EXTERNAL INSURANCE (CLASSES OF INSURANCE BUSINESS) REGULATIONS

S.I. 40/2010

(SECTION 46)

[Commencement 3rd May, 2010]

Citation.

1. These Regulations may be cited as the External Insurance (Classes of Insurance Business) Regulations.

Interpretation.

2. In these Regulations —

"accidental death insurance" means insurance where the external insurer undertakes to pay an amount of insurance money in the event of the death by accident of the insured person;

"group insurance" means insurance where the lives or health of a number of persons are insured severally under a single contract between an external insurer and an employer or other person;

"life insurance" means insurance in respect of which an external insurer undertakes to pay insurance money —

(a) on death;

(b) on the happening of an event or contingency dependent on human life;

(c) at a fixed or determinable future time or times; or

(d) for a term dependent on human life, and which, for greater certainty, includes —

(i) accidental death insurance, but not accident insurance;

(ii) health insurance;

(iii) disability insurance;

(iv) group insurance; and

(v) an undertaking entered into by

an external insurer to provide a life or fixed term annuity or what would be an annuity except for the fact that the periodic payments may be unequal in amount, and provides for the establishment, accumulation and payment of sinking, redemption, accumulation renewal or endowment funds.

General insurance business.

3. For the purposes of section 2 of the Act, the following classes comprise general insurance business —

(a) accident insurance business;

(b) liability insurance business;

(c) marine, aviation and transport insurance business;

(d) motor vehicle insurance business;

(e) pecuniary loss insurance business;

(f) property insurance business.

Long-term insurance business.

4. For the purposes of section 2 of the Act, the following classes comprise long-term insurance business —

(a) industrial life insurance business;

(b) ordinary life insurance business;

(c) variable life insurance business;

(d) sickness or health insurance business, including group health;

(e) pension fund management;

(f) annuities;

(g) variable annuity business.

Classes of insurance business.

5. For the purposes of the Act, and pursuant to regulations 3 and 4, the classes of insurance business identified in Column A are as defined in Column B —

Column A	**Column B**
(1) accident insurance business	means — (a) insurance against loss resulting from bodily injury to, or the death of, a person caused by an accident; or (b) insurance where an external insurer undertakes to pay a certain sum or sums of insurance money in the event of bodily injury to, or the death of, a person caused by an accident.
(2) industrial life insurance business	means life insurance, the premiums for which are usually collected weekly or monthly by the external insurer's representative at the policyholder's home or place of work.
(3) liability insurance business	means the business of effecting and carrying out contracts of insurance against risks of the persons insured incurring liabilities to third parties, not being risks arising out of, or in connection with the use of, motor vehicles or out of, or in connection with the use of, vessels or aircraft or risks incidental to the construction, repair or docking of vessels or aircraft.
subclasses of paragraph (3) include —	
(a) directors and officers liability insurance	means insurance against liability incurred under law by directors or officers in connection with their duties as directors and officers of companies;
(b) employer's liability insurance	means — (i) insurance against legal liability arising out of bodily injury to, or the disability or death of, an employee of the insured occurring as a result of or in the course of the employee's employment, and (ii) if included in a contract that provides insurance against liability arising out of bodily injury to, or the disability or death of, an employee of the insured, insurance coming within the class of personal accident insurance covering an employee of the insured where the insurance is limited to accidents occurring as a result of or in the course of the employee's employment whether or not liability exists;

(c)	legal expense insurance	means insurance against the cost incurred by a person or persons for specified legal services, including fees or other costs incurred relative to the provision of such services;
(d)	libel and slander insurance	means insurance against liability in law for damages and claimant's costs and expenses in respect of claims made against the insured for any libel, slander to title of goods, infringement of trademark, registered design, copyright or patent right, arising from information contained in specified publications;
(e)	personal liability insurance	means insurance against the legal liability of the insured and any member of the family of the insured normally residing with him to compensate third parties for any injury, illness, loss of or damage to property arising out of their private activities away from home;
(f)	product liability insurance	means insurance against liability incurred by manufacturers, repairers, or retailers arising out of — (i) bodily injury to, or the death of, a person, or (ii) the loss of, or damage to, property, caused by products (including containers, packaging and labelling) made, sold or distributed by them;
(g)	public liability insurance	includes — (i) insurance against legal liability arising out of — (aa) bodily injury to, or the death of, a person, or (bb) the loss of, or damage to, property,

