

Insurance and Reinsurance in the Isle of Man: Overview

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A Q&A guide to insurance and reinsurance in the Isle of Man.

The Q&A gives a high level overview of: the regulatory framework for insurance and reinsurance activities; rules relating to authorisation of insurers and reinsurers and insurance intermediaries; ownership restrictions; ongoing requirements; penalties for non-compliance with regulatory requirements; sales and marketing of insurance/reinsurance services; transfer of risk; reinsurance contracts and risks; contracts and policies; claims; dispute resolution; insolvency; and tax.

Regulatory Framework

1. What is the main legislation and regulatory authorities for insurance and reinsurance activities in your jurisdiction?

Main Legislation

The [Insurance Act 2008](#) (Insurance Act) provides the statutory framework for the regulation of insurance and reinsurance, along with secondary legislation including the [Insurance Regulations 2021](#) (Insurance Regulations) which are the most important regulations of general application.

The main in force legislation and associated guidance can be found on the website of the Isle of Man [Financial Services Authority](#) (FSA) (Legislation and Guidance).

Expected Changes

A second public consultation has recently been undertaken on the Insurance Regulations 2025 (which will replace the Insurance Regulations) and consequential amendments to fee and solvency regulations and binding guidance notes.

Regulatory Authorities

FSA. The FSA regulates financial services generally in the Isle of Man, including insurance (which includes reinsurance). In addition to its functions

as insurance regulator, the FSA is also responsible for administering and enforcing the Island's anti-money laundering and combatting the financing of terrorism legislation.

Information Commissioner. The Isle of Man Information Commissioner (Information Commissioner) is responsible for administering and enforcing the [Data Protection Act 2018](#), under which the following have been applied in the Isle of Man:

- Regulation (EU) 679/2016 on the protection of natural persons with regard to the processing and free movement of personal data (General Data Protection Regulation (GDPR)).
- Directive (EU) 2016/680 on the protection of natural persons with regard to the processing of personal data by competent authorities (Law Enforcement Directive).

2. Which types of insurance and reinsurance activities and insurers are regulated in your jurisdiction?

Insurance and Reinsurance Activities

Except where an exemption from regulation is available (see Question 5), a person carrying on or holding itself out as carrying on an insurance or reinsurance business in or from the Isle of Man requires authorisation (in the case of a local insurer) or permission (in the case of a foreign insurer) from the FSA.

Authorised (re)insurers can only carry on insurance business within the specific classes of insurance business for which they are authorised.

Regulation 3(3) of the Insurance Regulations lists the available classes of insurance and reinsurance business:

- **Long-term.** This includes the following classes:
 - Class 1 – linked long-term; and
 - Class 2 – long-term (but excluding classes 1 and 9).
- **General.** This includes the following classes:
 - Class 3 – marine, aviation and transport;
 - Class 4 – property; (excluding classes 3 and 5);
 - Class 5 – motor;
 - Class 6 – pecuniary loss;
 - Class 7 – liability; (excluding classes 3 and 5);
 - Class 8 – credit and suretyship; and
 - Class 9 – personnel miscellaneous, including accident, health and disability.
- **Reinsurance.** This includes:
 - Class 10 – reinsurance of contracts within classes 1 and 2; and
 - Class 11 – reinsurance of contracts within classes 3 to 9.
- **Restricted.** This includes Class 12 – contracts within classes 1 to 11, which comply with certain requirements, including that the insured is a “related party” of the insurer or a “sophisticated person” who has given the insurer their “informed consent”.

Foreign (re)insurers with permission from the FSA to carry on business (see Question 3) can only carry on those classes of business for which they have authorisation in their place of authorisation.

The Isle of Man also has a regulatory framework for Insurance Special Purpose Vehicles (ISPVs), a specialist class of (re)insurer, to facilitate insurance linked securities and other collateralised (re) insurance transactions between sophisticated parties. The Insurance (Special Purpose Vehicles) Regulations 2015 create a specific class of insurance business (Class 13) applicable to ISPVs.

Insurers

See Question 7 for the legal entity structure an insurer can take.

Authorisation

Insurers and Reinsurers

3. What authorisations are required to carry out insurance and reinsurance activities in your jurisdiction and how are they obtained? Application

Insurance business (which includes reinsurance) in or from the Isle of Man cannot be carried on without the appropriate authorisation or permission, unless the relevant entity or person is exempt. See Question 5 for the main exemptions.

There is a distinction between an authorised (re) insurer (which is an Isle of Man entity) and a (re) insurer authorised outside the Isle of Man. The latter can apply to the FSA under section 22 of the Insurance Act for a permit to carry on insurance or reinsurance business from a place of business in the Isle of Man as a permit holder.

The extent to which the Insurance Act (and any secondary legislation and guidance) applies to permit holders is limited, particularly in the case of permit holders that are authorised in the UK or an EU member state.

To apply for authorisation as an Isle of Man insurer or reinsurer, a prescribed application form and supporting documents must be submitted to the FSA.

