

# **INSURANCE (SALESPERSONS) RULES 2012**

**FSC Rules made by the Financial Services Commission under Section 93 of the Financial Services Act 2007 and Section 130 of the Insurance Act 2005**

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## **PART I – PRELIMINARY**

### **1. Short title**

These Rules may be cited as the Insurance (Salespersons) Rules 2013.

### **2. Interpretation**

In these Rules -

“Act” means the Insurance Act 2005;

“associate” has the same meaning as in the Act;

“client” means policyholder and includes a prospective policyholder;

“Commission” means the Financial Services Commission established under the Financial Services Act 2007;

“contract of insurance” means an insurance policy to provide policy benefits and includes a contract that is subsequently cancelled;

“financial year” for the purposes of these rules, in relation to any insurance salesperson, means the period starting from the commencement of its business or from 1 July of any year, as the case may be, to 30 June of the following year;

“FSC Rules” refers to rules made by the Commission under the Act and the Financial Services Act 2007;

“general insurance business” has the same meaning as in the Act;

“insurer” has the same meaning as in the Act;

“insurance agent” has the same meaning as in the Act;

“insurance broker” has the same meaning as in the Act;

“insurance salesperson” has the same meaning as in the Act;

“long term insurance business” has the same meaning as in the Act;

“policyholder” has the same meaning as in the Act.

**3. Application of the rules**

- (1) These rules shall apply to insurance salespersons and any other person exercising the functions of insurance salesperson including soliciting proposals for and negotiating insurance on behalf and with the authority of an insurer or an insurance agent under the Act.
- (2) These rules are not exhaustive and should be read in conjunction with the provisions of the relevant Acts and regulations made under those Acts or FSC Rules or guidelines which the Commission may issue from time to time.

**PART II – GENERAL RESTRICTIONS**

**4. Insurance salespersons to operate under a written agreement**

No person shall act as an insurance salesperson unless an agreement in writing between the insurance salesperson and the insurer or the insurance agent authorises the person to act as such for that insurer or insurance agent, as the case may be.

**5. Insurance salespersons to act only for insurer or insurance agent licensed to carry on business in Mauritius**

No person shall act as an insurance salesperson for an insurer or an insurance agent in respect of any insurance business for which the insurer or insurance agent is not duly licensed in Mauritius.

**PART III – INDEPENDENCE OF INSURANCE SALESPERSONS**

**6. Ownership and significant interest**

- (1) No insurance salesperson shall acquire or hold shares, or any significant interest, whether directly or indirectly, including by way of associates, in

any insurer, insurance agent or insurance broker, except with the approval of the Commission.

- (2) For the purposes of this rule, “significant interest” in the whole or part of a business is held when –
  - (a) the person acquiring, holding or establishing the interest, obtains the ability to materially influence the economic behaviour of the business; or
  - (b) the person holds, directly or indirectly, 20% or more of the shares, such significant interest being acquired or established pursuant to the purchase of shares, shareholder agreements, management contracts and other contractual arrangements involving corporations, partnerships, joint ventures, combinations thereof and other entities.
- (3) Where, immediately before the coming into operation of these Rules, a person holds shares or any other significant interest which he is not allowed to hold under paragraph (1), that person shall take such measures as may be necessary to ensure compliance with these Rules by ....

#### **PART IV – REGISTERS, BOOKS AND RECORDS AND STATEMENTS**

##### **7. Registers to be maintained by insurance salespersons**

Every insurance salesperson shall establish and maintain a register in respect of -

- (a) its general insurance business showing at least the particulars specified in Form 1 of the Schedule.
- (b) its long term insurance business showing at least the particulars specified in Form 2 of the Schedule.

##### **8. Books and records**

An insurance salesperson shall –

- (a) keep and maintain internal records of the identity of each of its clients and such books and records so as to sufficiently explain every business transaction he undertakes; and
- (b) cause those books and records to be kept in such a manner as to –
  - (i) enable them to be conveniently and properly available for inspection at such time and place as may be required, in writing, by the Commission, the insurer or the insurance agent as the case may be; and
  - (ii) allow any particular transaction to be clearly identified .

**9. Statements to be furnished by insurance salespersons**

An insurance salesperson shall sign and furnish to the Commission, not later than 3 months after the expiry of each financial year and with reference to that financial year, statements in respect of –

- (a) its general insurance business in accordance with Form 3 of the Schedule.
- (b) its long term insurance business in accordance with Form 4 of the Schedule.

**10. Examination of statements**

If it appears to the Commission that any statement lodged in accordance with rule 9 is, in any material particular, unsatisfactory, incomplete, inaccurate or misleading in any respect, the Commission may -

- (a) require further information from the insurance salesperson;
- (b) require the insurance salesperson to submit any document for examination or to supply any statement.

