

**COMPANIES ACT
(CAP.386)**

**Companies Act (Cell Companies Carrying on Business of Insurance)
(Amendment) Regulations, 2007**

IN exercise of the powers conferred by article 84 of the Companies Act, the Prime Minister and Minister of Finance, after consultation with the Malta Financial Services Authority, has made the following regulations:

Citation.

1. (1) The title of these regulations is the Companies Act (Cell Companies Carrying on Business of Insurance) (Amendment) Regulations, 2007, and they shall be read and construed as one with the Companies Act (Cell Companies Carrying on Business of Insurance) Regulations, 2004, hereinafter referred to as “the principal regulations” .

L.N.218 of 2004.

Amends
regulation
2 of the
principal
regulations.

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

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(a) in the definition “business of insurance” for the words “the business of insurance manager, as well as the business of insurance broking under the Insurance Brokers and Other Intermediaries Act,” there shall be substituted the words “the activities of an insurance manager and the business of insurance broking under the Insurance Intermediaries Act, 2006;”;

(b) for the definition of “competent authority” there shall be substituted the following:

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““competent authority” means the Malta Financial Services Authority established by article 3 of the Malta Financial Services Authority Act and appointed under article 3 of the Act to be the competent authority for the purposes of the Act;”;

(c) for the definition of “insurance directive” there shall be substituted the following:

““insurance rule” has the same meaning as is assigned to it by article 2 of the Act;”.

Amends regulation 3 of the principal regulations.

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3. In the proviso to sub-regulation (2) of regulation 3 of the principal regulations, for the words “Insurance Brokers and Other Intermediaries Act”, wherever they appear there shall be substituted the words “Insurance Intermediaries Act”.

Amends regulation 5 of the principal regulations.

4. Regulation 5 of the principal regulations shall be amended as follows:

(a) In sub-regulation (1) thereof, for the words “and authorised in terms of article 13 of the said Act to carry on business of insurance manager, or a company enrolled in the Brokers List in terms of the Insurance Brokers and Other Intermediaries Act” there shall be substituted the words “or a company enrolled in the Managers List or Brokers List in terms of the Insurance Intermediaries Act, 2006”.

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(b) In sub-regulation (3) thereof, for the words “by an insurance directive” there shall be substituted the words “by an insurance rule”.

Amends regulation 14 of the principal regulations.

5. Regulation 14 of the principal regulations shall be amended as follows:

(a) in sub-regulation (1) thereof, for the words “Where any liability arises which is attributable to a particular cell of a cell company” there shall be substituted the words “Subject to the provisions of regulation 14A of the principal regulations where any liability arises which is attributable to a particular cell of a cell company -”;

(b) in sub-regulation (4) thereof for the words “or non-cellular assets of the company wherever situated” there shall be substituted the words “or non-cellular assets of the company wherever such assets are situated”.

Insertion of a new regulation 14A in the principal regulations.

6. Immediately after regulation 14 there shall be inserted the following new regulation 14A:

“Liability of cells carrying on exclusively business of affiliated insurance.

14A. (1) Notwithstanding the provisions of regulation 14, where a cell exclusively carries on business of affiliated insurance and provided that it is specifically permitted by the memorandum and articles of the cell company, the company may, by specific agreement entered into with a particular cell to that effect, provide that only the cellular assets of that cell may be utilised to satisfy the cellular liability of such cell:

Provided that, where the business of the cell in question relates to compulsory insurance, the cell shall be obliged to establish to the satisfaction of the competent authority sufficient guarantees for the protection of policy holders and other third parties.”.

(2) In this regulation, “compulsory insurance” refers to insurance which has to be effected to comply with the law.

Amends regulation 16 of the principal regulations.

7. In sub-regulation (2) of regulation 16 of the principal regulations for the words “by an insurance directive” there shall be substituted the words “by an insurance rule”.

Amends regulation 17 of the principal regulations.

8. In sub-regulation (2) of regulation 17 of the principal regulations for the words “The provisions of article 21 of the Malta Financial Services Authority Act and article 57 of the Insurance Business Act” there shall be substituted the words “The provisions of article 21 of the Malta Financial Services Authority Act, article 57 of the Insurance Business Act and article 50 of the Insurance Intermediaries Act”.

Cap. 330.
Cap. 403.
Cap. 487.

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