

CAYMAN ISLANDS



**INSURANCE (AMENDMENT AND
VALIDATION) BILL, 2024**

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A BILL FOR AN ACT TO AMEND THE INSURANCE ACT, 2010 TO PROVIDE THAT THE APPLICATION FEE FOR AN APPLICATION FOR A LICENCE OR FOR REGISTRATION AS A PORTFOLIO INSURANCE COMPANY IS NON-REFUNDABLE; TO PROVIDE FOR THE PAYMENT OF ANNUAL FEES BY PERSONS REGISTERED UNDER THE ACT; TO AMEND THE PROVISIONS RELATING TO THE REGISTRATION OF EXEMPTED COMPANIES AS PORTFOLIO INSURANCE COMPANIES; TO VALIDATE THE CHARGING AND COLLECTION OF ANNUAL FEES IN RESPECT OF PORTFOLIO INSURANCE COMPANIES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

PUBLISHING DETAILS

Sponsoring Ministry/Portfolio: Ministry of Financial Services and Commerce (FSC)



Memorandum of OBJECTS AND REASONS

This Bill amends the Insurance Act, 2010 (“the principal Act”) to provide that the application fee for an application for a licence or for registration as a portfolio insurance company is non-refundable, to provide for the payment of annual fees by persons registered under the Act and to amend the provisions relating to the registration of exempted companies as portfolio insurance companies.

The Bill also validates the charging and collection of annual fees, and the assessment and payment of surcharges, in respect of portfolio insurance companies and provides for incidental and connected purposes.

Clause 1 provides the short title and commencement of the legislation.

Clause 2 amends section 4 of the principal Act to provide that the prescribed application fee for a licence is non-refundable.

Clause 3 amends section 7 of the principal Act to provide for the payment of annual fees by persons registered under the legislation, and in respect of whom a licence is not required to carry on insurance business.

Clause 4 amends section 28B of the principal Act to provide, among other things, that the prescribed application fee for registration as a portfolio insurance company is non-refundable. The clause also amends section 28B to provide for certain requirements to be satisfied by a portfolio insurance company that wishes to remain registered.

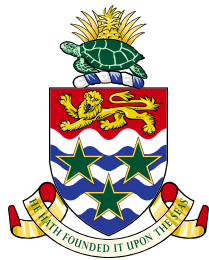
Clause 5 amends the principal Act by inserting a proposed section 39A. The proposed section 39A empowers the Cabinet to waive or reduce any or all of the fees pertaining to a licence or registration under the legislation in relation to any person or group of persons in Cayman Brac or Little Cayman.

Clause 6 deals with the validation of annual fees charged and collected by, and any related surcharges assessed by and paid to, the Authority without statutory authority before the commencement of this amending and validating legislation.

Clause 7 provides that this amending and validating legislation does not affect any order or determination made by a court relating to annual fees charged and collected by, and any related surcharges assessed by and paid to, the Authority without statutory authority, before the commencement of this amending and validating legislation.

Clause 8 provides the transitional arrangement for applications for a licence or registration for which decisions are pending on the day immediately preceding the commencement of this legislation. The application fee for those applications will be refundable.

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INSURANCE (AMENDMENT AND VALIDATION)
BILL, 2024

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A BILL FOR AN ACT TO AMEND THE INSURANCE ACT, 2010 TO PROVIDE THAT THE APPLICATION FEE FOR AN APPLICATION FOR A LICENCE OR FOR REGISTRATION AS A PORTFOLIO INSURANCE COMPANY IS NON-REFUNDABLE; TO PROVIDE FOR THE PAYMENT OF ANNUAL FEES BY PERSONS REGISTERED UNDER THE ACT; TO AMEND THE PROVISIONS RELATING TO THE REGISTRATION OF EXEMPTED COMPANIES AS PORTFOLIO INSURANCE COMPANIES; TO VALIDATE THE CHARGING AND COLLECTION OF ANNUAL FEES IN RESPECT OF PORTFOLIO INSURANCE COMPANIES; AND FOR INCIDENTAL AND CONNECTED PURPOSES

ENACTED by the Legislature of the Cayman Islands.

Short title and commencement

1. (1) This Act may be cited as the Insurance (Amendment and Validation) Act, 2024.
- (2) This Act shall come into force on such date as may be appointed by Order made by the Cabinet.

