
CHAPTER 220

THE INSURANCE (LICENCE) ACT

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INSURANCE (LICENCE)

(11th September, 1969.)

11/1967.
21/1982.

1. This Act may be cited as the Insurance (Licence) Act. **Short title.**

2. In this Act— **Interpretation.**

"Agent" means a person who, for compensation, not being a duly licensed insurance broker solicits insurance on behalf of an insurer or transmits, for a person other than himself, an application for or a policy of insurance to or from such insurer or offers or assumes to act in the negotiation of such insurance or in negotiating its continuance or renewal;

"Broker" means a person who, for compensation, not being an agent acts or aids in any manner in negotiating contracts of insurance or placing risks or effecting insurance or in negotiating the continuance or renewal of such contracts for a person other than himself and includes the agent of a broker;

"Insurance" means the undertaking by one person to indemnify another person against loss or liability for loss in respect of a certain risk or peril to which the object of the insurance may be exposed or to pay a sum of money or other thing of value upon the happening of a certain event;

"Insurer" means the person who undertakes or agrees or offers to undertake a contract of insurance;

"licensed" means licensed under this Act;

"Registrar" means the Registrar appointed under the Insurance Act;

"registered" means registered under the Insurance Act;

"salesman" means a person who is employed by a registered insurance agent or by a licensed Broker to solicit insurance, or transmit for a person other than himself, an application for a policy of insurance, or to act in the negotiation of such insurance or in negotiating its continuance or renewal or collects and receives premiums on behalf of his employer only, but does not include a registered insurance agent, licensed broker or employee engaged solely in office duties for an agent or broker.

**Licences of
Salesmen.**

3. (1) The Registrar may issue to any person who has complied with this Act a licence authorising such person to act as a salesman on behalf of a registered insurance agent or broker in negotiating contracts of insurance or in the negotiation of the continuance or renewal of any contracts such agent or broker may lawfully undertake.

(2) Licences so issued shall be for any classes of insurance.

(3) Upon written notice to the Registrar that a registered agent or a broker has appointed a person as a salesman to act on his behalf, and upon due application of such person and payment by him of the prescribed fee the Registrar shall, if he is satisfied that the applicant is a suitable person to receive a licence, and is not a person whom the Registrar has refused to licence as a broker under this Act or to register as an insurance agent under the Insurance Act or whose registration as an insurance agent under the said Act has been suspended or revoked, issue to the applicant a licence stating in substance that the holder is, during the term of the licence, authorised to act in Antigua and Barbuda as a salesman of such agent or broker.

(4) Such notice of appointment by a registered agent or broker shall be upon a form furnished by the Registrar and shall state that the appointee has been authorised in writing by the agent or broker to act as a salesman in the soliciting of and negotiating for insurance and shall be accompanied by a sworn statement of the appointee on a

form furnished by the Registrar giving his name, age, residence, the remuneration he is to receive for such employment, his present occupation and occupation for the five years next preceding the date of the notice, particulars of any other employment in which he is engaged, and such other information as the Registrar requires.

(5) Where a licensed salesman ceases to be employed by the appointing agent or broker, notice in writing shall forthwith be given by the agent or broker to the Registrar of such termination of employment with the reason therefor and thereupon the licence shall be *ipso facto* suspended but such licence may be revived subject to the approval of the Registrar upon filing a notice of withdrawal or a notice of the salesman's appointment by another agent or broker, and upon payment of a fee of one dollar.

4. An agent or broker who fails to notify the Registrar within 30 days of the termination of a salesman's appointment as required by subsection (5) of section 3 of this Act shall be guilty of an offence against this Act. **Failure to give notice of termination of salesman's authority.**

5. A licence issued to a salesman shall expire on the 31st day of December next after its issue unless automatically suspended by notice under section 3 or unless revoked or suspended by the Registrar, but such licence may, in the discretion of the Registrar, be renewed for a succeeding year upon due application upon a form prescribed by the Registrar giving such information as he requires, accompanied by a certificate of a registered agent or broker respecting the salesman's appointment, and payment of the prescribed fee, without requiring anew the detailed information hereinbefore required. **Termination and renewal of salesman's licence.**

6. The holder of a licence issued to a salesman may, during the term and validity of his licence, act as salesman only for the agent or broker by whom he is appointed and within the limits of such agent's or broker's licence. **Salesman may act only for his agent of broker.**

7. Every person who acts as a salesman without the licence required by this Act, or while his licence is suspended, shall be guilty of an offence against this Act. **Insurance salesman acting without licence guilty of offence.**

**Licences to
Insurance
brokers.**

8. (1) The Registrar may, upon the payment of the prescribed fee, issue to any suitable person resident in Antigua and Barbuda a licence to act in Antigua and Barbuda as an insurance broker to negotiate, continue or renew contracts of insurance in Antigua and Barbuda or to place risks or effect insurance with any registered insurer or the agent of a registered insurer.

