



# The Legal 500 Country Comparative Guides

## Israel: Insurance & Reinsurance

This country-specific Q&A provides an overview of insurance & reinsurance laws and regulations applicable in Israel.

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## **1. How is the writing of insurance contracts regulated in your jurisdiction?**

The Insurance Contract Law, 1981 (hereinafter: The Contract Law) regulates the format and the content of insurance contracts. An insurance contract must be in writing and the proposal form must be attached to the policy. If the proposal form is not attached the Insurer will not be able to rely on it in case of a claim. The insurance contract must be in the format required by the Contract Law. Any exclusion must be underlined.

In addition, the Commissioner of Insurance issued several regulations which dictate wording of certain private line policies which refer to conditions that must be included or should not be included in insurance contracts (such as Household Policy, Travel Policy, Motor Vehicle Bodily Injury).

According to the Control Over Financial Services (Insurance) Law, 1981 (hereinafter: the Control Law) any new insurance program or any change in the terms of an existing program must be notified in advance to the Commissioner of Insurance and receive his approval to the change.

## **2. Are types of insurers regulated differently (i.e. life companies, reinsurers?)**

The law, regulations and circulars issued by the Commissioner's Office are addressed to Israeli Insurance Companies which operate both in Life and in Non-Life branches. However there are several differences between the rules which apply to life insurance to those which apply to non-life insurance.

For example, insurers are obliged to handle separate accounting system for life insurance business, and accordingly to have separate reinsurance agreements for reinsurance of life insurance business. The insurer's rights under such reinsurance agreement should first be used to fulfill its obligations under the life insurance policies, and only if money is left after fulfilling these obligations, it can be used to for other purposes.

Notwithstanding the above, there are general rules which apply to all insurance Company regardless of the type of business it runs.

Currently there are no reinsurance companies registered in Israel.

## **3. Are insurance brokers and other types of market intermediary subject to regulation?**

The Control Law and the Contract Law acknowledge only one type of insurance intermediary i.e. the insurance agent. As far as the Law is concerned there is no difference between broker and agent. According to the Control Law, an insurance agent must be licensed. The insurance agent is an intermediary between an Insured to a Licensed Israeli Insurer. The Control Law

prohibits insurance agents from acting as intermediaries between an insured and an unlicensed insurer.

The Contract Law deals with the status of the insurance agent in the insurance transaction, and determines that generally the agent will be considered as the agent of the Insurer for the purpose of negotiating the insurance contract and its conclusion unless otherwise requested in writing by the Insured. For the purposes of knowledge of material facts, or receiving premium, and for the purpose of receiving notifications, the agent is considered as the agent of the Insurer.

In addition to brokers and agents, there are insurance consultants who are only remunerated by payments of the Insureds. The Insurance Laws do not deal with the legal status of such consultants.

**4. Is authorisation or a licence required and if so how long does it take on average to obtain such permission? What are the key criteria for authorisation?**

According to the Control Law the agent must pass examinations in order to receive a license. After passing the exams, he must work for 2 years at the office of an authorized agent as a trainee in order to be qualified as a licensed agent. It takes about 5 years to become an authorized agent.

**5. Are there restrictions or controls over who owns or controls insurers (including restrictions on foreign ownership)?**

According to the Control Law the control of more than 5 per cent of any type of means of control of an insurer is conditioned upon receiving a permit from the Commissioner of Insurance. The Commissioner takes into consideration a wide variety of factors, including the financial means and business background of the entities requesting the permits, prevention of potential conflict of interest, ensuring the insurer is properly managed, as well as issues of money laundering, including the transparency of information about the potential investor. In addition, the Commissioner will not grant a permit to hold means of control unless he or she is convinced that the applicants have personal and business integrity, and professional experience and knowledge.

The definition of “means of control” includes: rights to vote in the General Assembly of the insurance company and power to nominate a director in the company

There is no restriction regarding foreign investors, however the identity of the investor will be taken into consideration before granting the investor a permit for holding means of control.

**6. Is it possible to insure or reinsure risks in your jurisdiction without a licence or authorisation? (i.e. on a non-admitted basis)?**

The Control law prohibits a non-admitted insurer from being engaged in insurance business in Israel. The term “engaged in insurance business” was interpreted as performing acts of solicitation, negotiations of policy terms, issuing policies or handling claims in Israel.

