

INSURANCE (INSURANCE AGENTS) RULES 2014

ARRANGEMENT OF RULES

PART I - PRELIMINARY

1. Short title
2. Interpretation
3. Application of the Rules

PART II - DUTIES OF AN INSURANCE AGENT

4. Approval to act on behalf of more than one insurer
5. Duties of an insurance agent

PART-III - INDEPENDENCE OF INSURANCE AGENT

6. Ownership and significant interest

PART IV - FINANCIAL AND OTHER REQUIREMENTS

7. Separate accounts for funds received
8. Conduct of business

PART V - REGISTER OF INSURANCE AGENTS

9. Register to be maintained by insurance agents

PART VI – ACCOUNTS AND STATEMENTS

10. Returns to be submitted by insurance agents
11. Signatures
12. Auditor's report
13. Records to be kept

PART VII - TERMINATION OF LICENCE

14. Termination of licence

15. Effect of suspension, revocation, surrender or termination of licence

PART VIII – MISCELLANEOUS

16. Obligations of an insurance agent

17. Commencement

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INSURANCE (INSURANCE AGENTS) RULES 2014

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

PART I - PRELIMINARY

1. Short title

These Rules may be cited as the Insurance (Insurance Agents) Rules 2014.

2. Interpretation

In these Rules –

“Act” means the Insurance Act 2005;

“agent staff” means any employee of the insurance agent or any other person, other than an insurance salesperson, who is authorized by the insurance agent to act on its behalf;

“agreed period” means —

- (a) the period within which the insurance agent has agreed with the client, in accordance with the First Schedule, to make payments of any amount due to an insurer under or in relation to a contract of insurance with the insurer; or
- (b) the period within which the insurance agent has agreed with an insurer in accordance with Rule 8(3), to make payments of any amount due to the insurer under or in relation to a contract of insurance with that insurer; or
- (c) 30 days from the date of receipt of payment of premium under a contract of insurance,
whichever is earlier;

“bank” has the same meaning as in the Banking Act 2004;

“bank account” means the bank account required to be opened and maintained by an insurance agent under section 73 (2) of the Act;

“client” means a policyholder, including a prospective policyholder, having a business relationship with the insurance agent;

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

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

“financial statements” has the same meaning as in the Companies Act 2001;

“FSC Rules” has the same meaning as in the Financial Services Act 2007;

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

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

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

“monies” means any sum received by an insurance agent in relation to a contract of insurance, including premiums and claims payments;

“relevant Acts” has the same meaning as in the Financial Services Act.

3. Application of the Rules

- (1) These Rules shall apply to any person acting or holding himself out as an insurance agent, including acting on behalf of an insurer in the initiation of the insurance business, the receipt of proposals, the issue of policies, the collection of premiums or the settlement of claims.
- (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 – DUTIES OF AN INSURANCE AGENT

4. Approval to act on behalf of more than one insurer

- (1) Subject to paragraphs (2) and (3), an insurance agent may, with the approval of the Commission, act on behalf of more than one insurer.
- (2) An application by an insurance agent for approval to act on behalf of another insurer shall be made in such form, manner and medium as the Commission may determine and shall be accompanied by –
 - (a) the application form;
 - (b) copies of all material contracts and agreements to be entered into between the insurance agent and the insurer on whose behalf it is proposing to act;

- (c) a no objection letter from the insurer on whose behalf the insurance agent is already acting;
 - (d) confirmation that appropriate training has been provided to the insurance agent;
 - (e) the prescribed fees;
 - (f) any other information or document as the Commission may deem necessary.
- (3) When acting for more than one insurer, an insurance agent shall establish and maintain proper policies for identifying and resolving actual and potential situations of conflict of interest.