(2) The applicant for such a licence shall file with the Registrar a written application under oath upon a form prescribed by the Registrar in which the applicant shall state his name, age, residence and occupation at the time of making the application his occupation for the five years next preceding the date of the application and such other information as the Registrar requires, and the applicant shall declare that he intends to hold himself out publicly and carry on business in good faith as an insurance broker and he shall furnish a statement as to his trustworthiness and competency signed by at least three reputable persons resident in Antigua and Barbuda.

(3) If the Registrar is satisfied with the statement and information required by subsection (2) of this section he shall issue the licence applied for, and the licence shall expire on the 31st day of December in each year unless sooner revoked or suspended.

(4) A broker who is granted a licence under this section shall be personally liable to the insured for all contracts of insurance made by or through him directly or indirectly with any insurer who is not resident in Antigua and Barbuda in the same manner as if such agent or broker were the insurer.

**Renewal of
broker's licence.**

9. The licence issued to a broker may in the discretion of the Registrar, be renewed upon payment of the prescribed fee for each succeeding year without requiring anew the detailed information hereinbefore specified.

**Revocation or
suspension of
broker's licence.**

10. The Registrar may, for cause shown and after a hearing, revoke the licence issued to a broker under this Act or may suspend it for a period not exceeding the expired term thereof, and may, for cause shown and after a hearing revoke the licence while so suspended, and shall notify the

licensee in writing of such revocation or suspension and may publish a notice of such revocation or suspension in such manner as he deems necessary for the protection of the public.

11. Any person, other than a registered agent, who acts as an insurance broker without a licence or during a suspension of his licence shall be guilty of an offence. **Insurance broker acting without licence guilty of an offence.**

12. Subject to section 23 of this Act a broker shall not be presumed to be the agent of the insurer or the agent of the insured by reason of the issue to him of a licence to act as an insurance broker. **Licence to broker not to imply agency.**

13. In addition to issuing insurance brokers' licences giving full authority to the licensee as set forth in the preceding sections, the Registrar may issue insurance brokers' licences limiting the authority of the licensee to the extent agreed upon with the applicant and set forth in the license, but in other respects the granting of such licences and the brokers so licensed shall be subject to this Act. **Broker's Licence may be granted limiting authority of licensee.**

14. (1) The Registrar may, upon the payment of the prescribed fee, issue to any suitable person resident in Antigua and Barbuda a licence to act as a special insurance broker to negotiate, continue or renew contracts of insurance in Antigua and Barbuda with insurers not registered to contract such business in Antigua and Barbuda. **Licence to special insurance brokers.**

(2) The applicant for such a licence shall file with the Registrar a written application as prescribed by section 8 (2) of this Act.

(3) If the Registrar is satisfied with the statements and information required, he shall issue the licence applied for subject to suspension or revocation in the discretion of the Registrar, and the licence shall expire on the 31st day of December in each year unless sooner suspended or revoked.

15. The licence issued to a special insurance broker may, in the discretion of the Registrar, be renewed for each succeeding year upon payment of the prescribed fee without requiring anew the detailed information specified by section 8 of this Act. **Renewal of licence of special insurance broker.**

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Security to be given by applicant for special broker's licence.

16. A person shall, before receiving such licence execute and deliver to the Registrar security to the satisfaction of the Registrar in the sum of not less than one hundred and twenty-five thousand dollars, that he as holder of a special insurance broker's licence will faithfully comply with this Act.

Monthly return of special insurance broker.

17. Within ten days after the end of each half year ending on the 30th day of June and the 31st day of December in each year every special insurance broker shall make to the Registrar a return under oath in the form and manner prescribed by the Registrar, containing particulars of all insurances effected under this Act by him during such half year.

Income tax on premiums.

18. In respect of all premiums on insurance effected under a licence issued to a special insurance broker the special insurance broker shall be liable to pay to the Inland Revenue Department such taxes as would be payable if such premiums had been received by an insurer registered in Antigua and Barbuda.

Release of security of special insurance broker.