Application forms are available on the FSA's website ([Application Forms](#)). Application guidance is included in the form and in the standalone [authorisation guidance](#). The form also lists the supplementary information required that includes:

- Legal structure and regulatory permissions.
- Objectives and proposed operations.
- Governance functions (if the insurer has appointed an insurance manager, the board of the insurer will be required to include at least one independent non-executive director and one director who is resident in the IOM (who can be the same individual)).
- Risk management and other operational arrangements.
- Key control functions.
- Key operational functions.
- Business plan.

The current fees for applications and ongoing registration are set out in the [Insurance \(Fees\) Regulations 2023](#).

Conditions

An insurance company can take the form of one of the structures set out in Question 7:

The FSA's assessment process for applicants involves an evaluation to ensure that its fitness and propriety criteria are met. In particular, individuals who will assume controlled functions in the business must submit the appropriate forms to be assessed for their individual fitness and propriety to carry out their functions.

Details of the controlled functions and the form required are found in [Regulatory Guidance – Fitness and Propriety](#).

The capital requirements/solvency margins applicable depend on the class of insurance business for which authorisation is sought.

For corporate governance and risk management requirements, see Question 11.

The Isle of Man Government has implemented substance requirements affecting Isle of Man tax resident companies that derive income from insurance activity. The economic substance legislation is contained in Part 6A of the Isle of Man Income Tax Act 1970. [Guidance](#), which should be read in conjunction with the legislation, has been issued.

Key Stages and Timing

The usual practice is for prospective applicants for insurance authorisation to have an initial discussion with the FSA at an early stage before initiating an application.

The FSA's current published service standards for processing an application, from receipt of a complete application to a final decision, are:

- Six months for a life insurer.
- Three to six months for a non-life insurer.
- Six weeks to three months for a Class 12 non-life insurer.

The FSA can also consider an accelerated timescale of four to six weeks where the applicant is lower risk.

The above timings do not include the time that it takes to incorporate the company and prepare the application.

Duration and Renewal

The authorisation continues until surrendered (when an insurer ceases conducting regulated business).

Insurance Intermediaries

4. How are insurance intermediaries regulated? What authorisations do they require?

General Insurance Intermediaries

Acting as a (re)insurance intermediary in the course of a business carried on in or from the Isle of Man without the necessary registration is prohibited, unless the relevant entity or person is exempt (section 24, Insurance Act). See Question 5 for the main exemptions.

An "insurance intermediary" is defined in the Insurance Act as a person who for remuneration 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.

Applications for registration must be made in writing by the applicant to the FSA. As part of the registration process, the FSA seeks to ensure that applicants meet the required minimum standards expected of an Isle of Man regulated entity. The application form and information regarding the registration procedure can be found on the FSA's website.

Long-Term Business Intermediaries

A person is prohibited from carrying on or holding itself out as carrying on in or from the Isle of Man a financial services activity by way of business without a licence or in breach of licence conditions, unless an exclusion/exemption applies (section 4, [Financial Services Act 2008](#)) (2008 Act). See Question 5 for the main exemptions.

"Financial services activity" includes (among other things) investment business. Regulated activities under this class include:

- Dealing in investments by any person as agent for another person.
- Arranging deals in investments, including:
 - making arrangements for another person (whether as principal or as agent for a third

person) to buy, sell, subscribe for or underwrite investments; and

- making arrangements with a view to a person who participates in the arrangements buying, selling, subscribing for or underwriting investments (whether as principal or as agent for a third person).

“Investment” is defined as including (among other things) long-term insurance.

“Long-term insurance” means rights under a contract of insurance of life, annuity, marriage, birth, permanent health, tontines, capital redemption and pension fund management, but does not include pure protection contracts.

“Pure protection contract” is defined as a long-term insurance contract which meets the following conditions:

- The benefits are payable only on death or in respect of incapacity due to injury, sickness or infirmity.
- There is no surrender value, or the consideration consists of a single premium and the surrender value does not exceed that premium.
- There is no provision for its conversion or extension that will result in its ceasing to meet the previous two conditions.

To apply for a licence, a prescribed application form and supporting documents must be submitted to the FSA. Information regarding the application process can be found on the FSA’s website.

Other Providers of Insurance/ Reinsurance-Related Activities

A person must not act as an insurance manager in the course of a business carried on in or from the Isle of Man without being registered to do so, subject to any available exemption from the requirement for registration (section 23(1), Insurance Act).

Applications for registration are made in writing by the applicant to the FSA.

Exemptions and Foreign Insurers

5. Are there exemptions or exclusions from authorisation or licensing? Are there specific exemptions or exclusions for foreign entities to carry on insurance or reinsurance business in your jurisdiction?

Insurance and Reinsurance Providers

Exemptions from the requirement to be authorised or to hold a permit are set out in Regulation 11 of the Insurance Regulations. A notable exemption applies to a (re)insurer that is:

- Authorised to carry on insurance business in the UK, the EU or in a jurisdiction which has equivalent requirements to the EU Solvency II regime.
- Does not have a fixed place of business (other than an agency) in the Isle of Man.

(Regulation 11(d), Insurance Regulations.)