5. Duties of an insurance agent

- (1) The duties of an insurance agent shall include, but shall not be limited to, the following –
- (a) obtaining detailed underwriting information on the client and information on the client's risk profile;
 - (b) familiarising itself with the client's underwriting information so that this can be explained to an insurer or any relevant person;
 - (c) maintaining detailed and up-to-date information on all available insurance products of the insurers on whose behalf he is acting;
 - (d) providing detailed information on all insurance products being offered by the insurers on whose behalf he is acting;
 - (e) providing advice on the appropriate insurance cover and terms suitable to the individual needs of the client;
 - (f) submitting quotations received from insurers on whose behalf it is acting for consideration by the client;
 - (g) providing requisite underwriting and customer due diligence information as may be required by an insurer in assessing the risk and deciding pricing terms and conditions for cover;
 - (h) advising the client on the exact dates on which premiums have to be paid and the implications of not paying the premiums on the due date in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien;
 - (i) disclosing to a client any commission which the insurance agent is entitled to receive in effecting the contract of insurance;

- (j) acting promptly on the instructions of a client;
- (k) issuing policies on behalf of the insurers on whose behalf he is acting;
- (l) assisting clients on the manner in which premiums may be paid and on the availability of different premium payment options;
- (m) collecting premiums on behalf of the insurers on whose behalf he is acting; and
- (n) settling claims on behalf of the insurers on whose behalf he is acting.

PART III – INDEPENDENCE OF INSURANCE AGENT

6. Ownership and significant interest

- (1) No insurer, insurance broker or insurance salesperson shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of a subsidiary, associated or parent company or related company, in an insurance agent, except with the approval of the Commission.
- (2) No reinsurer organized under the Laws of Mauritius or any country outside Mauritius shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of subsidiary, associated or parent company or related company, in an insurance agent, except with the approval of the Commission.
- (3) No insurance agent shall acquire or hold shares, or any other significant interest, whether directly or indirectly, including by way of a subsidiary, associated or parent company or other related company, in any insurer, insurance broker or reinsurer, except with the approval of the Commission.
- (4) No person holding shares or any other significant interest whether directly or indirectly in an insurer, reinsurer, or insurance broker, shall acquire or hold shares or any other significant interest, whether directly or indirectly, including by way of a subsidiary, associated company or parent company or related company, in an insurance agent, except with the approval of the Commission.
- (5) For the purposes of this Rule, “significant interest” in the whole or part of a business is held when the person acquiring, holding or establishing the interest obtains the ability to materially influence the economic behaviour of the business or when the person holds, directly or indirectly, 20% or more of the shares of the business, such significant interest being acquired or established pursuant to purchase of shares, shareholder agreements, management contracts or other contractual arrangements involving corporations, partnerships, joint ventures, combinations thereof and other entities.
- (6) Where immediately before the coming into operation of these Rules, a person held shares or any other significant interest which he is not allowed to hold under this Rule, that person shall take such measures as may be necessary to ensure compliance

with these Rules within 6 months of the commencement of these Rules or such other period as may be approved by the Commission.

PART IV – FINANCIAL AND OTHER REQUIREMENTS

7. Separate accounts for funds received

- (1) An insurance agent shall open and maintain separate bank accounts in respect of each insurer for which it is licensed.
- (2) An insurance agent shall pay into the relevant bank account all monies received –
 - (a) from or on behalf of a client for or on account of an insurer in relation to a contract of insurance or proposed contract of insurance; or
 - (b) from or on behalf of an insurer for or on account of a client.
- (3) An insurance agent who receives payment of premium from a client on behalf of an insurer or the return of such premiums from the insurer, if any, and who does not make immediate remittance of such amounts to the insurer or client, as the case may be, shall deposit such amounts promptly in the relevant bank account maintained by the insurance agent and this account shall be held in a fiduciary capacity.
- (4) An insurance agent shall remit the premium to the relevant insurer within the agreed period.
- (5) Subject to paragraph (6), no insurance agent shall withdraw monies from the bank account without the prior written consent of the relevant insurer.
- (6) Paragraph (5) shall not apply to any withdrawal of monies from the relevant bank account with respect to -
 - (a) any refund to which a client is entitled;
 - (b) a payment to or for the insurer in respect of amounts due to that insurer under or in relation to a contract of insurance; and
 - (c) any payment of monies which were paid into the bank account by error.
- (7) An insurance agent shall not retain any interest or other income which may have accrued from the funds held in the relevant bank accounts and such interest or other income shall be paid to the relevant insurer, at the time the premium is remitted to that insurer.
- (8) An insurance agent shall not create or cause to create a charge or mortgage on the monies in the relevant bank accounts and any charge or mortgage so created shall be null and void.