However, there is nothing in the law that prohibits an Israeli insured to approach a foreign non-admitted insurer for purchasing an insurance policy, nor is there any restriction that forbids a non-admitted insurer to insure an Israeli risk. Therefore, a non-admitted insurer can insure an Israeli risks if the insured approached the non-admitted insurer on its own initiative. In fact, many of the large Israeli companies are insured with non-admitted insurers.

It should be noted, that in a judgement handed by the Supreme Court it was determined that a non-admitted insurer does not have the right to file a subrogation claim in Israel.

**7. What penalty is available for those who operate in your jurisdiction without appropriate permission?**

Engaging in insurance business in Israel (without a license) is a criminal offence. The punishment can be imprisonment for 3 years and a substantial fine.

**8. How rigorous is the supervisory and enforcement environment? What are the key areas of its focus?**

The Commissioner of Insurance in Israel is very active and the control over entities engaging in the insurance business (both insurance companies and intermediaries) is tight. The Commissioner has several teams who perform reviews and carry out unexpected checks of insurance companies and insurance agents. It investigates all complaints and issues appropriate sanctions, including revoking licenses. The financial sanctions imposed by the Commissioner can amount to millions of shekels.

**9. How is the solvency of insurers (and reinsurers where relevant) supervised?**

Balance sheets and Capital requirements of an Insurer are dealt with by the Control Law and its regulations. In addition the Commissioner issues from time to time circulars regarding the capital requirements for an insurer. Currently Israeli Insurance Companies must adopt Solvency II requirements (similar to the requirement adopted in Europe).

The Commissioner reviews each company’s adherence to the capital requirements. If a company does not stand by the required capital requirements, it will not be allowed to distribute dividends, and may also have to decrease its level of operation.

**10. What are the minimum capital requirements?**

Minimum capital for non-life activities is ILS 59 million. However, if the company is a 100% Digital Company, the capital requirement is ILS 10 million.

For life activities the minimum capital required is ILS 52 million. However, if the Company is a 100% Digital Company, the capital requirement is ILS 15 million.

**11. Is there a policyholder protection scheme in your jurisdiction?**

There is no protection scheme per se. However, the Control Law regulations which relate to a liquidation of an insurance company give priority to debts towards insureds over other debtors.

**12. How are groups supervised if at all?**

The Commissioner of Insurance issued circulars protecting the interests of group insureds (mainly in Life and Health Branches of Insurance). Group insurers must provide the policy wording to each member of the Group. The Group Insurance terms and prices are subject to strict supervision.

**13. Do senior managers have to meet fit and proper requirements and/or be approved?**

The qualification requirements for directors of insurance companies are detailed in the Control Law Regulations (the Board of Directors and its Committees), 2007. The main requirements are:

Every member of the board of directors must be a natural person who fulfils at least one of the following:

- holds an academic degree in one of the following: insurance, law, economy, accountancy, statistics, business management, actuary, international auditing or any other field approved by the Commissioner;
- is qualified to serve as an actuary or risk manager in an insurance company;
- has managerial experience as detailed in the regulations; or
- holds a licence as an accountant, pension adviser, investment adviser, portfolio manager or an insurance broker and has been engaged in such field for at least four years.

The Commissioner is entitled to approve the appointment of a qualified director even if he or she does not fulfil any of the above terms.

A person may not be appointed as a director for an insurance company if:

- his or her other business activities do not leave sufficient time to fulfill the duties of a director;
- he or she is an employee of the insurer;
- he or she serves as a director or officer of another institutional body, unless the Commissioner confirms that no conflict of interest exists; or
- he or she has been convicted of a criminal offence as listed in the regulations.

At least one-third of the board members must be external directors who have no connection with the main shareholders. At least half of the external directors must have clear and proven expertise in the insurance field or three years' experience as a CEO, or have held another senior officer's position in a financial institution. In addition, at least half of the external directors must have expertise in accounting and finance.

Prior to the appointment of a director or officer of an insurance company, a notice must be sent to the Commissioner, who may object to the appointment within 60 days.