Insurance and Reinsurance Intermediaries

General insurance intermediaries. The following classes of (re)insurance intermediary are exempt from the requirement to register:

- Persons acting as an intermediary only in respect of long-term insurance (who would otherwise be caught by the prohibition in the 2008 Act, see Question 4).
- Persons arranging insurance (other than compulsory vehicle insurance under the Road Traffic Act 1985) (if the person’s principal business is not that of insurance intermediary) that covers the risk of:
 - the breakdown of goods (including vehicles) or the loss of or damage to goods or services provided by that person and other associated risks;
 - the non-use of services provided by that person; or
 - damage to or loss of baggage and other risks linked to the travel booked using the services of that person..
- An insurance intermediary who:
 - is authorised under the UK [Financial Services and Markets Act 2000](#) to act as an insurance intermediary;
 - is not ordinarily resident on the Isle of Man; and
 - gives written notice to the FSA (containing certain prescribed information) that it is using the exemption and makes an annual return to the FSA (containing certain prescribed information) within 14 days of the anniversary of that notice.

(Regulation 5, [Insurance Intermediaries \(General Business\) Regulations 2020](#).)

Long-term business intermediaries. A notable exclusion from the requirement to be licensed under the 2008 Act applies to overseas persons (broadly speaking, foreign intermediaries) who are authorised to conduct the regulated activity concerned by an overseas regulator, and fulfill one of the following conditions:

- The carrying on of the activity is the direct result of an approach made to the overseas person by or on behalf of an Isle of Man person that has not been solicited by the overseas person, other than by advertising that is not targeted at nor disseminated by a medium which is targeted at Isle of Man persons.
- The client or potential client in the Isle of Man is:
 - a licence holder;
 - a person falling within the exclusion for an Isle of Man authorised insurer, permit holder, insurance manager, exempt insurer or retirement benefits scheme administrator; or
 - a person whose ordinary business activities involve acquiring, holding, managing or disposing of shares or debentures (as principal or agent), for the purposes of their business.

(Schedule 1, Class 2 (Exclusions), paragraph 2(d), [Regulated Activities Order 2011](#) (as amended)).

Further exclusions are available in respect of any business carried on (among others) under either:

- An authorisation under section 8 of the Insurance Act.
- A permit issued under section 22 of the Insurance Act.
- Registration as an insurance manager under section 23 of the Insurance Act.
- An exemption from the requirement for authorisation or a permit.

Fronting

6. Is fronting prohibited or are there any limitations to such an insurance arrangement?

There is no prohibition on fronting, where a local insurer reinsures 100% of the risk insured, and is reimbursed by the offshore reinsurer by a fee, and no published guidance on the limitations of such an arrangement.

Legal Forms

7. What legal forms are generally used for insurance and reinsurance business? Does a specific corporate form have to be used?

Insurers can be incorporated as:

- Companies.
- Protected cell companies.
- Incorporated cell companies.
- Limited partnerships.
- ISPVs.

Restrictions on Insurance Activities

8. Are there restrictions on the types of insurance activities that authorised entities can carry out? Can insurers and reinsurers carry on non-insurance business?

An authorised (re)insurer cannot carry on activities in the Isle of Man or elsewhere other than in connection with or for the purpose of its insurance business (section 16, Insurance Act).

Only in limited circumstances will the FSA authorise a life insurance company to also carry on general insurance business.

Foreign (re)insurers authorised by the FSA to carry on business in or from the Isle of Man can only carry on those classes of business for which they have authorisation in their place of authorisation.

Ownership Restrictions

9. Are there restrictions on the ownership or control of insurance-related entities in your jurisdiction?

There are no restrictions on the ownership or control of authorised (re)insurers, registered intermediaries or registered insurance managers. However, the FSA (which must be notified of proposed acquisitions of ownership or control in certain circumstances) must be satisfied that controllers, directors and certain

other prescribed persons are fit and proper persons to hold the positions concerned.

However, the FSA does not generally seek to apply fitness and propriety tests to foreign (re)insurers carrying on business in or from the Isle of Man as permit holders.

10. Must owners or controllers notify or obtain approval before taking, increasing, or reducing their control or ownership of an insurance-related entity?

Insurance/Reinsurance Providers

If a person proposes to become a controller of an authorised (re)insurer, a registered insurance manager or a registered insurance intermediary, written notice in prescribed form must be served on the FSA at least 28 days before the event, or any other period agreed by the FSA in writing (section 29(1), Insurance Act).

“Controller” is defined for a corporate body as including (among others) the following:

- The managing director or chief executive of any holding company of a regulated entity.
- A person in accordance with whose directions or instructions one or more of the directors of a holding company of the corporate body are accustomed to act, unless the director or directors do so only because the advice is given by that person in a professional capacity.
- A person who (either alone or with any associate or associates) controls 10% or more of the voting power at any general meeting of the corporate body or a holding company of the corporate body.
- A person who (either alone or with any associate or associates) can exercise a significant influence over the management of the corporate body or a holding company of the corporate body by virtue of a holding of shares in or an entitlement to exercise, or control the exercise of, the voting power of the person concerned.
- A person who has the power to appoint directors to the board or other executive committees of the person and to remove them.