8. Conduct of business

- (1) An insurance agent, duly licensed under section 70 of the Act, shall carry on business as an insurance agent for such insurer or insurers, as the case may be and in respect of such category of insurance business and classes of insurance business as may be specified in its licence.
- (2) An insurance agent shall provide all clients with a duly completed “Clients: Standard Insurance Agent Disclosure” form in accordance with the First Schedule along with the initial premium quotation.
- (3) An insurance agent shall enter into a written agreement with each insurer the agent represents with respect to -
 - (a) the amount of commission and any other benefits in any form to which the agent is entitled to;
 - (b) the basis on which the commission is to be calculated;
 - (c) the period, which should be less than 30 days, within which the insurance agent shall remit all monies under Rule 7(2)(a) to the insurer; and
 - (d) such other conditions as may be required by the Commission.

PART V – REGISTER OF INSURANCE AGENTS

9. Register to be maintained by insurance agents

- (1) Every insurance agent shall establish and maintain a register which shall at least include -
 - (a) the names of each of the agent’s staff;
 - (b) the names of each insurance salesperson registered by the Commission to act as the agent’s insurance salesperson;
 - (c) the category or categories of insurance business which each of the agent’s staff is carrying on;
 - (d) the date or dates on which each of the agent’s staff commenced to carry on each category of insurance business; and
 - (e) any qualification obtained by each of the agent’s staff to fulfill any requirement imposed by the Act, any regulations made thereunder or any Rules and guidelines issued by the Commission and the date of obtaining such qualification.

- (2) An insurance agent shall also establish and maintain a binder consisting of internal records of the identity of each of its clients in accordance with the Financial Intelligence and Anti-Money Laundering Act 2002, any regulations made thereunder, any FSC Rules and any other guidelines issued by the Commission from time to time.
- (3) An insurance agent shall keep in relation to its business activities, a full and true written record of all transactions which shall include account files and business correspondence in accordance with the First Schedule.

PART VI – ACCOUNTS AND STATEMENTS

10. Returns to be submitted by insurance agents

- (1) An insurance agent shall, not later than 3 months after the expiry of each balance sheet date and with reference to that year, submit to the Commission -
 - (a) audited financial statements prepared in accordance with International Financial Reporting Standards;
 - (b) insurance agency premium accounts, in accordance with Form I of the Second Schedule, for each category of insurance agent business and each insurer in respect of which it is licensed;
 - (c) trade and other receivables and trade and other payables in accordance with Form I of the Second Schedule; and
 - (d) a list of all classes of insurance business and product lines offered by the agency on behalf of insurers and the respective number of policies, amount of premiums and commission for each product line which have been effected through the agency with respect to each quarter and insurance category in accordance with Form II of the Second Schedule.

11. Signatures

- (1) Any document referred to in Rule 10 shall be signed by -
 - (a) two of its directors or in case the insurance agent has one director, by that director;
 - (b) the agent where the insurance agent is a natural person.
- (2) Every person who signs the balance sheet referred to in Rule 10(1)(a) shall also sign the certificate in Form III of the Second Schedule and such certificate shall be submitted to the Commission by the insurance agent.

12. Auditor's report

- (1) An insurance agent shall submit to the Commission, within 3 months from the end of each balance sheet date, a report prepared and signed by its auditor in accordance with Form IV of the Second Schedule stating the auditor's opinion on the audited financial statements, the insurance agent premium accounts and the other statements referred to in Rule 10(1).
- (2) An insurance agent shall, within 90 days from the date of the auditor's report, take steps to rectify any deficiencies identified by the auditor and inform the Commission accordingly.

