to 11

Applications must be made in the forms prescribed and accompanied by copies of the existing memorandum and articles of association, certificate of incorporation, present insurance authorisation (or licence), memorandum of continuance and proposed new articles of association.

The supervisor will require to be satisfied:–

- (a) as to the nature of any existing charges over the applicant’s assets, those that have interest in such charges and that adequate notice has been given and, in the event that consent is given,
- (b) that in all other respects the proposed insurance company satisfies the requirements for authorisation (including business plan, management, directors etc.).

DUTY

46. (i) Duty on share capital is charged on the amount of authorised capital. This is payable at a rate of 1.4% plus £82 with a maximum of £5,000 but a company may issue shares at a premium.
- (ii) In respect of redomiciliation to the Isle of Man, no duty on share capital shall be charged upon registration of the company in the Isle of Man, but once registered, a company will become liable to duty in respect of any increase in the amount of authorised capital.

APPENDIX A

CALCULATION OF SOLVENCY MARGIN

1. The Solvency Margin of an insurer shall be calculated in the manner specified in the following table:-

(A) SHAREHOLDERS' FUNDS AND GENERAL BUSINESS

Shareholders' funds as shown by audited (non-consolidated)		
Balance Sheet (note (i))		X
Undisclosed reserves included in:		
Provision for claims	X	
General business fund	X	
	<hr/>	X
Adjustment of assets to market value (note (ii))		X
		<hr/>
		X
Adjustment on restatement of assets in accordance with Part II of Schedule 7 of the Insurance Regulations 1986		
1. Investments (other than land and buildings)	(X)	
2. Land and Buildings	(X)	
3. Other tangible assets	(X)	
4. Assets subject to charge	(X)	
5. Intangible assets	(X)	
6. Deferred acquisition costs	(X)	
7. Debts	(X)	
8. Unpaid share capital	X	
9. Letters of credit and guarantees (note (iii))	X	
	<hr/>	(X)
Adjusted net assets		X
Required minimum margin for general business (note (iv))		(X)
Excess over required minimum margin		<hr/>
		X

(B) LONG-TERM BUSINESS

Quantified actuarial surplus in long-term business fund (note (v))		X
Surplus from section A (note (vi))		X
		<hr/>
		X
Required minimum margin for long-term business (note (iv))		(X)
Excess over required minimum margin		<hr/>
		X

NOTES

- (i) In the application of this Part to mutual associations, references to "shareholders' funds" and "general business insurance provisions and funds" shall be construed as references to "the sum of the guarantee fund and the reserves" and "the fund available for outstanding and unreported claims" respectively.
- (ii) Where investments or land and buildings are stated in the shareholders' accounts at an amount less than market value, an adjustment to market value may be included in the calculation of adjusted net assets for solvency margin purposes (subject to any restriction on admissibility in accordance with Part II of Schedule 7).
- (iii) Issuing body to be specified.
- (iv) Details of calculation to be shown.
- (v) As certified by the actuary to the insurer.
- (vi) The amount to be entered at this line will, in the case of a company not writing general business, be the amount of the net assets of the company (excluding those attributed to the long-term fund) adjusted in accordance with Part II of Schedule 7.