If the prescribed period elapses without the FSA directing that the person concerned can become a controller, the person can proceed to become a controller. As far as the FSA is concerned, the notice period only starts to run since it has received all the

information it considers necessary for the purpose of the notice.

The FSA must be notified within 14 days of a person ceasing to be a controller or holding a position of significant influence (section 30, Insurance Act).

Insurance/Reinsurance Intermediaries

General insurance intermediaries are subject to the same change of control requirements as authorised insurers (see above, Insurance/Reinsurance Providers).

In relation to long-term business intermediaries regulated as licence holders under the 2008 Act, prior consent from the FSA is required where there is an acquisition of a controlling interest or any change to an existing controlling interest in the licence holder that takes that controlling interest from either:

- 50% or less to over 50%.
- 75% or less to over 75%.

The FSA must also be notified of any change in an existing controlling interest in a licence holder not covered by the above. In most cases, notification must precede the transaction.

“Controlling interest” in relation to a licence holder is defined by reference to the definition of “controller” in section 48(1) of the 2008 Act. The definition of “controller” here (which differs from the one above under the Insurance Act) includes:

- The managing director or chief executive of any holding company of the licence holder.
- A person in accordance with whose directions or instructions one or more of the directors of a holding company of the licence holder are accustomed to act, unless they do so only because the advice is given by that person in a professional capacity.
- A person who (either alone or with any associate or associates) controls 15% or more of the voting power at any general meeting of the licence holder or of a holding company of the licence holder.

Other Providers of Insurance/Reinsurance-related Activities

Registered insurance managers are subject to the same change of control requirements as authorised (re)insurers (see above, Insurance/Reinsurance Providers).

Ongoing Requirements

11. What are the key ongoing requirements for an authorised entity?

Insurance and Reinsurance Providers

Authorised (re)insurers are subject to various ongoing regulatory requirements. These include (among others) an obligation to meet prescribed regulatory reporting, corporate governance, solvency and regulatory capital, and conduct of business requirements set out in (among others) the:

- Insurance Act.
- Insurance Regulations.
- [Corporate Governance Code of Practice for Insurers 2021](#) (CGC 21).

The application of these requirements to permit holders is limited, particularly in the case of permit holders that are authorised in the UK or in EU member states (see Question 3).

Insurance and Reinsurance Intermediaries

General insurance intermediaries are subject to various ongoing regulatory requirements. These include an obligation to:

- Have in place a prescribed policy of professional indemnity insurance.
- Comply with prescribed regulatory reporting and conduct of business requirements set out (among others) in the:
 - Insurance Intermediaries (General Business) Regulations 2020.
 - [Insurance Intermediaries \(Corporate Governance\) \(General Business\) Code 2020](#).

Long-term business intermediaries regulated as licence holders under the 2008 Act are subject to various ongoing regulatory requirements. These include an obligation to comply with prescribed requirements in relation to governance, systems and controls, and conduct of business set out in the 2008 Act and the [Financial Services Rule Book 2016](#) (FS Rule Book).

Other Providers of Insurance/ Reinsurance-Related Activities

Insurance managers are subject to ongoing regulatory requirements (including an obligation to prepare audited financial statements annually

and to comply with prescribed and corporate governance obligations). These are set out mainly in the Insurance Act and the [Corporate Governance Code of Practice for Regulated Insurance Entities](#).

Penalties for Non-Compliance

12. What are the penalties for non-compliance with the regulatory requirements?

Insurance/Reinsurance Providers

The FSA has wide powers of supervision and enforcement. Failure by a regulated entity to comply with applicable legal and regulatory requirements can lead to:

- Inspection and investigation by the FSA.
 - Financial penalties.
 - Imprisonment of the entity's officers.
 - Injunctions.
 - Restitution orders.
 - A petition for the winding up of the entity.
- (Sections 31 and following, Insurance Act.)
- Policyholders can also refer a complaint to the Financial Services Ombudsman.
 - Any person who is aggrieved by a decision of the FSA under the Insurance Act can appeal to the Financial Services Tribunal.

Insurance/Reinsurance Intermediaries

General insurance and long-term business intermediaries that are licence holders under the 2008 Act are subject to similar sanctions for non-compliance as authorised (re)insurers are. However, sanctions for licence holders are under the 2008 Act not the Insurance Act.

Recourse for policyholders doing business with non-regulated intermediaries is substantially the same as the rights of recourse against a non-authorised (re)insurer (see *above*, Insurance/ Reinsurance Providers).

In addition, for long-term business intermediaries licensed under the 2008 Act, an agreement made by a person in the course of carrying on a regulated activity contrary to the general prohibition on carrying on regulated activities without a

licence (where an exclusion or exemption from the requirement for a licence is not available) is unenforceable against the other party (section 27(1), 2008 Act).

However, the other party can recover:

- Any money or other property paid or transferred by that party under the agreement.
- Compensation for any loss sustained by that party as a result of having parted with such money or other property.

