

Introduction to the Insurance Act, 2008

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Changes to the Legislative structure

The main legislation now effective for the Insurance Market in BVI is:

- Financial Services Commission Act, 2001;
- Regulatory Code, 2009;
- Insurance Act, 2008; and
- Insurance Regulations, 2009.



Changes to the Legislative structure (continued)

- Financial Services Regulations have been drafted in a robust but flexible manner with good use of the Regulatory Code, 2009
- This will enable future changes to regulations without needing to change the primary legislation



Changes to the Legislative structure (continued)

- Many of the requirements have been moved to the Regulatory Code and the Explanatory Note (under Section 1 of the Code) explains its significance



Changes to the Legislative structure (continued)

- The explanatory notes in the Regulatory Code are designed to guide the industry as to how the Commission expects to interpret and enforce the provisions to which they relate



Key Differences between the Insurance Act, 1994 and the Insurance Act, 2008



Differences between the Insurance Act, 1994 and the Insurance Act, 2008

1994	2008
Licences expired each year (Section 17(d))	Licence continues until cancelled



Differences between the Insurance Act, 1994 and the Insurance Act, 2008

1994	2008
Certificate of Authority (Section 58)	Licence granted to Intermediaries (Brokers in the 94 Act), Agents and Adjusters (Transitional Provisions in Schedule 2 from Section 87)



Differences between the Insurance Act, 1994 and the Insurance Act, 2008 (cont'd)

1994	2008
Insurer able to hold General and Long-Term licence (Section 44 et seq)	No insurer able to hold both licences (Section 7(5))
	Companies that currently have both licences will have to apply to the Commission for an insurance licence to carry on either one or more classes of general business or one or more classes of long-term business (Transitional Provision (3) in Schedule 2 from Section 87)



Differences between the Insurance Act, 1994 and the Insurance Act, 2008 (cont'd)

1994	2008
Re-domiciliation was covered in under section 78 (3) (d) of the Act	This is not covered in the 2008 Act but in part X of the BVI Business Companies Act 2004 (the "Act")



Differences between the Insurance Act, 1994 and the Insurance Act, 2008 (cont'd)

1994	2008
Unlicensed insurers could be given an exemption under section 74(3) to allow them to effect contracts in the BVI	There is more specificity in the wording in sections 4 and 6 as to who would be able to seek exemptions. It is an exercise to ensure more control by specifying the criteria to be met.



Differences between the Insurance Act, 1994 and the Insurance Act, 2008 (cont'd)

1994	2008
Lloyd's Syndicates needed a license under section 13 but held an exemption allowing them to write under section 72(2)(c)	This is similar to the old provisions, see section 4(3)(a) and 4(4)(a) so an exemption may need to be sought.



General comments

- There has been a change of emphasis in some areas.
- The need to seek approval of the Commission for particular actions is a key area, as the penalties can be high if approval is not obtained.



General comments

- Some notifiable events that were in the 1994 Act are now in the Regulatory Code, 2009
- Section 72 and Schedule 3 of the Regulatory Code, 2009 gives more detail



Questions/Comments

