

**INSURANCE BUSINESS ACT  
(CAP.403)**

**Insurance Business (Penalties for Offences and Infringements)  
(Amendment) Regulations, 2015**

IN exercise of the powers conferred by article 67 of the Insurance Business Act, the Minister for Finance, after consultation with the Malta Financial Services Authority, has made the following regulations:-

Citation and commencement.

L.N. 100 of 2000.

**1.** (1) The title of these regulations is the Insurance Business (Penalties for Offences and Infringements) (Amendment) Regulations, 2015, and they shall be read and construed as one with the Insurance Business (Penalties for Offences and Infringements) Regulations, 2000, hereinafter referred to as “the principal regulations” .

(2) These regulations shall come into force on the [ ].

Amends regulation 2 of the principal regulations.

**2.** Regulation 2 of the principal regulations shall be amended as follows:

(a) in the definition “administrative penalty”, for the words, “by the Authority”, there shall be substituted the words, “by the competent authority”;

(b) immediately after the definition “administrative penalty”, there shall be added the following new definitions:

“ “authorised insurance undertaking” means an undertaking which has received authorisation pursuant to article 7 of the Act to carry on direct general business and, or long term business, and includes an undertaking authorised to carry on direct and reinsurance business;

“authorised reinsurance undertaking” means an undertaking which has received authorisation pursuant to article 7 of the Act to carry on business restricted to reinsurance;

“authorised undertaking” means an authorised insurance undertaking and an authorised reinsurance undertaking;”;

<p>Cap. 330.</p>	<p>(c) the definition “the Authority” shall be deleted;</p> <p>(d) immediately after the new definition “authorised undertaking”, there shall be added the following new definition:</p> <p>“ “competent authority” means the Malta Financial Services Authority established by the Malta Financial Services Authority Act;”;</p>
<p>Cap.403.</p>	<p>(e) for the definition “insurance rule”, there shall be substituted the following:</p> <p>“ “Insurance Rules” shall have the same meaning as is assigned to it by article 2 of the Insurance Business Act;”;</p> <p>and</p> <p>(f) for the words “and the words and expressions which are also used in the Act have the same meanings as in the Act.”, there shall be substituted the words, “and words and expressions used in these regulations which are also used in the Act but which are not defined herein, shall have the same meaning assigned to them in the Act.”.</p>

<p>Amends regulation 3 of the principal regulations.</p>	<p><b>3.</b> In sub-regulation (2) of regulation 3 of the principal regulations, for the words, “in the third column thereof.”, there shall be substituted the words, “in the third column thereof or both such fine and imprisonment.”.</p>
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<p>Amends regulation 4 of the principal regulations.</p>	<p><b>4.</b> In subregulation (2) of regulation 4 of the principal regulations, for the words “the Authority”, and wherever they appear throughout the principal regulations, there shall be substituted the words, “the competent authority”.</p>
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<p>Savings.</p>	<p><b>5.</b> Nothing in these regulations shall be deemed to affect any penalty imposed under the principal regulations, prior to the coming into force of these regulations.</p>
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Substitution of the First, Second, Third and Fourth Schedules to the principal regulations.

**6.** For the First Schedule, the Second Schedule, the Third Schedule and the Fourth Schedule to the principal regulations, there shall be substituted the following, respectively:

“FIRST SCHEDULE

(Regulation 3)

Penalties which are enforceable by prosecution in the courts of Malta

First Column Level	Second Column Fine ( <i>multa</i> )	Third Column Imprisonment
1	not less than €230 but not more than €18,600	not more than three months
2	not less than €9,300 but not more than €93,200	not less than one month but not more than six months
3	not less than €46,600 but not more than €466,000	not less than six months but not more than four years.

SECOND SCHEDULE

(Regulation 3)

Administrative penalties which may be imposed by the competent authority without recourse to a court hearing

First Column Level	Second Column Penalty	Third Column Daily penalty
1	not less than €1,000 but not more than €23,000	not less than €15 but not more than €35
2	not less than €23,000 but not more than €50,000	not less than €25 but not more than €75
3	not less than €50,000 but not more than €150,000	not less than €60 but not more than €116.

