



ANGUILLA FINANCIAL SERVICES COMMISSION

FROM THE OFFICE OF THE
DIRECTOR

Anguilla

Insurance Act 2004

A new Insurance Act was passed by Anguilla in September 2004. The new Act covers the licensing and regulation of domestic insurance, offshore or foreign insurance, particularly captive insurance, and of insurance intermediaries i.e. agents, sub-agents, brokers and insurance managers. The new Act allows for a number of different insurance licences to be issued as follows:

- Class A licence, permitting a local or external insurer to carry on all forms of insurance business, including domestic business. An external insurer is defined as an insurer licensed in another jurisdiction, wishing to underwrite domestic insurance in Anguilla.
- Class B Unrestricted licence, permitting a foreign insurer to carry on any foreign insurance, including long term insurance.
- Class B General licence, permitting a foreign insurer to undertake general foreign insurance only.
- Class B Association licence, permitting a foreign insurer to undertake general and long term insurance with two or more owners of the insurer and its affiliates, and to carry on up to 30% of its foreign insurance business (based on net premiums) or 100% of reinsurance business with persons who are not owners of the owner.
- Class B Group licence, permitting a foreign insurer to carry on general and long term insurance with a single owner of the insurer and its affiliates.
- Class B Single licence, permitting a foreign insurer to carry on general and long term business with the sole owner of the insurer.

The Act determines, in addition, a number of minimum levels of capital for each of the above licences. The Act also allows, with the approval of the Financial Services Commission (FSC) the shares of a licensed insurer to be owned by trustees of a trust. However any share of a licensed insurer may not be held, issued or transferred without the approval of the FSC with certain exceptions for insurers publicly traded on a stock exchange approved by the FSC. A licensee, which is a company, must have a minimum of two directors and the appointment of all directors and senior officers must have the prior approval of the FSC.

The Act determines a number of requirements for licensed insurers, the most important being:

- The requirement for insurers undertaking domestic business to maintain certain realizable investments.



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- The requirement for all insurers to issue an annual certificate of compliance to the effect that it is undertaking business in conformity with its approved business plan and licence.
- The requirement to prepare annual accounts, audited by an independent auditor approved by the FSC. However the FSC may exempt a licensee from this requirement or from part of this requirement.
- The requirement for certain insurers undertaking long term business to submit an actuarial valuation on its assets and liabilities.
- The requirement for certain insurers to keep separate accounts covering general and long term insurance.
- The requirement for all class B licensed insurers to appoint an insurance manager, who has, or has available to it, the necessary insurance manager expertise.
- The requirement for all insurers to keep proper books and records in Anguilla and to have a principal representative within Anguilla.
- The requirement for all insurers to maintain a solvency margin determined by the FSC.

It should be noted that there is no statutory requirement for insurers to have:

- A local director
- A local auditor
- A local lawyer
- A local bank account

In conjunction with the Financial Services Commission Act, passed in 2003, the FSC has powers of examination of licensees, of enforcement, including suspension and withdrawal of a licence and the ability to exchange information with other regulatory bodies subject to certain checks and conditions.

An inclusion in the Act is a section on protected premium accounts, which deals with the protection of premiums paid by an insured to an insurance company from being challenged by creditors unless the payment of such premiums was made with the intent to defraud the creditor. The section also protects the insurer from action against insurance premiums paid to it, providing it maintains such premium accounts separate from every other account.

A further section applies to annuities and contracts of insurance on human life and gives certain protection on payments and proceeds of policies made by the insurance company to an insured or beneficiary of a policy.



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A number of Regulations covering application forms, fees and statutory returns have already been issued and Code of Conduct Notes are in the process of being prepared on the following issues:

- Licensing
- Management Controls and Corporate Governance
- Asset and Liability Strategy and Controls
- Market Conduct
- Role of Insurance Managers
- Records
- Reinsurance.

Further details including the ability to download the new Act and the Regulations/Code of Conduct Notes passed to date are to be found on the Commission's website www.fsc.org.ai. The Commission will be pleased to respond to any queries on the new Insurance Act and policies being adopted by the Commission.

John D.K.Lawrence
Director

1st November 2004