(ii) insurance against expenses arising out of bodily injury to a person other than the insured or a member of the family of the insured, whether liability exists or not, if the insurance is included in a contract for the insurance described in sub-subparagraph (i), but does not include insurance coming within the class of aircraft insurance, automobile insurance, marine, engineering, product or employer's liability insurance;

(h) third party liability insurance — means insurance against legal liability of the insured to pay in respect of death or bodily injury to, or damage to the property of, third parties;

(i) title insurance — means insurance against loss or damage caused by —

(i) a defect in the title to real property,

(ii) the existence of a lien, encumbrance or servitude on real property,

(iii) a defect in the execution of a mortgage, hypothec or deed of trust in respect of real property, or

(iv) any other matter affecting the title to real property or the right to the use and employment of real property.

(4) marine, aviation and transport insurance business — means the business of transit effecting and carrying out, otherwise than incidentally to some other class of insurance business, contracts of insurance —

(a) upon vessels or aircraft, or upon the machinery, tackle, furniture or equipment of vessels or aircraft;

(b) upon goods, merchandise or property of any description what-ever on board vessels or aircraft;

(c) upon the freight of, or any other interest in or relating to, vessels or aircraft;

(d) against damage arising out of or in connection with the use of vessels or aircraft including third party risks;

(e) against risks incidental to the construction, repair or docking of vessels, including third party risks;

(f) against transit risks, whether the transit is by sea, inland water, land or air, or partly one and partly another, including risks incidental to the transit insured from the commencement of the transit to the ultimate destination covered by the insurance, but not including risks the insurance of which is motor vehicle insurance business; or

(g) against any other risks the insurance of which is customarily undertaken in conjunction with or as incidental to any business referred to in subparagraphs (a) to (f).

(5) motor vehicle insurance business — means insurance against —

(a) liability arising out of —

(i) bodily injury to, or the death of, a person, or

(ii) the loss of, or damage to property, caused by an automobile or the use or operation thereof; or

(b) the loss of, or damage to, an automobile and the loss of use thereof, and includes insurance coming within the definition of the class of accident insurance under paragraph (1), where the accident is caused by an automobile or the use or operation thereof, whether liability exists or not, if the contract also provides for the insurance described in subparagraph (a)(i).

(6) ordinary life insurance business — means life insurance other than industrial life insurance business.

(7) pecuniary loss insurance business — means the business of effecting and carrying out contracts of insurance against any of the following risks, namely —

(i) risks of loss to the person insured arising from the insolvency of debtors of the person or from the failure (otherwise than through insolvency) of debtors of the person to pay their debts when due,

(ii) risks of loss to the persons insured arising from their having to perform contracts of guarantee entered into by them,

(iii) risks of loss to the persons insured attributable to their incurring unforeseen expense, and

(iv) risks neither falling within subparagraphs (i) to (iii), nor being of a kind such that carrying on of the business effecting and carrying out contracts of insurance against them constitutes the carrying on of insurance business of some other class and excludes risks of loss to the persons insured attributable to interruptions of the carrying on of business carried on by them or to reductions of the scope of business so carried on.

subclasses of paragraph (7) include —

(a) credit insurance — means insurance against loss to a person who has granted credit where the loss is the result of the insolvency or default of the person to whom credit is given but does not include insurance coming within the class of mortgage insurance;

(b) credit protection insurance — means insurance whereby the external insurer agrees to pay off credit balances or debts of individuals in the event of an impairment or potential impairment in the individual's income or ability to earn an income, but does not include insurance coming within the class of accident insurance, sickness insurance, life insurance, or mortgage insurance;

(c) mortgage insurance — means insurance against loss caused by default on the part of a borrower under a loan secured by a mortgage on real property, a hypothec on immovable property or an interest in real or immovable property;

(d) surety insurance — means insurance whereby an external insurer undertakes to guarantee —

(i) the due performance of a contract or undertaking, or

(ii) the payment of a penalty or indemnity for any default, but does not include insurance coming within the class of credit insurance, credit protection insurance, or mortgage insurance.