### THIRD SCHEDULE

(Regulation 4)

#### Court Penalties

First Column Article	Second Column Offence	Third Column Penalty level
67(1) with reference to 6(1)	Carrying on business of insurance in or from Malta without authorisation	3
67(1) with reference to 25	Carrying on business of insurance where authorisation is automatically revoked	3
67(1) with reference to 26	Carrying on business of insurance where authorisation is suspended or revoked	3
67(1) with reference to 41(2)	Failure of an authorised insurance undertaking to observe the prohibition of free disposal of the undertaking's assets, whether such assets are situated in Malta or in a country outside Malta, or, in the case of an authorised third country insurance undertaking, prohibition of free disposal of the undertaking's assets situated in Malta or in any other country outside Malta if such assets relate to the undertaking's business in Malta	2
67(1) with reference to 60(1)	Exchange of information about policies or policyholders, potential policyholders, insureds, claimants or other related parties among insurers, intermediaries and the police other than for the purposes of preventing, detecting or suppressing insurance fraud	1
67(2)(a)	Obtaining by deceit authorisation under the Act, or pursuant to any provisions of this Act or any regulations or Insurance Rules made thereunder	3
67(2)(b)	Knowingly being a party to, or procuring or aiding and abetting, any contravention of any provision of the Act or any regulations made thereunder or any Insurance Rules	The penalty level applicable to the principal offence
67(2)(c)	Obstructing a person exercising rights conferred by the Act or any regulations or Insurance Rules made thereunder	2

67(2)(d)	Any person who is knowingly a party to the carrying on of the business of insurance with a fraudulent intent or for a fraudulent purpose	3
67(2)(f)	Failure of director, controller, officer or employee of an undertaking to secure compliance by the undertaking with any provision of the Act or of any regulations, or any Insurance Rules made thereunder, or any authorisation or permit issued thereunder; or to ensure the correctness of statements made or information given under any of those provisions; or removes, destroys, conceals or fraudulently alters any document with intent to avoid detection of the commission of an offence under any of those provisions.	2
Any other offence arising under any provision of the Act not specifically provided for in this Schedule		2

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## FOURTH SCHEDULE

(Regulation 4)

In this Schedule “Administrative Penalties” are those made under and for the purposes of article 67(6) of the Act

### Administrative Penalties

First Column Article	Second Column Infringement	Third Column Penalty level
7(2)	Failure of an authorised insurance undertaking carrying on direct business to seek authorisation to extend its business to reinsurance business	1
7(3)	Failure of an undertaking whose head office is in Malta to notify the competent authority of the carrying on of business of insurance in a Member State or EEA State, other than Malta	1
7(4)	Carrying on business of insurance without authorisation, in classes other than those for which an authorised undertaking is already authorised	1
7(8)	Failure of an authorised undertaking to comply with any condition of authorisation	2
8(4)	Failure of an authorised undertaking to provide the competent authority with information relating to close links	1
10(3)	Opening a branch, agency, holding itself out as carrying on business of insurance in or from a country outside Malta or office or setting up or acquiring any subsidiary in a country outside Malta without the consent of the competent authority	2
11(4)	Failure of a third country insurance or reinsurance undertaking to maintain in Malta at all times an amount of eligible own funds in accordance with regulations and deposit a specified proportion of such own funds as may be prescribed under article 18G	2
14(2)	Failure of an authorised undertaking to obtain the prior written approval of the competent authority in relation to ancillary own fund items	1
15(1)	Failure of an authorised undertaking to hold eligible own funds covering the Solvency Capital Requirement	2

15(2)	Failure of an authorised undertaking to calculate the Solvency Capital Requirement in accordance with the standard formula or, a full or partial internal model as approved by the competent authority	2
16(1)	Failure of an authorised undertaking to notify the competent authority as soon as it observes that the Solvency Capital Requirement is no longer complied with, or where there is a risk of non-compliance in the following three months	2
16(2)	Failure of an authorised undertaking to submit a realistic recovery plan for approval by the competent authority within two months from the observation of non-compliance with the Solvency Capital Requirement	2
16(3)	Failure of an authorised undertaking to take the necessary measures to achieve within six months from the observation of non-compliance with the Solvency Capital Requirement, the re-establishment of the level of eligible own funds covering the Solvency Capital Requirement or the reduction of the risk profile of the undertaking to ensure compliance with the Solvency Capital Requirement	3
16(6)	Failure of an authorised undertaking to observe the restriction or prohibition of the free disposal of the assets of such undertaking	2
17(1)	Failure of an authorised undertaking to hold eligible own funds covering the Minimum Capital Requirement	3
18(1)	Failure of an authorised undertaking to immediately inform the competent authority where it observes that the Minimum Capital Requirement is no longer complied with or where there is a risk of non-compliance in the following three months	2
18(2)	Failure of an authorised undertaking to submit a short-term realistic finance scheme for approval by the competent authority within one month from the observation of non-compliance with the Minimum Capital Requirement	2
18(3)	Failure of an authorised undertaking to observe the restriction or prohibition of the free disposal of the assets of such undertaking	2