(Section 27(2), 2008 Act.)

Other Providers of Insurance/ Reinsurance-Related Activities

Registered insurance managers are subject to the same possible sanctions as authorised (re) insurers if they fail to comply with any applicable legal or regulatory requirements. Policyholders doing business with non-regulated insurance managers have the same recourse available to them (see above, Insurance/Reinsurance Providers).

Sales and Marketing

13. Are there any requirements or restrictions on how insurance/ reinsurance services are sold and marketed?

(Re)insurance services and contracts can be marketed or sold in the Isle of Man by (re)insurers or intermediaries who are appropriately regulated in the Isle of Man or who can use an appropriate exclusion or exemption from the requirement to be regulated in the Isle of Man (see Question 5).

(Re)insurers or intermediaries who market or sell in the Isle of Man (re)insurance contracts that are not investments under the 2008 Act, from outside the Isle of Man, do not usually need to be regulated in the Isle of Man.

However, those marketing or selling contracts of insurance that are investments under the 2008 Act in the Isle of Man from outside the Isle of Man may need to be regulated in the Isle of Man as licence holders under the 2008 Act (see Question 4).

Under the Consumer Protection Act 1991 (as amended), cold calling is illegal in the Isle of Man.

Transfer of Risk

14. Are there any restrictions on the transfer of insurance or reinsurance business and risk? Is there a specific mechanism for this?

Under the Insurance Act, the Isle of Man Court can sanction a scheme to transfer long-term insurance business carried on by Isle of Man authorised insurers or permitholders in certain circumstances. There is no specific statutory requirement or mechanism in the Isle of Man for a scheme in respect of the transfer of general insurance business.

Portfolio transfers of long-term business involving an Isle of Man authorised (re)insurer require a scheme that is approved by the Isle of Man Court and the Insurance Act only permits transfers of long-term business from one Isle of Man authorised (re)insurer to another.

A portfolio transfer of long-term business to or from an Isle of Man permit holder (see Question 3) does not require an Isle of Man scheme but the Insurance Act does allow the parties to undertake such a scheme. In deciding whether to undertake an Isle of Man scheme, factors such as the governing law of the policies must be taken into consideration.

If the parties decide not to undertake an Isle of Man scheme, the transferor must notify the FSA. The FSA may require the transferor to serve certain specified documents on it or may direct the transferor to carry out an Isle of Man scheme and seek an order from the Isle of Man Court.

The Isle of Man statutory transfer procedure provides legal certainty for insurers without the need to obtain express policyholder consent and the process itself contains safeguards to protect policyholders' interests.

The transfer requires an application to the Isle of Man High Court, which can be made by the transferor, the transferee or both. The detailed requirements are set out in Schedule 2 of the Insurance Act.

Timetables vary, but the process for an Isle of Man insurance business transfer scheme generally takes between nine and 12 months.

Reinsurance Contracts and Risks

15. Is facultative or treaty reinsurance more common? What are the most common clauses in reinsurance policies?

Facultative/Treaty Reinsurance

Both facultative and treaty reinsurance are equally common in the Isle of Man.

Common Clauses

Commonly found clauses include the following:

- Premiums.
- Exclusions (where applicable).
- “Follow the fortunes” or “follow the settlements”.
- Claims co-operation or claims control.
- Access to and audit of reinsured’s records.
- Reporting and provision of information.
- Data protection.
- Governing law and jurisdiction.
- Dispute resolution.

16. Can insurers cede risks without limitation to foreign reinsurers?

Decisions relating to the transfer of risk are generally treated as commercial matters for (re) insurers (subject to regulatory requirements of more general application, including, for example, the need to meet ongoing regulatory capital requirements).

17. Does a reinsurance company typically monitor the claims, settlements and underwriting of the cedant company?

Whether a reinsurer monitors the claims, settlements and underwriting of a cedant company is largely a commercial matter, provision for which will usually be made in the applicable reinsurance agreement.

There are no legal or regulatory requirements expressly addressing the monitoring of these matters by a reinsurer. However, requirements of general application will have an indirect bearing, for example, the obligation for every (re)insurer to establish, implement and maintain an appropriate

and effective corporate governance framework (section 17A, Insurance Act).

Provisions that are common in practice include the following:

- Requiring the cedant to provide regular underwriting information to the reinsurer (including premium income, notified claims and paid claims).
- Granting rights of audit and inspection for the reinsurer.

18. Does the cedant company have disclosure/notification obligations to the reinsurance company?

In addition to any disclosure/notification obligations agreed between the parties, common law obligations will apply.

These include the duty to act with the utmost good faith and the duty of disclosure that apply to the cedant company.

The cedant must disclose to the reinsurer all facts known or deemed to be known to the cedant which are not known (or deemed to be known) to the reinsurer. This means facts that are material to the risk, that is, those that a prudent reinsurer would take into account when deciding whether or not to take the risk and, if so, on what terms it should do so.

Contracts and Policies

Content Requirements and Common Clauses

19. What is a contract of insurance for the purposes of the law and regulation? How does it differ from a contract of reinsurance?