19. On it being shown to the satisfaction of the Registrar that **all** insurances effected under a special insurance broker's licence are no longer in force or have been wholly reinsured, the special insurance broker shall be entitled to a release or cancellation of his security.

Prohibition against accepting business from agents and brokers.

20. A special insurance broker shall accept applications for insurance with unregistered insurers only from the insured or another special insurance broker and a special insurance broker shall not receive any such application form, or pay or allow compensation or anything of value in respect of such applications to, an agent or broker not licensed as a special insurance broker under this Act, and any contract of insurance with an unregistered insurer made by or through any agent or broker not licensed as a special insurance broker under this Act shall be deemed to be unlawfully made within the meaning of section **23** of this Act.

Forfeiture of licence.

21. A person licensed as a special insurance broker under this Act who contravenes any of its provisions shall be guilty of an offence and, in addition to any other penalty, shall forfeit his licence.

22. A broker shall, for the purpose of receiving any premium for a contract of insurance, be deemed to be the agent of the insurer notwithstanding any conditions or stipulations to the contrary.

Receiving premiums.

23. An agent or broker shall be personally liable to the insured on all contracts of insurance made by or through him directly or indirectly with any insurer not registered to undertake insurance in Antigua and Barbuda in the same manner as if such agent or broker were the insurer.

Personal liability of broker for unlawful contracts.

24. (1) Licences as brokers may be issued to partnerships on the conditions hereinbefore specified for the issue of such licences to individuals except as otherwise provided in this section.

Licences to partnerships.

(2) Each member of the partnership shall file the statement or application and pay the prescribed fee including a written request that the licence be issued in the name of the partnership, and the licence may be revoked or suspended as to members of the partnership.

(3) If the partnership is terminated before the expiration of the licence the partners shall forthwith give notice to the Registrar who shall thereupon revoke the licence.

(4) A member of a partnership licensed under this section who contravenes any of its provisions shall be guilty of an offence against this Act.

25. Licences as brokers may be issued to any corporation that is incorporated expressly for the purpose of acting as a broker or for that and other purposes.

Licences to corporation.

26. Licences as brokers shall not be issued to a corporation which is not registered in Antigua and Barbuda under the Companies Act, or if it appears to the Registrar that the application is made for the purpose of acting as broker wholly or chiefly in the insurance of property owned by the corporation or by its shareholders or members or in the placing of insurance for one person, firm, corporation, estate or family.

When licence not to be issued.

General penalty.

27. Every person guilty of an offence under this Act for which no specific penalty is provided shall be liable on summary conviction before a Magistrate to a fine not exceeding one thousand dollars for every such offence.

Burden of proof.

28. In any prosecution under this Act whenever it appears that the accused has done any act or been guilty of any omission in respect of which he would be liable to some penalty under this Act unless he is duly licensed it shall be incumbent upon him to prove that he is duly licensed.

Fees and regulations.

29. (1) Until otherwise prescribed by the Governor-General the fees payable to the Registrar by a salesman or broker shall be as set forth in the Schedule to this Act.

(2) The fees mentioned in subsection (1) of this section shall be paid before a licence or the renewal of a licence is issued.

(3) The Governor-General may make regulations—

(a) altering or amending the scale of fees provided for in the Schedule to this Act;

(b) generally for the better carrying out of the provisions of this Act.

Transitional provisions.

21/1982.

30. (1) Where, prior to the date when the Revenue (Miscellaneous Provisions) Act, 1982 (in this section called "the Act") came into operation, any person to whom the Registrar had issued a licence under this Act to act as an insurance broker or as a special insurance broker or as an insurance salesman had paid the fee in respect of the year 1982 for that licence pursuant to this Act, then and in such case that person shall, not later than twenty-eight days after the date when the Act came into operation, pay to the Registrar a sum of money being the difference between the fee already paid by him for such licence and the fee applicable to his licence specified in the Schedule to this Act as enacted by section 7 of the Act.

(2) If any insurance broker, special insurance broker or insurance salesman fails to comply with any provision of this section that relates to him, any licence that had been issued to him under this Act shall forthwith expire.

SCHEDULE

(Section 29)

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| 1. | Licence for insurance brokers and renewals thereof | \$ 500.00 |
| 2. | Licence for special insurance brokers for business with unregistered insurers and renewals thereof | \$1,000.00 |
| 3. | Licences for insurance salesman and renewals thereof | 50.00 |
| 4. | The fee for any licence as above in this Schedule for a period of six months or less shall be one-half of the sum of money specified in relation to that licence. | |
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