18B	Failure of an authorised undertaking to notify the competent authority immediately where such undertaking has identified that it is in a deteriorating financial condition	2
18E (1)	Failure of an authorised undertaking to establish and maintain technical provisions with respect to all of its insurance and reinsurance obligations	3
18E(2)	Failure of an authorised undertaking to value and calculate technical provisions in accordance with Insurance Rules made for the purposes of article 18E	3
18E(4)	Failure of an authorised undertaking to increase the amount of technical provisions so that they correspond to the level determined by such Insurance Rules made for the purposes of article 18E	3
18E(5)	Failure of an authorised undertaking to observe the prohibition of the free disposal of the assets of such undertaking	2
18F	Failure of an authorised undertaking with its head office in Malta to disclose publicly and on an annual basis a report on the undertaking's solvency and financial condition	1
18G(1)	Failure of an undertaking to deposit in custody assets of a prescribed kind or amount with a person prescribed by regulations made for the purpose of article 18G	3
18G(4)	Transferring, withdrawing or encumbering the undertaking's assets required to be maintained in Malta either without permission of the competent authority or without proving to the competent authority that the undertaking has no further liability	3
18H	Failure of the Board of Directors to act as the ultimate persons responsible for compliance by the authorised undertaking with the Act, regulations and Insurance Rules issued thereunder	3
18I	Failure of an authorised undertaking to have in place an effective system of governance which provides for sound and prudent management of the business of the undertakings in accordance with Insurance Rules made for the purposes of article 18I	2

19(2) or (3)	Failure of an authorised undertaking whose head office is in Malta or a third country insurance or reinsurance undertaking applying for authorisation under article 7 to carry on business of insurance in or from Malta to inform the competent authority in writing of altering its financial year	1
20(1)	Failure of an authorised undertaking to forward annually to the competent authority a copy of the undertaking's audited financial statements; or to exhibit those statements within a specified period or in a manner provided by article 20	1
20(1A)	Failure of an undertaking to provide a copy of its audited financial statements to a person applying to the undertaking for a copy thereof	1
21(1)	Failure of an authorised undertaking to appoint an approved auditor	2
21(5)	Failure of auditor to give notice to the competent authority if he resigns, does not seek re-appointment, qualifies the audit report or to specify reasons in the case of resignation	1
21(6)	Failure of an authorised undertaking to give notice to the competent authority if it receives notice of a resolution to appoint as auditor a person other than the retiring auditor or not to re-appoint the retiring auditor	1
21(7)	Failure of an authorised undertaking to notify the competent authority in writing, or to notify the competent authority in writing within a specified period, the reasons for terminating the appointment of the undertaking's auditor	1
21(8)	Failure of an authorised undertaking to change auditor if so required by the competent authority	1
22(1)	Failure of an authorised insurance undertaking carrying on long term with-profits business in terms of classes I and III, as specified in the Second Schedule to the Act, to appoint an approved actuary	2
22(2)	Failure of an authorised undertaking to inform the competent authority in writing within a specified period, of the appointment of an actuary, or termination of appointment of an actuary, as actuary of the undertaking	1

22(4)	Failure of actuary to give reasons in writing to the competent authority for the termination of his appointment as actuary of an authorised undertaking	1
23(3)	Failure of an authorised insurance undertaking to forward to the competent authority a copy of the actuary's report, together with the audited financial statements	2
24	Failure of auditor or actuary to inform the competent authority of any of matters, facts and decisions as provided by article 24	2
28	Failure of an authorised undertaking to comply with and otherwise give effect to any measures taken by the competent authority pursuant to article 28	2
29(1)	Failure of an authorised undertaking to furnish the competent authority with information or documentation as required including existing telephone and existing data traffic records; or with information and documentation verified in a manner as specified; or to attend before the competent authority, or a person appointed by the competent authority, to answer questions and provide information or documentation as required	2
29(3)	Failure of an authorised undertaking to disclose to the competent authority where information or documentation, as required, which is not in the undertaking's possession, may be found; failure of a person, including a person to which the undertaking has outsourced any activities or functions, to provide the competent authority with information or documentation in his possession	1
30(4)	Failure of officer or agent of an authorised undertaking to produce to an inspector all books and documents of, or relating to, the undertaking; or to give an inspector all assistance in connection with an examination of the affairs of the undertaking by the inspector	1
31	Failure of a person to assist the competent authority to enter and search premises to obtain information and documentation	2
31A	Failure of a person to comply with and otherwise give effect to any directive imposed by the competent authority	1

