

**ANALYSIS**

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| 1. | Short Title | Schedule |
| 2. | Amendments | |
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2009, No. 15

An Act to amend the Insurance Act 2008

(25 November 2009)

BE IT ENACTED by the Parliament of the Cook Islands in Session assembled and by the authority of the same, as follows:

1. Short Title - This Act may be cited as the Insurance Amendment Act 2009 and shall be read together with and deemed part of the Insurance Act 2008 (hereinafter referred to as "the principal Act").

2. Amendments - The provisions set out in the first column of Schedule One to this Act are amended to the extent specified in the second column with effect from the date that this Act comes into force.

This Act is administered by the Financial Supervisory Commission

Price \$1.50

SCHEDULE ONE

Section	Amendment
2(1)	<p>There is added, immediately following the definition of “general insurer” the following definition -</p> <p>“gross written premium” means the total premium written and assumed by an insurer before deductions for reinsurance and ceding commissions.”; and</p> <p>The word “regulations” in the definition of “Insurance Manager” is deleted and substituted by the word “Code”</p>
11	<p>Subsection 1(a) is deleted and substituted by the following -</p> <p>(a) “specified jurisdiction” means -</p> <p>(i) New Zealand, and</p> <p>(ii) any jurisdiction that is specified by the Commission as having a legal and regulatory framework for the regulation and supervision of insurance business that is substantially in compliance with the international standards for the supervision of insurance business that, for the time being, are promulgated by the International Association of Insurance Supervisors or any successor body;”</p> <p>Subsection 1(d) is deleted and substituted by the following -</p> <p>(d) an insurer is a qualifying external insurer if its home jurisdiction is a specified jurisdiction and if it is able to demonstrate to the satisfaction of the Commission that it is in good standing in that specified jurisdiction and either -</p> <p>(i) that it has not previously carried on insurance business in or from the Cook Islands as a licensed insurer under section 10, or</p> <p>(ii) that where, prior to the coming into force of the principal Act its gross written premium relating to insurance business carried on in and from the Cook Islands did not exceed \$5 million in each of the two years immediately preceding application, or did not exceed \$5 million in 2 out of 3 consecutive years preceding the application, can be an ‘approved external insurer’.</p> <p>There is added two new subsections, immediately following subsection (3) as follows -</p>

	<p>“(3A) The approval of an approved external insurer shall be liable to be withdrawn by the Commission (by notice in writing by the Commission to that insurer) at any time after the happening of any of the following events -</p> <p>(a) its gross written premium relating to insurance business carried on in and from the Cook Islands exceeds \$5 million in two out of any three consecutive calendar years at any time following its approval, or</p> <p>(b) it ceases to be qualified to carry on insurance business in its home jurisdiction or is no longer regarded by its home supervisor as being in good standing for any reason.</p> <p>(3B) Where the Commission notifies an approved external insurer of its intention to withdraw approval under subsection (5), the insurer shall be given a reasonable time in which to either apply to become a licensed insurer or to withdraw from the Cook Islands.</p>
30(1)	The expression “Part 4” is deleted and replaced with the expression “Part 3”
31(1)	<p>There is added a new subsection, immediately following subsection (2) as follows –</p> <p>“(2A) A licensed insurer holding a category C licence shall appoint and at all times either have at least three natural persons as its directors or have as one or more of its directors a body corporate that, itself, has at least three natural persons as its directors.”</p>
44	<p>Subsection (1) is amended by deleting the words “as the case may be” and substituting the words “as the case may be, in the Cook Islands”; and</p> <p>Subsection (4) is amended by deleting the word “regulations” and substituting the word “Code”.</p>
47	The heading occurring immediately prior to section 47 is amended by adding the words “and insurance managers”.
49	<p>Section 49 is repealed and the following substituted –</p> <p>“49. <u>Receipt of and dealing with premiums by intermediaries</u> - (1) An insurance intermediary shall not receive, hold or in any way deal with a premium payable under an insurance policy entered into or to be entered into with an insurer unless he is authorised by the insurer concerned to receive, hold or deal with the premium.</p>

	(2) An insurance intermediary shall remit any premium payable under an insurance policy that is received by that intermediary to the insurer concerned within 28 days of the receipt of that premium.”
62	The word “regulations” is deleted and substituted by the word “Code”
<u>Schedule 1</u> Paragraph 1	In the definition of “transition date” the date “1 July 2009” is deleted and substituted by the date “1 March 2010”.
Paragraph 6(a)	The words “within six weeks of the commencement date” are deleted and substituted by the words “by 1 March 2010”.
Paragraph 7	The words “a date six calendar months plus one day after the commencement date” are deleted and substituted by the words “1 March 2010”.
Paragraph 8	The words “not to an” are deleted and substituted by the words “not to be an”.
Paragraph 10	The date “1 January 2009” is deleted and substituted by the date “1 March 2010”.
Schedule 3 Paragraph 3	a) The number “31” is deleted and substituted by “32” b) The words “an external insurer” are deleted and substituted by the words “an approved external insurer”
Schedule 3 Paragraph 3	A second sentence is added to the paragraph as follows - “Sections 16, 17, 18, 19, 21, 22, 24, 28, 31, 38 and 61 are disapplied with respect to a Category B external insurer.