Contract of Insurance

A “contract of insurance” is defined under section 54 of the Insurance Act as including any contract the effecting of which constitutes the carrying on of insurance business.

“Insurance” is defined as including assurance and reinsurance.

In practice, from a regulatory perspective, reinsurance is distinguished from insurance in regulation 3(3) of the Insurance Regulations which specifies the various classes of authorised

insurance and reinsurance business that are permissible under the Insurance Act.

“Insurance business” is defined as the business of effecting or carrying out of contracts of insurance, and includes the effecting or carrying out of:

- Contracts for fidelity, performance, administration, bail or customs bonds or similar contracts of guarantee, that are part of a business (and not merely incidental to some other business carried out) in return for the payment of one or more premiums.
- Tontines.
- Capital redemption contracts by a body that carries on other insurance business.
- Contracts to pay annuities on human life.
- Contracts that include provisions of insurance or that include options to enter into contracts of insurance.
- Any prescribed contract in any prescribed circumstances.

Insurable Interest

There is no requirement to have an “insurable interest” for life assurance contracts.

An assurance contract is not void or illegal nor is it to be treated as ever having been void or illegal only because the policyholder did not have an insurable interest in the subject of the contract when the contract was entered into ([Life Assurance \(Insurable Interest\) Act 2004](#)).

20. What are the main general form and content requirements for insurance policies? What are the most common clauses?

Form and Content Requirements

There are few form and content requirements that apply to insurance contracts under Manx law.

The requirements are mainly set out in the:

- [Insurance \(Conduct of Business\) \(Long Term Business\) Code 2021](#).
- [Insurance \(Conduct of Business\) \(Non-Long Term Business\) Code 2018](#) (together, the COB Codes).
- The COB Codes are the FSA’s conduct of business requirements and guidance.

These requirements include, for example, an obligation, in certain situations, to:

- Design and market products only with features, charges, fees and risks (to be reflected in the policy terms of the products concerned) that meet the interests, objectives and characteristics of an identified target market.
- Provide accurate, fair, clear and non-misleading information to prospective policyholders, before the purchase of the product concerned, in a prescribed form, and containing prescribed information (a key information document (KID) or a summary information document (SID), depending on the type of product involved).

Common Clauses

Commonly found clauses include the following:

- Identity of the (re)insured.
- Extent of cover.
- Premium.
- Exclusions from cover (including policy excesses).
- Warranties and conditions.
- Data protection.
- Governing law and jurisdiction.
- Dispute resolution.

Implied Terms

21. Are any terms implied by law or regulation (even if not included in an insurance or reinsurance contract)?

Terms that are most often implied to give effect to the principle of utmost good faith include that the:

- (Re)insured must disclose material facts and not make untrue statements at the time of making, renewing or varying the contract.
- (Re)insurer must exercise the rights conferred on it with proper regard for the interests of the (re) insured.

See Question 22 in relation to certain consumer protection implied terms.

Customer Protections

22. How do customer protections in general law affect insurance contracts? What customer protections are generally included in insurance policies to supplement this?

General Law

The general law provides certain protections for consumers, including:

- The [Misrepresentation and Unfair Contract Terms Act 1980](#) (MUCTA) includes provisions relating to misrepresentation, and applies to contract terms or notices that seek to limit or exclude liability for misrepresentation.

Under the MUCTA, different controls apply according to the nature of the liability that a supplier wishes to exclude or restrict. Certain types of liability cannot be excluded or limited in a consumer contract. Other types of liability can be excluded or limited in a consumer contract but only so far as the contract term satisfies the requirement of reasonableness.

- The [Supply of Goods and Services Act 1996](#) implies certain terms into contracts for goods and services. The implied terms can be negated or varied by express agreement, or by the course of dealing between the parties, or by usage that binds both parties to the contract.
- The [Consumer Protection Act 1991](#) contains (among other things) provisions to protect consumers from misleading price indications, misleading advertisements and unfair contract terms in consumer contracts.

The unfair contract terms provisions apply to terms that are not individually negotiated and impose a test of fairness in relation to certain terms. If a term is unfair, it will not be binding on a consumer, although the rest of the contract will remain in force.

Terms relating to the adequacy of the price or remuneration, as against the goods or services supplied in exchange, are outside the fairness test, but only if they are drafted in plain intelligible language.

See Question 13 in relation to unsolicited communications restrictions.

Insurance Policies

The CGC 21 imposes an obligation on (re)insurers (among other things) to carry on their business with due care, skill and diligence and in a manner that:

- Is honest and straightforward.
- Ensures their reasonably foreseeable, relevant and material risks are managed adequately, appropriately and effectively.
- Is consistent with the long-term interests and viability of the insurer.

- Adequately recognises and protects the rights, interests and information needs of their policyholders and other stakeholders to ensure that they are treated fairly.

The COB Codes expand on and extend these requirements, and (re)insurance policies and related marketing materials should be drafted in accordance with these requirements.