31B(5)	Failure of an authorised undertaking to remedy such weakness or deficiency as a consequence of the supervisory review process	1
31C(1)	Failure of an authorised undertaking to set a capital add-on in accordance with article 31C	2
31C(3)	Failure of an authorised undertaking to remedy the deficiencies that led to the imposition of the capital add-on without delay	2
32	Failure of an authorised undertaking to forward to the competent authority the information which is necessary for the purposes of supervision, in terms of article 32	1
32C(12)	Failure of a parent undertaking which has its head office in Malta to provide the competent authority with the required information following a request by the group supervisor	1
33(1)	Transferring the authorised insurance undertaking's rights and obligations under general business policies, or general business policies of a description, without the approval of the competent authority	2
35(1)	Transferring an authorised insurance undertaking's long term business, in whole or in part, without the approval of the Financial Services Tribunal	2
37(1)	Transferring an authorised reinsurance undertaking's rights or obligations, in whole or in part, without the approval of the competent authority	2
37A	Failure of an authorised undertaking to notify the competent authority prior to accepting the whole or part of the general business from an undertaking whose head office is in a country outside Malta	1
38(1)	Failure of a person to notify the competent authority of a decision to acquire or increase a qualifying shareholding in an authorised undertaking; or to furnish the information required to be furnished as may be determined by Insurance Rules	2
38(2)	Failure of a person to notify the competent authority of a decision to reduce or divest itself of a qualifying shareholding in an authorised undertaking; or to furnish the information required to be furnished as	2

	may be determined by Insurance Rules	
38(4)	Failure of an authorised undertaking and its directors to notify the competent authority of a person's intention to acquire, increase, reduce or divest itself of a qualifying shareholding in the undertaking	1
38C(2)	Failure of directors and qualifying shareholders of an authorised undertaking to notify the competent authority where the undertaking intends to merge with another undertaking, or to undergo reconstruction or division, or to increase or reduce its nominal or issued share capital or to effect any material change in voting rights	1
39(1) and 40A	Failure of an authorised undertaking to give notice, or to give notice within a specified period, to the competent authority of the undertaking's intention to cease to carry on, in whole or in part, the business it is authorised to carry on	1
40 and 40A	Failure of an authorised insurance or reinsurance undertaking issued with a permit to cease to carry on the business it was authorised to carry on, from desisting to effect and carry out new contracts of insurance in the business permitted to cease;	2
40 and 40A	Failure of an authorised undertaking issued with a permit to cease to carry on the business it was authorised to carry on, to service or run-off contracts of insurance effected and carried out before the specified date of cessation	2
41(7)	Failure of an authorised insurance or reinsurance undertaking to immediately notify in writing the competent authority upon taking a decision to dissolve and wind up	2
42(1)	Dissolving and winding up voluntarily by an authorised undertaking carrying on long term business without the consent of the competent authority	3
42(2)	Failure of an authorised undertaking and its directors to notify the competent authority upon becoming aware that such undertaking intends to dissolve and consequentially wind up voluntarily	2
43(1)	Failure of holder of authorisation to carry on business of insurance or holder of permit to service or run-off business of insurance to notify the competent authority	1

	in writing of any material change in documentation provided, or required to be provided, by or under the Act	
43(2)(a)	Failure of an authorised undertaking whose head office is in Malta to submit to the competent authority in writing for the authority's approval particulars of any proposed addition or alteration to the undertaking's memorandum or articles of association or other instrument constituting the undertaking	1
43(2)(b)	Failure of an authorised undertaking whose head office is in Malta to inform at least once a year, the competent authority of the names of the persons holding a qualifying shareholding in the undertaking and the percentage of such holding in the form, manner and content within such date as determined by Insurance Rules made for the purposes of article 43	1
43(3)	Failure of an authorised undertaking to notify the competent authority on a continuous basis, with any change or circumstances which may give rise to the existence of close links	1
47(1)	Failure of an undertaking to issue contracts of insurance expressed in a language as may be determined by Insurance Rules made for the purpose of article 47	1
47(2)	Failure of an authorised undertaking to issue contracts of insurance expressed in the English language or in the language of the country where the risk is situated or in the language of the country of commitment, if no other language is determined by the competent authority in Insurance Rules made for the purpose of article 47	1
48(1)	Issuing of advertisements or undertaking of promotional activities which generally mislead or deceive policyholders and the general public	1
48B	Failure of an authorised undertaking to utilise the services of insurance intermediaries enrolled under the Insurance Intermediaries Act or registered under Article 3 of Directive 2002/92/EC or registered or regulated to carry out such services in a non-Member State or non-EEA State in accordance with the provisions of the laws applicable in such State	1
67(2)(e)	Failure of a person to comply with any condition,	1

limitation or requirement, or satisfy any directive or order made or given under any provisions of the Act or any regulations made thereunder or of any Insurance Rules.

Any other infringement against any other provision of the Act or any regulations made thereunder or any Insurance Rules not specifically provided for in this Schedule.

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