13. Records to be kept

- (1) All the books, statements, contract notes and other documents referred to in Part IV and Part V shall be maintained by the insurance agent at its principal office or at any other branch office as may be designated by the insurance agent and notified to the Commission.
- (2) The books, statements, contract notes and other documents referred to in Part IV and Part V shall be retained for a period of at least seven years from the end of the year to which they relate or following the completion of the transaction as the case may be and shall be made available to officers of the Commission upon request on any working day.

PART VII – TERMINATION OF LICENCE

14. Termination of licence

- (1) In addition to the circumstances laid down in Part XII of the Act, the Commission may terminate the licence of an insurance agent at the request of an insurer where there is a -
 - (a) mutual agreement between the insurer and the insurance agent to that effect; or
 - (b) breach by the insurance agent of the written agreement specified in Rule 8(3).
- (2) Where the Commission considers that the termination of a licence is necessary pursuant to paragraph (1), it shall give the insurance agent -
 - (a) prior notice of its intention and the reasons for doing so;
 - (b) the date on which the termination is to be effective; and
 - (c) an opportunity to make representations on the matter within such time as it deems appropriate in the circumstances, but not exceeding 30 days from the date of receipt of such notice in the case of a termination under paragraph (1)(b).
- (3) An insurance agent shall surrender its licence to the Commission within -

- (a) 15 days of receipt of the notice issued under paragraph (2) in the case of a termination under paragraph (1)(a); or
 - (b) such period as may be specified by the Commission in the case of a termination under paragraph (1)(b).
- (4) The termination of a licence shall become effective on the date specified in paragraph (2)(b) or on such other date as may be specified by the Commission.
- (5) This Rule shall be without prejudice to the provisions of the relevant Acts relating to the termination of licence of an insurance agent.

15. Effect of suspension, revocation, surrender or termination of licence

- (1) Subject to the Act, an insurance agent shall cease to act as an insurance agent on and as from the date of suspension, revocation, surrender or termination of the licence.
- (2) Subject to paragraph (3), an insurance agent whose licence has been suspended, revoked, surrendered or terminated shall disclose to the insurer immediately all details of policies being served in respect of contracts already concluded and all details of clients where the proposals have not resulted into a policy to enable the insurer to make suitable arrangements.
- (3) An insurance agent whose licence has been suspended, revoked, surrendered or terminated shall, in accordance with Rule 7, promptly settle all the monies held in the bank accounts and which are due to the insurer and to the clients.
- (4) An insurance agent shall, on settlement of all the monies due to the insurer and to the clients, obtain a clearance certificate from the insurer to be promptly submitted to the Commission.
- (5) Notwithstanding the fact that the licence of an insurance agent has been suspended, revoked, surrendered or terminated, the insurance agent shall remain liable to an insurer or client until such liability has been discharged and shall take such measures as may be necessary or as may be required by the Commission to ensure that reasonable provision has been or will be made in respect of that liability.
- (6) The Commission may, at the time of suspension, revocation, surrender or termination of the licence of an insurance agent, impose such conditions, restrictions and limitations as it deems fit.

PART VIII - MISCELLANEOUS

16. Obligations of an insurance agent

- (1) Without prejudice to any other enactment, an insurance agent shall obtain the consent of the client in the form specified in the First Schedule and shall retain the record for a

period of at least 7 years from the end of the contract or policy expiration, whichever is later.

- (2) An insurance agent shall provide the client with a duly filled in and signed original of the form specified in paragraph (1) immediately after receiving the premium payment for the proposed risk coverage.

