

CAYMAN ISLANDS



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**THE INSURANCE (AMENDMENT) LAW, 2001**

**(LAW 43 OF 2001)**

*The Insurance (Amendment) Law, 2001*

**THE INSURANCE (AMENDMENT) LAW, 2001**

**ARRANGEMENT OF SECTIONS**

1. Short title.
2. Amendment of section 2 of the Insurance Law (2001 Revision) - definitions.
3. Amendment of section 4 - applications for licences.
4. Amendment of section 5 - The Authority.
5. Amendment of section 7 - general requirements for licensed insurers.
6. Insertion of section 7A - shares not to be issued or transferred without approval of Authority.
7. Amendment of section 9 - annual returns by licensed insurers.
8. Insertion of section 10A - cease and desist orders.
9. Repeal and replacement of section 11 - powers of the Governor.
10. Insertion of section 11A - surrender of licence.

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CAYMAN ISLANDS

Law 43 of 2001.

I Assent

P.J. SMITH

Governor.

12 March, 2002

**A LAW TO AMEND THE INSURANCE LAW (2001 REVISION) TO  
ENABLE INSURANCE BUSINESSES TO BE REGULATED TO THE  
SAME EXTENT AS OTHER FINANCIAL INSTITUTIONS; AND FOR  
INCIDENTAL AND CONNECTED PURPOSES**

ENACTED by the Legislature of the Cayman Islands.

- |   |   |
|---|---|
| 1. This Law may be cited as the Insurance (Amendment) Law, 2001.  | Short title   |
| 2. Section 2 of the Insurance Law (2001 Revision), in this Law referred to as "the principal Law", is amended in paragraph (a) of the definition of the expression "long term business" by repealing the words "for a period of five years or less".  | Amendment of section 2 of the Insurance Law (2001 Revision) - definitions |
| 3. The principal Law is amended in section 4(10) by repealing the words "by subsection (8)" and substituting the words "by subsection (9)".   | Amendment of section 4 - applications for licences                        |
| 4. The principal Law is amended in section 5 as follows -<br>(a) in subsection (3), by repealing the words "with the approval of the Governor,"; and<br>(b) by inserting after subsection (3) the following subsection -<br>" (4) For the purpose of performing its duties under subsection (1)(b), the Authority may in writing authorise any person, including an actuary approved by the Authority, at the | Amendment of section 5 - The Authority                                    |

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expense of the licensee, to examine the affairs or business of any licensee or other person carrying on insurance business for the purpose of satisfying the Authority that this Law has been or is being complied with, and the licensee is in a sound financial position and is carrying on his business in a satisfactory manner, and to report to the Authority the results of every such examination.”.

Amendment of section 7 - general requirements for licensed insurers

5. The principal Law is amended in section 7 as follows -

- (a) in subsection (1) by repealing the words “A licensed insurer” and substituting the words “A licensed approved external insurer”;
- (b) in subsection (3) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”;
- (c) in subsection (4) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”;
- (d) in subsection (5) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”; and
- (e) in subsection (6) -
  - (i) by repealing the words “other than an approved external insurer,”; and
  - (ii) by repealing the words “an actuary” wherever those words appear and substituting the words “an actuary approved by the Authority”.

Insertion of section 7A - shares not to be issued or transferred without approval of Authority

6. The principal Law is amended by inserting after section 7 the following section -

“Shares not to be issued or transferred without approval of Authority

7A. (1) No shares totalling more than five percent of the issued share capital of a company which is a licensee under this Law shall be issued, and no issued shares totalling more than five percent of the issued share capital of a company which is a licensee under this Law shall be transferred or disposed of in any manner, without the prior approval of the Authority.

(2) The Authority may exempt from the provisions of subsection (1) a licensee whose shares or the shares of whose parent body, if any, are publicly traded on a stock exchange recognised by the Authority, and any such exemption -

- (a) shall be subject to a condition that the licensee shall, as soon as reasonably

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practicable, notify the Authority of -

- (i) any change in control of the licensee;
  - (ii) the acquisition by any person or group of persons of shares representing more than ten per cent of the licensee's issued share capital or total voting rights; or
  - (iii) the acquisition by any person or group of persons of shares representing more than ten per cent of the issued share capital or total voting rights of the licensee's parent company;
- (b) shall be subject to a condition that the licensee shall, as soon as reasonably practicable, provide such information to the Authority, and within such period of time, as the Authority may require for the purpose of enabling an assessment as to whether persons acquiring control or ownership of the licensee in the circumstances set out in paragraph (a) are fit and proper persons to have such control or ownership; and
- (c) shall be subject to such terms and other conditions as the Authority may deem necessary.

(3) In subsection (1) the reference to shares being transferred or disposed of includes not only the transfer or disposal of the legal interest in the shares but also the transfer or disposal of any beneficial interest in the shares.”.

7. The principal Law is amended in section 9 as follows -

- (a) in subsection (1) by inserting after paragraph (e) the following paragraph -

“(ea) if the said insurer is licensed under Class A for long term business, an actuarial valuation of its assets and liabilities certified by an actuary approved by the Authority, in accordance with section 7(6);”;

- (b) in subsection (2) as follows -

- (i) in paragraph (a) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”;

Amendment of section  
9 - annual returns by  
licensed insurers

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- (ii) in paragraph (c) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”; and
- (iii) in paragraph (d) by repealing the words “an actuary” and substituting the words “an actuary approved by the Authority”;
- (c) in subsection (3)(a) by repealing the words “an independent auditor” and substituting the words “an independent auditor approved by the Authority”; and
- (d) by inserting after subsection (4) the following subsection -
  - “ (5) When a licensee changes its auditor, the Authority may require the former auditor to explain the circumstances responsible for such change.”.