**PART V – DISCLOSURES AND OTHER OBLIGATIONS**

**11. Pre-contract disclosure by insurance salespersons**

- (1) No insurance salesperson shall solicit proposals and negotiate insurance without disclosing to the client all relevant information about the products being offered, including -
  - (a) the name of the insurer or insurance agent on whose behalf he is acting;
  - (b) his relationship with the insurer, and insurance agent, where applicable;
  - (c) the premium charged by the insurer;
  - (d) the exact dates on which the premiums have to be paid; and
  - (e) the implications of not paying the premiums on the due dates in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien.
  
- (2) No insurance salesperson shall solicit proposals and negotiate insurance for any group policy of 2 or more persons without disclosing to all the prospective members of the group and every person insured under the group policy, all relevant information about the products being offered, including -
  - (a) the name of the insurer or insurance agent on whose behalf he is acting;
  - (b) his relationship with the insurer, and insurance agent, where applicable;
  - (c) the terms and conditions of the proposed group policy;
  - (d) the premium charged by the insurer;
  - (e) the exact dates on which the premiums have to be paid; and
  - (f) the implications of not paying the premiums on the due dates in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien.

## **12. Obligations of insurance salespersons**

- (1) No insurance salesperson shall, with intent to deceive, make a false or misleading statement as to -
  - (a) any amount that would be payable in respect of a proposed contract of insurance; or
  - (b) the effect of any provision of a contract of insurance or a proposed contract of insurance.
- (2) Reference in rule (1) to making a misleading statement includes omitting to disclose any matter that is material to the statement.
- (3) No insurance salesperson shall, with intent to deceive, in relation to a proposed contract of insurance -
  - (a) write on a form, being a form that is given or sent to an insurer, any matter that is material to the contract and is false or misleading in a material particular;
  - (b) omit to disclose to the insurer or insurance agent any matter that is material to the proposed contract;
  - (c) advise or induce the client to write on a form, being a form that is given or sent to an insurer or insurance agent, any matter that is false or misleading in a material particular; or
  - (d) advise or induce the client to omit to disclose to the insurer or insurance agent any matter that is material to the proposed contract.

## **PART VI – MISCELLANEOUS**

### **13. Commencement**

These Rules shall come into operation on .....

**Made by the Financial Services Commission on ..... 2013**





**FORM 3**  
**(rule 9 (a))**

- A.**
1. Name of insurance salesperson \_\_\_\_\_
  2. Address of insurance salesperson \_\_\_\_\_
  3. Insurance salesperson registration number \_\_\_\_\_
  4. Date of registration (issue/renewal) \_\_\_\_\_
  5. Name of insurer or insurance agent \_\_\_\_\_
  6. Statement of account for period \_\_\_\_\_ to \_\_\_\_\_

**B.**

Classes of general insurance business	Number of policies	Commission receivable (Rs.)
Accident and health policy		
Engineering policy		
Guarantee policy		
Liability policy		
Miscellaneous policy		
Motor policy		
Property policy		
Transportation policy		
<b>TOTAL</b>		

Signature of insurance salesperson \_\_\_\_\_  
Date \_\_\_\_\_

*Instructions for completion of Form 3*

1. The Form shall be completed on a financial year basis
2. In the first financial year where the insurance salesperson is registered with the Commission to act on behalf and with the authority of a particular insurer or insurance agent, the Form shall be completed beginning from the date of registration.
3. In subsequent financial years of being registered for that particular insurer or insurance agent, the Form shall be completed beginning from 1 July.

**FORM 4**  
**(rule 9 (b))**

- A. 1. Name of insurance salesperson \_\_\_\_\_  
 2. Address of insurance salesperson \_\_\_\_\_  
 3. Insurance salesperson registration number \_\_\_\_\_  
 4. Date of registration (issue/renewal) \_\_\_\_\_  
 5. Name of insurer or insurance agent \_\_\_\_\_  
 6. Statement of account for period \_\_\_\_\_ to \_\_\_\_\_

<b>B. Classes of long term insurance business</b>	<b>Number of policies</b>	<b>Commission receivable (Rs.)</b>		
		<i>Current financial year</i>	<i>Previous financial year</i>	<i>Total</i>
Life assurance policies				
Pension business				
Permanent health insurance business				
Linked long term insurance business				
<b>TOTAL</b>				

Signature of insurance salesperson \_\_\_\_\_

Date \_\_\_\_\_

*Instructions for completion of Form 4*

1. The Form shall be completed on a financial year basis.
2. In the first financial year the insurance salesperson is registered with the Commission to act on behalf and with the authority of a particular insurer or insurance agent, the Form shall be completed beginning from the date of registration.
3. In subsequent financial years of being registered for that particular insurer or insurance agent, the Form shall be completed beginning from 1 July.
4. Number of policies relate to the policies solicited and negotiated during the course of the current financial year.
5. Gross premium written relate to the premium written during the course of the current financial year.
6. Commission receivable is composed of:
  - (a) commission received in the current financial year on policies written in the current financial year; or
  - (b) commission received in the current financial year on policies written in the previous financial year(s) as applicable.