17. Commencement

These Rules shall come into operation on (dd/ mm/ yyyy)

Made by the Financial Services Commission on (dd/ mm/ yyyy)

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FIRST SCHEDULE

(Rules 8(2), 9(3) [as applicable] and 16(1))

CLIENTS: STANDARD INSURANCE AGENT DISCLOSURE

1. Do not sign any insurance agent disclosure agreement unless all of its blank lines and spaces have been filled-in and you have read this entire document and the agreement carefully.
2. Your insurance agent represents the insurer, and is entitled to commission for its services which is included in the premium quoted for the insurance contract. The commission which the insurance agent is entitled to is not set by law.
3. Refer to your insurance agent agreement for the commission the insurance agent is entitled to with regard to the services under consideration.
4. You are entitled to obtain and keep a completed copy of this disclosure and any insurance agent agreement you sign.

The insurance agent disclosure document shall include all the required information on the services provided by the insurance agent along with the following:

1. The parties to this agreement are _____ ("CLIENT")
and _____ ("AGENT")
2. The insurance agent is entitled to commission for the services rendered. The commission is included in the premium that has been quoted by the insurer.

S.NO	DESCRIPTION	DUE DATE OF PREMIUM	COMMISSION AMOUNT RS
1	INITIAL PREMIUM		
2	SUBSEQUENT PREMIUMS		

3. The following are the due dates for payment of premium and the corresponding premium amounts in connection with current placement of client's insurance (non-payment of premium shall be subject to the provisions of Livre Troisième, Titre Douzième , Chapitre Troisième of the Code Civil Mauricien).

S.NO	DESCRIPTION	DUE DATE OF PREMIUM	PREMIUM AMOUNT RS
1	INITIAL PREMIUM		
2	SUBSEQUENT PREMIUMS		

4. The insurance agent shall remit the premium collected from the client on _____ (dd/mm/yy) to the insurer within _____ days from the date of signing the agreement.

5. The insurance agent has explained in details and provided all relevant information on the available products of the insurer, their coverage, the commission levels and the terms and conditions for review of the client.
6. The client is in agreement with the insurance services relating to the product, its coverage and terms and conditions that have been advised by the insurance agent.

Client Signature

Date

Insurance Agent Signature

Date

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**SECOND SCHEDULE:
FORM I
(Rules 10(1)(b) and 10(1)(c))**

1. NAME OF INSURANCE AGENT

2. DETAILS OF INSURANCE AGENT:

Category of insurance agent: General Insurance Agent:
(Tick the relevant box) Long Term Insurance Agent:

Name of the Insurer(s) General Insurance Agent and Long Term Insurance Agent
Licence number General / Long Term Insurance Company

Date of licence: issue/renewal Date Month Year

3. INSURANCE AGENT PREMIUM ACCOUNT FOR THE YEAR ENDED dd/mm/yy

S.NO	DETAILS	Rs.
	PART I	
1	BALANCE OF ACCOUNT AT BEGINNING OF YEAR	
	PART II	
	INSURANCE AGENT PREMIUM ACCOUNT TRANSACTIONS	
	Money Received During The Year	
2	Premiums	
3	Refunds to client	
4	Interest credited to the account	
5	Others (to be specified)	
6	TOTAL MONEY RECEIVED (2 +3 + 4 + 5)	
	Money Withdrawn During The Year	
7	Premiums	
8	Claims money	
9	Commission received, if any	
10	Interest remitted to insurer	
11	Other approved withdrawals	
12	TOTAL MONEY WITHDRAWN (7 + 8 + 9 + 10 + 11)	
	PART III	
13	BALANCE OF ACCOUNT AT END OF THE YEAR	

4. TRADE AND OTHER RECEIVABLES FOR THE YEAR ENDED dd/mm/yy

Details	< 30 days	> 30 days	Total	Total (Last year)
	Rs.	Rs.	Rs.	Rs.
Premium – General Business				
– Long term Business				
Other (Please specify)				
Total				

5. TRADE AND OTHER PAYABLES FOR THE YEAR ENDED dd/mm/yy

Details	< 30 days	> 30 days	Total	Total (Last year)
	Rs.	Rs.	Rs.	Rs.
Premium (Please specify name of insurer)				
- General Business				
- Long term business				
Other (Please specify)				
Total				

Signature			
Name			
	Agent	Director	Director
	In case agent is a natural person	In case agent is a corporation	

Notes:

1. Name of bank(s) and account number(s) of the Insurance Agent Premium Accounts
2. Breakdown for the following items:
 - (a) Others (Row 5);
 - (b) Commission received (Row 9), and
 - (c) Other approved withdrawals (Row 10).