Insertion of section  
10A - cease and desist  
orders

8. The principal Law is amended by inserting after section 10, the following section -

“Cease and desist orders

10A.(1) Where the Authority is of the opinion that a licensee -

- (a) is committing, or is about to commit, an act that is an unsafe or unsound practice in conducting the business of the licensee; or
- (b) is pursuing, or is about to pursue, a course of conduct that is an unsafe or unsound practice in conducting the business of the licensee,

the Authority may direct the licensee -

- (i) to cease or refrain from committing the act or pursuing the course of conduct; and
- (ii) to perform such acts as in the opinion of the Authority are necessary to remedy or ameliorate the situation.

(2) A person who, without reasonable cause, fails to comply with a direction given by the Authority pursuant to subsection (1) is guilty of an offence and liable on summary conviction to a fine of ten thousand dollars and on conviction on indictment to a fine of one hundred thousand dollars, and if the offence of which he is convicted is continued after conviction he commits a further offence and

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is liable to a fine of ten thousand dollars for every day on which the offence is so committed.”.

9. The principal Law is amended by repealing section 11 and substituting the following section -

Repeal and replacement  
of section 11 - powers of  
the Governor

“Powers of Governor

11. (1) Whenever the Governor is of the opinion that -
- (a) a licensee is or appears likely to become unable to meet its obligations as they fall due;
  - (b) a licensee is carrying on business in a manner detrimental to the public interest or to the interest of its creditors or policy holders;
  - (c) a licensee has contravened this Law;
  - (d) a licensee has failed to comply with a condition of its licence;
  - (e) the direction and management of a licensee’s business has not been conducted in a fit and proper manner;
  - (f) a person holding a position as a director, manager or officer of a licensee’s business is not a fit and proper person to hold the respective position; or
  - (g) a person acquiring control or ownership of a licensee is not a fit and proper person to have such control or ownership,

he may forthwith do any of the following-

- (i) require the licensee forthwith to take steps to rectify the matter;
- (ii) suspend the licence of the licensee pending a full enquiry into the licensee’s affairs made under section 5(1)(b);
- (iii) revoke the licence;
- (iv) impose conditions, or further conditions, as the case may be, upon the licence and amend or revoke any such condition;
- (v) require the substitution of any director.

manager or officer of the licensee;

- (vi) at the expense of the licensee, appoint a person to advise the licensee on the proper conduct of its affairs and to report to the Authority thereon within three months of the date of his appointment;
- (vii) at the expense of the licensee, appoint a person to assume control of the licensee's affairs who shall, with necessary changes, have all the powers of a person appointed as a receiver or manager of a business appointed under section 18 of the Bankruptcy Law (1997 Revision); and
- (viii) require such action to be taken by the licensee as he considers necessary.

(2) Notwithstanding section 13(1), a licensee may, within seven days of the decision, apply to the Governor for a reconsideration of his decision to revoke a licence under subsection (1)(iii).

(3) A person appointed under subsection (1)(vi) or (vii) or whose appointment has been extended under subsection (4)(b) shall from time to time at his discretion and in any case within three months of the date of his appointment or of the extension of his appointment (as the case may be), prepare and furnish a report to the Governor and the Authority of the affairs of the licensee and of his recommendations thereon.

(4) On receipt of a report under subsection (3), the Governor may-

- (a) revoke the appointment of the person appointed under subsection (1)(vi) or (vii);
- (b) extend the period of his appointment;
- (c) subject to such conditions as he may impose, allow the licensee to reorganise its affairs in a manner approved by him; or
- (d) revoke the licence and apply to the Court for an order that the licensee be forthwith wound up by that Court in which case the



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provisions of the Companies Law (2001 Second Revision) relating to the winding up of a company by that Court shall, with necessary changes, apply.

(5) Notwithstanding any provisions herein, the Governor may revoke a licence if the licensee-

- (a) has ceased to carry on insurance business; or
- (b) goes into liquidation or is wound up or otherwise dissolved.

(6) Whenever the Governor suspends a licence under subsection (1)(ii) or revokes a licence under subsection (1)(iii), subsection (4)(d) or subsection (5) he shall cause notice of such suspension or revocation to be gazetted, and may also cause such notice to be published (whether within the Islands or elsewhere) in such newspaper or other publication as he may consider necessary in the circumstances.”.

10. The principal Law is amended by inserting after section 10, the following section -

Insertion of section  
11A - surrender of  
licence

“Surrender of licence

11A. A licensee may apply to the Governor to surrender its licence if it -

- (a) has ceased to carry on the business in respect of which the licence was granted; or
- (b) is being wound up voluntarily and produces evidence that it is solvent and able forthwith to repay all its creditors.

and the Governor may thereupon approve the surrender and cancel the licence.”.

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Passed by the Legislative Assembly the 10<sup>th</sup> day of January, 2002.

JULIANNA O'CONNOR-CONNOLLY

Speaker.



WENDY LAUER EBANKS

Clerk of the Legislative Assembly.





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