(8) property insurance business — means the issue of, or the undertaking of, liability pursuant to policies of insurance against loss or damage to real or personal property of every kind and interests therein, from any hazard or cause, or against loss consequential upon such loss or damage, not being risks the insurance of which is motor vehicle insurance business or marine, aviation and transport insurance business.

subclasses of paragraph (8) include —

(a) boiler and/ or machinery insurance — means insurance against —

(i) liability arising out of —

(aa) bodily injury to, or the death of, a person, or

(bb) the loss of, or damage to, property, or

(ii) the loss of, or damage to property, caused by the explosion, rupture, malfunction or breakdown of, or accident to, pressure vessels of any kind and pipes, engines and machinery;

(b) contractor's all risk insurance — means insurance against loss incurred as a result of fire and other specified perils in respect of both temporary and permanent works while in the course of construction and until handed over by the contractor to the employer;

(c) crop insurance — means insurance against loss of or damage to crops resulting from fire, windstorm, drought, flooding, disease and other perils;

(d) fire insurance — means insurance against the loss of, or damage to, property caused by fire, lighting, explosion due to ignition, smoke, and the breakage of or the leakage from a sprinkler or other fire protection equipment or system;

(e)	hurricane and windstorm insurance	means insurance against the loss of, damage to, property caused by windstorm, cyclone, hurricane or tornado, including rain accompanying, flood following, and tidal wave caused by, such perils;
(f)	livestock insurance	means insurance against the loss, sickness or death of, or injury to, animals, birds or fish;
(g)	theft insurance	means insurance against the loss of, or damage to, property caused by theft, wrongful conversion, burglary, house-breaking or robbery, and includes insurance against loss caused by forgery;
(h)	water damage insurance	means insurance against the loss of, or damage to, property caused by the escape of water or oil — (i) from plumbing, heating or sprinkler or other fire protection equipment or system in a building, or (ii) from any water main or water pipe outside of a building.
(9)	sickness or health insurance business	means — (i) insurance against loss resulting from the illness or disability of a person other than loss resulting from death, (ii) insurance where an external insurer undertakes to pay a certain sum or sums of money in the event of the illness or disability of a person, or (iii) insurance against expenses incurred for vision or dental care, laboratory or x-ray services, hospitalisation, other than for illness or disability arising out of an accident.

a subclass of paragraph (9) includes —

	permanent health insurance	means insurance against risks of the persons insured sustaining injury as the result of an accident or of an accident of a specified class or becoming incapacitated in consequence of disease or of disease of a specified class being contracts that — (aa) are expressed to be in effect for a period of not less than five years or without limit of time, and

(bb) either are not expressed to be terminable by the external insurer before the expiration of five years from the taking effect thereof or are expressed to be so terminable before the expiration of that period only in special circumstances therein mentioned.

(10) variable annuity business — means insurance business under a policy which provides that the annuity benefits payable to the policyholder are to be determined wholly or partly —

(a) according to the investment experience of a separate segregated account maintained by the external insurer in respect of that policy or class of policy;

(b) by reference to the value of, or income from assets of any description allocated in the general accounts of the external insurer in respect of that policy or class of policy whether or not specified in the policy; or

(c) by reference to fluctuations in or in an index of, the value of assets of any description whether or not specified in the policy.

(11) variable life insurance business — means life insurance business under a policy the duration of which may vary, and under which the benefits payable to the policyholder are to be determined wholly or partly —

(i) according to the investment experience of a separate segregated account or accounts maintained by the external insurer in respect of that policy or class of policy,

(ii) by reference to the value of or income from assets of any description allocated in the general accounts of the external insurer in respect of that policy

or class of policies whether or not it is specified in the policy, or

(iii) by reference to fluctuations in or in an index of the value of assets of any description whether or not it is specified in the policy.

subclasses of paragraph (11) include —

(a) unit-linked insurance — means insurance provided by life insurance contracts and includes benefits which are wholly or partly linked to the income from, or the value of, any group of the company's assets, or wholly or partly calculated by reference to the yield from or the value of any descriptions of investments, whether investments of those descriptions are held by the company or not;

(b) universal life insurance — means a flexible whole life insurance policy that provides lifetime protection under a contract that separates the protection and savings components.