Instructions for completion of Form:

1. An insurance agent shall complete a separate form for each category of licence and for each insurer.
2. All amounts shown in this Form are to be rounded up to the nearest Rupee.

SECOND SCHEDULE:

FORM II

(Rule 10(1)(d))

1. NAME OF INSURANCE AGENT

2. DETAILS OF INSURANCE AGENT:

Category of insurance agent:
(Tick the relevant box)

General Insurance Agent:
Long Term Insurance Agent:
General Insurance Agent and Long Term Insurance Agent
General / Long Term Insurance Company

Name of the Insurer (s)
Licence number
Date of licence: issue/renewal

Date Month Year

3. DETAILS OF BUSINESS ACTIVITY FOR THE YEAR ENDED dd/mm/yy

Long Term Insurance Business

S No	Class	Rate of Commission (% of GPW)	No of proposals resulted into policies during the year	No. of policies lapsed out of (4)	Gross Premium Written Rs	Commissi on Received	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1	Life assurance business Name of the Product						
2	Pension business Name of the Product						
3	Permanent health insurance business Name of the Product						
4	Linked long term insurance business Name of the Product						

General Insurance Business

S No	Class	Rate of Commission (% of GPW)	No of proposals resulted into policies during the year	Gross Premium Written Rs	Commission Received Rs	Remarks
(1)	(2)	(3)	(4)	(5)	(6)	(7)
1	Accident and health policy					
2	Engineering policy					
3	Guarantee policy					
4	Liability policy					
5	Miscellaneous policy					
6	Motor policy					
7	Property policy					
8	Transportation policy					

Instructions for completion of Form:

1. An insurance agent shall complete a separate form for each category of licence and for each insurer.
2. All amounts shown in this Form are to be rounded up to the nearest Rupee.

**SECOND SCHEDULE:
FORM III**

(Rule 11(2))

**CERTIFICATE OF ACCOUNTS OF *(name of insurance agent)*
FOR THE YEAR ENDED *(dd/ mm/ yyyy)***

We, the undersigned, hereby certify that in our opinion and to the best of our knowledge the assets set forth in the balance sheet are fully of the value stated in the balance sheet and that in the relevant year, the relevant regulations, FSC Rules and guidelines have been complied with and that no part of the assets has been dealt with in contravention of Rule 6.

Signature			
Name			
	Agent	Director	Director
	In case agent is a natural person	In case agent is a corporation	

Date

**SECOND SCHEDULE
FORM IV**

(Rule 12(1))

**REPORT OF THE AUDITORS APPOINTED TO AUDIT THE ACCOUNTS OF THE
INSURANCE AGENT BUSINESS OF _____ FOR
THE YEAR _____ TO _____**

1. We have examined the audited financial statement and the insurance agent premium accounts for the year ended _____.
2. Our audit was carried out in accordance with requirements of the Companies Act 2001 for the purpose of expressing our opinion on the accounts. Our examination was necessarily conducted on a test basis and included such samples as we deemed appropriate. In this connection, we have reviewed the accounting system and system of internal controls in operation and reliance has been placed on internal controls where appropriate (applicable for corporates).
3. In our opinion and to the best of the information and according to the explanations given to us -
 - (a) the audited financial statements and the insurance agent premium accounts have been prepared in accordance with the provisions of the Insurance Act 2005, regulations and FSC Rules made thereunder;
 - (b) the balance sheet represents a true and fair view of the financial position of the business of the insurance agent; and
 - (c) the books of the insurance agent have been properly kept and record fairly the affairs and transactions of the insurance agent in respect of that business.
4. As far as can be ascertained from our examination, in our opinion the insurance agent premium accounts have been established and maintained in accordance with Rule 7.

Name and signature of audit firm

Name and signature of signing partner

Date