The FS Rule Book provides similar requirements in relation to long-term business intermediaries who are subject to the financial services regime, and contains further requirements in relation to consumers who are considered “vulnerable”.

Standard Policies or Terms

23. What are the main standard policies or terms produced by trade associations or relevant authorities?

There are no standard policies or terms produced by trade associations or relevant authorities in the Isle of Man. However, those in circulation in the London insurance market (including, for example, the standard policy wordings produced by Lloyd’s or the International Underwriters Association) are widely used in the Isle of Man.

Claims

Establishing a Claim

24. What must be established to trigger coverage under an insurance policy?

The terms of the insurance policy set out the criteria required to trigger coverage, and this may differ between types of policy.

For coverage under an insurance policy to be triggered, there must be an event or loss covered by the policy.

In the absence of any relevant statutory or regulatory requirements, the establishment of a claim and its notification are mainly regulated by the terms of the insurance policy.

A claim must also be notified to the insurer in accordance with the claims notification procedure set out in the insurance policy and within any prescribed time limits under the insurance policy.

If the notification clause is drafted as a condition, the insured's failure to comply with the notice clause enables the insurer to avoid liability, even if the insurer suffers no prejudice through late or non-compliant notification.

Time Limits

25. Is there a time limit outside of which the insured/reinsured is barred from making a claim?

A claim under an insurance or reinsurance contract is subject to the general limitation period under the [Limitation Act 1984](#) for causes of action founded on breach of contract (that is, six years from the date on which the cause of action accrues).

A contract of insurance is a contract of indemnity. A breach will arise if the insurer fails to indemnify the insured against a loss covered by the insurance contract. The cause of action and right of recovery against the insurer usually accrue on the happening of the loss. However, the terms of the policy can specify that the indemnity is not payable until a later time, in which case the cause of action only accrues at that later time.

As well as the statutory limitation period, insurance and reinsurance contracts typically include a notification clause requiring the insured to give the insurer notice of claims or losses, or of circumstances which give rise to a claim or loss, in a particular manner (usually in writing) and within a particular period (for example, "as soon as reasonably practicable").

An insured can lose the right to an indemnity for failure to comply with a notification clause where compliance is a condition precedent to bringing the claim.

Subrogation

26. Does an insurer have subrogation rights to claim against third parties who have caused loss to the insured? What conditions must be satisfied to do this?

An insurer has the right to pursue third parties who have caused the insured loss under the doctrine of subrogation. An insurer can exercise rights of subrogation if:

- The insurance is an indemnity insurance.
- It has made payment under the insurance.

- Its rights of subrogation are not excluded by a term of the parties' contract.

Third Party Claims

27. In what circumstances can third parties claim under an insurance policy?

An insured can assign their rights to a third party, unless assignment is prohibited by the insurance policy. Legislation that expressly provides for claims by third parties against insurers includes the following:

- The [Third Parties \(Rights Against Insurers\) Act 1932](#), which entitles a third party with a claim against an insolvent insured to claim against the insolvent insured's insurer.
- The [Matrimonial Proceedings Act 2003](#), which allows a spouse or child named as a beneficiary to a policy of life insurance to enforce the policy (section 127).

While it may also be possible to bring a third-party claim under the [Contracts \(Rights of Third Parties\) Act 2001](#) (CRTP Act), insurance policies usually expressly exclude this.

28. Can the original policyholder or other third party enforce the reinsurance contract against a reinsurer?

A contract of reinsurance is a contract between the reinsured (the primary insurer) and the reinsurer. The starting point is that there is no privity of contract between the original policyholder and the reinsurer. Therefore, the original policyholder or another third party has no rights under the reinsurance contract. The original policyholder's rights are solely against the primary insurer.

Where the primary insurer is insolvent, or where the contract of primary insurance is for some reason defective, the original policyholder cannot rely on the reinsurance arrangements in the same way as the insolvent primary insurer could have done. In certain special circumstances, such as aviation insurance, a cut-through clause may be incorporated, which gives the insured rights against the reinsurer under the reinsurance agreement.

The CRTP Act provides certain rights to third parties. However, reinsurance contracts usually expressly exclude these rights.

Insurance of Punitive Damages

29. Are punitive damages insurable? Can punitive damages be reinsured if they are covered by an underlying policy?

Subject to the terms of the insurance contract, as a matter of general principle and public policy, damages awarded by a court, whether ordinary or punitive, are insurable. This insurance can be reinsured in the ordinary way.

Remedies for Breach of Policy

30. What remedies are available to the insurer and to the insured for breach of the insurance policy by the other party? On what basis are they claimed?

Insurer's Remedies

A breach of a term of an insurance contract that is a condition precedent by the insured exempts the insurer from the liability to pay under the contract, while a breach of any other term by the insured provides a remedy of damages for the insurer.

The common law principle of utmost good faith applies to insurance contracts (see Question 21). If an insurer has been misled by material misrepresentation or non-disclosure by the insured, it can treat this as a breach of the insured's duty of good faith and regard the insurance contract as void.

Insured's Remedies

Unless the contract provides otherwise, the general actions for breach of contract are available to the insured. Accordingly, an insured will have an action for damages in respect of its loss caused by the insurer's breach.