Amendment of section 4 of the Insurance Act, 2010 - licences

2. The *Insurance Act, 2010*, in this Act referred to as the “principal Act”, is amended in section 4(2), by repealing paragraph (b) and substituting the following paragraph —



“(b) the prescribed non-refundable application fee,”.

Amendment of section 7 - licence renewal fees

3. The principal Act is amended in section 7 as follows —

- (a) by repealing the section heading and substituting the following section heading —

“Annual fee”;

- (b) by inserting after subsection (1) the following subsection —

“(1A) A person who is registered under this Act, and in respect of whom a licence is not required to carry on insurance business, shall on or before every 15th day of January after its first registration, pay the prescribed annual fee.”;

- (c) in subsection (2), as follows —

- (i) by inserting after the words “A licensee” the words “or a person referred to in subsection (1A)”;
- (ii) by inserting after the words “subsection (1)” the words “or (1A), respectively,”;

- (d) in subsection (3), by inserting after the words “subsection (1)” the words “or (1A)”.

Amendment of section 28B - registration of exempted company as portfolio insurance company

4. The principal Act is amended in section 28B as follows —

- (a) in subsection (1), as follows —

- (i) by deleting the words “in writing” and substituting the words “in the prescribed form”;
- (ii) by deleting the words “and remain registered”;
- (iii) in paragraph (a), by deleting the words “and within six months of the end of each financial year during the continuation of the registration, file with the Authority an annual declaration” and substituting the words “, file with the Authority a declaration”;
- (iv) in paragraph (b), by repealing subparagraph (iii) and substituting the following subparagraph —

“(iii) the prescribed non-refundable application fee; and”;

- (b) by inserting after subsection (2) the following subsections —

“(3) The Authority may require an applicant to provide supplementary information on or a clarification of the information initially provided in the application.



- (4) A portfolio insurance company, in order to remain registered, shall —
- (a) within six months after the end of each financial year during the continuation of the registration, file with the Authority an annual declaration in the form approved by the Authority, declaring —
- (i) the name of the exempted company which name shall include the letters “PIC” or “P.I.C.” or the words “Portfolio Insurance Company”;
- (ii) the name of its controlling relevant insurer; and
- (iii) the names of the directors, managers and officers of the exempted company; and
- (b) pay the prescribed annual fee in accordance with section 7, and the portfolio insurance company shall remain registered subject to conditions determined by the Authority for the proper operation and supervision of the portfolio insurance company.”.

Insertion of section 39A - waiver or reduction of fees by Cabinet

5. The principal Act is amended by inserting after section 39 the following section —

“Waiver or reduction of fees by Cabinet

39A. The Cabinet may waive or reduce any or all of the fees pertaining to a licence or registration under the Act in relation to any person or group of persons in Cayman Brac or Little Cayman.”.

Validation of collection of annual fees and surcharges from portfolio insurance companies

6. (1) The payment of annual fees to, and the charging and collection of annual fees by, the Authority from portfolio insurance companies, without statutory authority, prior to the commencement of this amending and validating Act are —
- (a) validated; and
- (b) taken to have been lawfully charged by, paid to and collected by the Authority,
- as if the Authority was empowered under the principal Act as amended by this amending and validating Act to charge and collect those fees.
- (2) Any surcharge assessed by, or paid to, the Authority without statutory authority for the late payment or non-payment of annual fees by portfolio insurance companies prior to the commencement of this amending and validating Act are —
- (a) validated; and

- (b) taken to have been lawfully assessed by, or paid to, the Authority,
as if the surcharge was assessed by or paid in accordance with the principal Act
as amended by this amending and validating Act.

Orders or determinations by a court not affected

7. This amending and validating Act does not affect any order or determination made by a court prior to the commencement of this amending and validating Act with respect to —
- (a) annual fees charged by, paid to and collected by the Authority from portfolio insurance companies, without statutory authority; or
 - (b) surcharges assessed by the Authority in respect of portfolio insurance companies, or paid to the Authority by portfolio insurance companies, without statutory authority.

Transitional

8. Notwithstanding sections 2 and 4(a)(iv) of this amending and validating Act, the application fee for an application for a licence or for registration as a portfolio insurance company in respect of which a decision is pending on the day immediately preceding the commencement of this amending and validating Act shall be refundable.

Passed by the Parliament the day of , 2024.

Speaker

Clerk of the Parliament