According to the Control Law, the Commissioner has the right to supervise the nomination of directors and officers of an Insurer. The insurance company must submit annually the list of their D&Os to the Commissioner, specifying the qualifications of such D&Os.

#### **14. Are there restrictions on outsourcing services relating to the business?**

In March 2018, the Commissioner published a circular "Outsourcing in Institutional Entities" which applies also to insurance companies.

The gist of the circular are:

1. Outsourcing activities do not release the Insurer's from liability according to the Law for the tasks outsourced.
2. The insurer's board of directors must review and confirm what the activities that should be outsourced are. Such discussion must take place at least every 4 years. The Board will review the risks deriving from outsourcing activities and will ratify any outsourcing of substantial activity as well as its outsourcing policy.
3. A special control and check-up measures will be established to review outsourced activities.
4. Any outsourcing activity should be established in a written contract.

Subject to the above, all Insurers' activities including substantial activities can be outsourced.

#### **15. How are sales of insurance supervised or controlled?**

The sale of insurance products is a major part of an insurer's activities and is closely

supervised by the Commissioner.

Insurance products can only be sold to insureds either directly by the insurer or through a licensed agent.

The said supervision includes: supervision over the tariff of the insurance product, the presentation of the product, i.e. ensuring that there will be no misrepresentation.

There are specific instructions issued by the Commissioner regarding various methods of sale, such as through the telephone, the internet, directly or through agents.

**16. Are consumer policies subject to restrictions? If so briefly describe the range of protections offered to consumer policyholders**

All policies are subject to the Insurance Contract Law which is a pro consumer law. The law includes various restrictions which are meant to protect the insured. For example:

- Exclusions included in the policy must be emphasized, and if an insurer failed to do so it cannot rely on the exclusion;
- Questions included in the Proposal Form must be specific. General questions will prevent the Insurer from relying on the answers.
- The proposal form must be attached to the policy and sent to the Insured. Failing to do so will prevent the Insurer from relying on the proposal form.
- The insured does not have an independent duty of disclosure.
- No condition precedent is allowed. Insurance contracts cannot be voided unless in case of proven fraud.
- The Insurer cannot rely on the failure of the Insured to take the required safety precautions, unless the event is the direct result of the failure.

In certain types of private line insurances such as Household (Property), Travel Insurance, Motor Vehicle, Bodily Injury, the wording of the Policy is dictated by the Regulator.

**17. Are the courts adept at handling complex commercial claims?**

The courts in Israel are fully qualified to handle complex commercial claims.

**18. Is alternative dispute resolution well established in your jurisdictions?**

Alternative dispute resolutions are well established in Israel. More so according to the procedural law, all cases must be referred to A.D.R. at their first stage, and only if the A.D.R process fails, the case will be reverted to the court.

**19. What are the primary challenges to new market entrants?**

Israel is a small country, but with substantial awareness of insurance. There are about 7 existing insurers and in addition several Lloyds cover holders. The competition is therefore fierce.

In addition, the insurance market is highly regulated. Such level of regulation imposes on insurers a substantial financial burden to comply with all the regulations.

**20. To what extent is the market being challenged by digital innovation?**

The Insurance Commissioner announced that he will support any new company which will be fully digitalized. This support means, substantial lowering of the initial requirement for Insurers' licensing.

In 2018 two new digital insurance companies were established handling private lines only. Their financial result for December 2019, shows loss, however it is too early to predict whether they will survive, or whether others will join.

In addition to the two digital Insurers, existing traditional Insurers are opening new digital sales activities.

Other than Digital Companies there are several High Tech Companies which are working on various products that will be implemented in the future in existing Insurance Companies.

**21. Over the next five years what type of business do you see taking a market lead?**

As Israel is a leading force in innovations in many areas, one can expect to see the introduction of new technological ideas for the insurance products.

Already now, some insurance companies are offering Motor Vehicle (Property) cover which rates is dependent on the actual number of miles driven.

One can expect that I.O.T. (Internet of Things) will be incorporated in handling claims (mainly motor claims). More digitalization will be introduced to marketing of private insurance products, such as comparison between proposed rates and artificial intelligence I will be implemented to reduce insurance frauds.

Future Lead Products

Cyber Insurance, either as a stand alone product (mainly for business) or as an extension of Household and Office Coverage.