Damages are generally an adequate remedy for breach of an insurance policy. However, if damages are deemed neither adequate nor appropriate, the court can grant the remedy of specific performance.

Dispute Resolution

31. Are there special procedures or venues for dealing with insurance or reinsurance complaints or disputes?

There are no special procedures or venues for insurance litigation. Insurance and reinsurance disputes are heard in the High Court of Justice of the Isle of Man in accordance with the ordinary rules of court ([Rules of the High Court of Justice 2009](#)).

Where the FSA exercises any of its powers under the Insurance Act, any person who is aggrieved by a decision can appeal to the Insurance Tribunal, in accordance with rules made under section 8 of the [Tribunals Act 2006](#).

Complaints from consumers or small businesses against insurers can be made to the Financial Services Ombudsman Scheme if the internal complaints procedure within the insurance company has failed to resolve the issue.

32. Are arbitration clauses in insurance and reinsurance agreements enforceable? Are they commonly used in commercial insurance disputes?

Arbitration clauses are often found in commercial (re)insurance agreements. Arbitration clauses in (re) insurance agreements are generally enforceable provided that the clause is valid under the applicable law.

33. Are choice of forum, venue and applicable law clauses in an insurance or reinsurance contract recognised and enforced?

Choice of forum, venue and applicable law clauses in a (re)insurance contract are generally recognised and enforced, provided that the choice is:

- Reasonable.
- Not contrary to Isle of Man public policy.
- Decided in good faith.

Insolvency

34. What is the regulatory framework for distressed or insolvent insurance or reinsurance companies? What protections exist for policyholders if the insurance company is insolvent?

Regulatory Framework

The regulatory framework for dealing with distressed or insolvent (re)insurance companies includes the following legislation:

- Insurance Act.
- Companies Acts 1931-2004 (Companies Acts).
- Companies (Winding-Up) Rules 1934.
- Bankruptcy Code 1892 (Bankruptcy Code).
- Most (re)insurance companies and other persons providing (re)insurance-related services are incorporated under the Companies Acts, so the above will be the generally applicable laws. The following are of limited application in practice:
- Companies Act 2006.
- Limited Liability Companies Act 1996.

Winding Up

No authorised insurer that carries on long-term business can be wound up voluntarily. The same restriction applies to authorised insurers carrying on business other than long-term business, subject to certain qualifications.

Unless a court directs otherwise, the liquidator must carry on the long-term business of the company with a view to it being transferred as a going concern to another corporate body (paragraph 12 of Schedule 3 to the Insurance Act).

Under the Insurance Act, on a winding-up of an insurer the assets comprising the insurer's technical provisions are available only for meeting the obligations of the insurer in relation to its policyholders.

"Technical provisions" are defined in paragraph 20 of Schedule 3 to the Insurance Act as "the assets of the insurer representing the economic value of the insurer fulfilling its obligations to its policyholders arising over the lifetime of its portfolio of insurance policies."

Policyholder Protection Scheme

The Isle of Man has established a scheme for the statutory protection of policyholders through the [Life Assurance \(Compensation of Policyholders\) Regulations 1991](#) (1991 Regulations). The 1991 Regulations provide protection to any person having an interest in any sum falling due under a protected contract, wherever they reside.

Under the 1991 Regulations, if an authorised insurer carrying on long-term business becomes unable to meet its liabilities to policyholders (that is, it becomes insolvent), up to 90% of the liabilities to policyholders under protected contracts will be met by a fund consisting of, among other things,

money obtained by levying contributions from other authorised insurers. Protected contracts are long-term business contracts effected by the relevant insurer.

35. Can excess insurance policies "drop down" to provide coverage if the primary insurer goes into insolvency?

The possibility of a drop down depends on how the excess insurance policy has been drafted. Excess of loss reinsurance cover typically provides layers of reinsurance that operate in excess of each other and in a "stack" above the original insurer(s) for whose reinsurance cover the stack is created.

The insolvency of the primary insurer is not usually a trigger for liability on the part of the excess layers (although there is no reason in principle why an excess insurance policy could not be drafted to provide for this).

The usual policy provision is that liability under the excess layer only attaches as and when the primary insurer(s) pay, or admit, or are held liable to pay, the original insured(s)'s ascertained liability, and this liability exhausts the primary policy and triggers the attachment point under the excess reinsurance layer.

36. Is a right to set-off mutual debts and credits recognised in an insolvency proceeding involving an insurer or reinsurer?

Section 22 of the Bankruptcy Code (which applies to Isle of Man companies incorporated under the Companies Acts by virtue of section 248 of the Companies Act 1931) makes provision for a general right to set-off of mutual debts and credits in an insolvency proceeding.

Tax

37. What is the tax treatment for insurers, reinsurers, and other persons or entities providing insurance and reinsurance services?

Subject to certain exceptions that are not usually relevant to (re)insurers and other persons or entities providing (re)insurance services, the standard rate of corporate income tax for companies in the Isle of Man is 0%.

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