

INSURANCE (INSURANCE SALESPERSONS) 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**

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PART I – PRELIMINARY

1. Short title

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

2. Interpretation

In these Rules -

“Act” means the Insurance Act 2005;

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

“client” means a policyholder and includes a prospective policyholder;

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

“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 an insurance salesperson, means the period starting from the date of registration of the insurance salesperson with the Commission or from 01 January of any following year, whichever is applicable, to 31 December of that year;

“FSC Rules” refers to Rules made by the Commission under any relevant Act;

“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;

“relevant Act” has the same meaning as in the Financial Services Act 2007.

3. Application of the Rules

- (1) These Rules shall apply to insurance salespersons and any other persons exercising the functions of insurance salespersons, including soliciting proposals for and negotiating insurance on behalf of 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 – REGISTRATION OF INSURANCE SALESPERSONS

4. Registration

- (1) An application for registration under section 75(4) of the Act shall be made by the insurer or insurance agent as set out in the Financial Services (Consolidated Licensing and Fees) Rules 2008 and shall be accompanied by –
 - (a) details of any other licence or registration held by the proposed insurance salesperson, the name of the licence or registration, the issuing authority and any restriction imposed on the licence or registration;
 - (b) copies of all material contracts or agreements to be entered into between the proposed insurance salesperson and the insurer or insurance agent;
 - (c) confirmation that appropriate training has been provided to the proposed insurance salesperson;
 - (d) any other information or document as the Commission may deem necessary.

5. Restriction on insurance salespersons

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

PART III – INDEPENDENCE OF INSURANCE SALESPERSONS

6. Ownership and control

- (1) No insurance salesperson shall, without the approval of the Commission, acquire or hold such number of shares in an insurer, insurance agent or insurance broker, whether directly or indirectly, including with an associate, so as to make him a significant shareholder in that insurer, insurance agent or insurance broker.
- (2) For the purposes of this Rule, “significant shareholder” shall have the same meaning as in the Second Schedule to the Act but shall also apply to a significant shareholding in an insurance agent or insurance broker.
- (3) Where, immediately before the coming into operation of these Rules, an insurance salesperson holds shares which make him a significant shareholder in an insurer, insurance agent or insurance broker, that insurance salesperson shall take such measures as may be necessary to ensure compliance with these Rules within 6 months from the commencement of these Rules or such other period as may be approved by the Commission.

PART IV – REGISTERS, BOOKS AND RECORDS AND STATEMENTS

7. Registers to be maintained by insurance salespersons

For the purposes of section 77 of the Act, every insurance salesperson shall establish and maintain a register in respect of -

- (a) the salesperson’s general insurance business; showing at least the particulars specified in Form 1 of the Schedule.

- (b) the salesperson's 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 the salesperson's 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) 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 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) the salesperson's general insurance business in accordance with Form 3 of the Schedule; or
- (b) the salesperson's 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 require such further information, document and statement from the insurance salesperson as it deems necessary.

PART V – DISCLOSURES AND OTHER OBLIGATIONS

11. Pre-contract disclosure by insurance salespersons

- (1) No insurance salesperson shall solicit a proposal or negotiate a contract of insurance without disclosing to the client all relevant information regarding the contract of insurance being offered, including -
 - (a) the name of the insurer or insurance agent on whose behalf he is acting;
 - (b) his relationship with the insurer or the insurance agent including that he is acting for and on behalf of the insurer or the insurance agent;
 - (c) any commission which he is entitled to receive from the insurer or the insurance agent;
 - (d) the premium being charged by the insurer;
 - (e) the exact date on which the premium has to be paid; and
 - (f) the implications of not paying the premium on the due date in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien; and
 - (g) any unusual terms, conditions and exclusions.
- (2) No insurance salesperson shall solicit a proposal or negotiate a contract of 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 regarding the contract of insurance being offered, including -
 - (a) the name of the insurer or insurance agent on whose behalf he is acting;
 - (b) his relationship with the insurer or the insurance agent including that he is acting for and on behalf of the insurer or the insurance agent;
 - (c) the terms and conditions of the proposed group policy;

- (d) the premium being charged by the insurer;
- (e) the exact date on which the premium has to be paid; and
- (f) the implications of not paying the premium on the due date in accordance with the Provisions of Livre Troisième, Titre Douzième, Chapitre Troisième of the Code Civil Mauricien; and
- (g) any unusual terms, conditions and exclusions.

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) The 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.

- (4) No insurance salesperson shall, while conducting his activities –
- (a) make any false or misleading statement or explanation or provide any false or misleading publication; or
 - (b) make any unfair or partial comparison with different insurance products.
- (5) No insurance salesperson shall make any commitment on the distribution of surplus or future uncertain returns relating to insurance products in a way that exceeds what is stated in the insurance contract.

PART VI – MISCELLANEOUS

13. Commencement

These Rules shall come into operation on

Made by the Financial Services Commission on 2014

**FIRST SCHEDULE
FORM 1
(Rule 7 (a))**

**PROFORMA REGISTER OF PROPOSALS/POLICIES SOLICITED
- GENERAL INSURANCE BUSINESS**

Serial No.	Date	Name	Address	Class of insurance business	Period of insurance		Insurance Policy concluded (Yes/No)	Remarks
		of client			From	To		

Instructions for completion of register

1. "Client" has the same meaning as in the Insurance (Insurance Salespersons) Rules 2014.
2. "Class" has the same meaning as in section 2 of the Insurance Act 2005.

**FORM 2
(Rule 7 (b))**

**PROFORMA REGISTER OF PROPOSALS/POLICIES SOLICITED
- LONG TERM INSURANCE BUSINESS**

Serial No.	Date	Name	Address	Class of insurance business	Term of policy		Insurance Policy concluded (Yes/No)	Remarks
		of client			Inception	Maturity		

Instructions for completion of register

1. "Client" has the same meaning as in the Insurance (Insurance Salespersons) Rules 2014.
2. "Class" has the same meaning as in section 2 of the Insurance Act 2005.

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 _____

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

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 of 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 January.

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.

Classes of long term insurance business	Number of policies sold	Commission receivable (Rs.)		
		Current financial year	Previous financial year	Total
Life assurance policies				
Pension business				
Permanent health insurance business				
Linked long term insurance business				
TOTAL				

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 of 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 January.
4. Number of policies relate to the policies solicited and negotiated during the course of the current financial year.
5. 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.