



# Insurance Companies Act 1982

## 1982 CHAPTER 50

### PART I

#### RESTRICTION ON CARRYING ON INSURANCE BUSINESS

##### *Applications for authorisation*

#### **5 Submission of proposals etc.**

- (1) The Secretary of State shall not issue an authorisation under section 3 above unless—
  - (a) the applicant has submitted to him such proposals as to the manner in which it proposes to carry on business, such financial forecasts and such other information as may be required by or in accordance with regulations under this Act, and
  - (b) he is satisfied on the basis of that and any other information received by him that the application ought to be granted.
- (2) The Secretary of State shall decide an application for an authorisation under section 3 above within six months of receiving the information referred to in subsection (1) (a) above; and if he refuses to issue the authorisation he shall inform the applicant in writing of the reasons for the refusal.

#### **6 Combination of long term and general business**

The Secretary of State shall not under section 3 above authorise a body to carry on both long term business and general business unless—

- (a) the long term business is restricted to reinsurance, or
- (b) the body is at the time the authorisation is issued already lawfully carrying on in the United Kingdom both long term business and general business (in neither case restricted to reinsurance).

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## 7 **United Kingdom applicants**

- (1) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is in the United Kingdom unless the applicant is—
  - (a) a company as defined in section 455 of the Companies Act 1948 or section 399 of the Companies Act (Northern Ireland) 1960, or
  - (b) a registered society, or
  - (c) a body corporate established by royal charter or Act of Parliament and already authorised under section 3 or 4 above to carry on insurance business (though not to the extent proposed in the application).
- (2) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is in the United Kingdom if it has an issued share capital any part of which was issued after the commencement of this section but is not fully paid up.
- (3) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is in the United Kingdom if it appears to the Secretary of State that any director, controller, manager or main agent of the applicant is not a fit and proper person to hold the position held by him.
- (4) In this section " controller ", in relation to the applicant, means—
  - (a) a managing director of the applicant or of a body corporate of which the applicant is a subsidiary;
  - (b) a chief executive of the applicant or of a body corporate, being an insurance company, of which the applicant is a subsidiary;
  - (c) a person—
    - (i) in accordance with whose directions or instructions the directors of the applicant or of a body corporate of which it is a subsidiary are accustomed to act, or
    - (ii) who either alone or with any associate or associates is entitled to exercise, or control the exercise of, one-third or more of the voting power at any general meeting of the applicant or of a body corporate of which it is a subsidiary.
- (5) In this section " manager ", in relation to the applicant, means an employee of the applicant (other than a chief executive) who, under the immediate authority of a director or chief executive of the applicant—
  - (a) exercises managerial functions, or
  - (b) is responsible for maintaining accounts or other records of the applicant,not being a person whose functions relate exclusively to business conducted from a place of business outside the United Kingdom.
- (6) In this section " main agent ", in relation to the applicant, means, subject to such exceptions as may be prescribed, a person appointed by the applicant to be its agent in respect of general business in the United Kingdom, with authority to enter into contracts on behalf of the applicant in any financial year—
  - (a) without limit on the aggregate amount of premiums; or
  - (b) with a limit in excess of 10 per cent, of the premium limit as determined in accordance with Schedule 3 to this Act.
- (7) In this section " chief executive ", in relation to the applicant or a body corporate of which it is a subsidiary, means an employee of the applicant or that body corporate,

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who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of the applicant or that body corporate.

- (8) In this section "associate", in relation to any person, means—
- (a) the wife or husband or minor son or daughter of that person;
  - (b) any company of which that person is a director;
  - (c) any person who is an employee or partner of that person;
  - (d) if that person is a company—
    - (i) any director of that company;
    - (ii) any subsidiary of that company ;
    - (iii) any director or employee of any such subsidiary ;

and for the purposes of this subsection " son " includes step-son, " daughter " includes stepdaughter and " minor ", in relation to Scotland, includes pupil.

## **8 Applicants from other member States**

- (1) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is in a member State other than the United Kingdom unless the applicant has a representative fulfilling the requirements of section 10 below.
- (2) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is in a member State other than the United Kingdom if it appears to the Secretary of State that any relevant executive or main agent of the applicant is not a fit and proper person to hold the position held by him.
- (3) Where an applicant whose head office is in a member State other than the United Kingdom seeks an authorisation under section 3 above restricted to reinsurance business—
- (a) the Secretary of State shall not issue the authorisation unless he is satisfied that the applicant is a body corporate entitled under the law of that State to carry on insurance business there; and
  - (b) subsection (2) above shall have effect as if the reference to any relevant executive were a reference to any person who is a director, controller or manager of the applicant or a person within paragraph (a) or (b) of subsection (4) below.
- (4) In this section "relevant executive" in relation to the applicant means a person who is—
- (a) the representative referred to in subsection (1) above or the individual representative referred to in section 10(5) below;
  - (b) an officer or employee of the applicant who, either alone or jointly with others, is responsible for the conduct of the whole of the insurance business carried on by the applicant in the United Kingdom, not being a person who—
    - (i) is also responsible for the conduct of insurance business carried on by the applicant elsewhere, and
    - (ii) has a subordinate who is responsible for the whole of the insurance business carried on by the applicant in the United Kingdom; or
  - (c) an employee of the applicant who, under the immediate authority of a director or of an officer or employee within paragraph (b) above.—
    - (i) exercises managerial functions, or

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(ii) is responsible for maintaining accounts or other records of the applicant,  
not being a person whose functions relate exclusively to business conducted from a place of business outside the United Kingdom;  
and "controller", "manager" and "main agent" have the same meanings as in section 7 above.

## **9 Applicants from outside the Community**

- (1) The Secretary of State shall not issue an authorisation under section 3 above in respect of long term or general business to an applicant whose head office is not in a member State unless he is satisfied—
- (a) that the applicant is a body corporate entitled under the law of the place where its head office is situated to carry on long term or, as the case may be, general business there;
  - (b) that the applicant has in the United Kingdom assets of such value as may be prescribed ; and
  - (c) that the applicant has made a deposit of such amount and with such person as may be prescribed ;
- but subject to subsections (2) and (3) below.
- (2) Where the applicant seeks to carry on insurance business in the United Kingdom and one or more other member States, the Secretary of State and the supervisory authority in the other State or States concerned may agree that this subsection shall apply to the applicant; and in that event—
- (a) paragraph (b) of subsection (1) above shall have effect as if the reference to the United Kingdom were a reference to the member States concerned taken together ; and
  - (b) paragraph (c) of that subsection shall have effect as if the reference to such person as may be prescribed were a reference to such person as may be agreed between the Secretary of State and the other supervisory authority or authorities concerned.
- (3) Paragraph (c) of subsection (1) above shall not apply where the authorisation sought is one restricted to reinsurance.
- (4) The Secretary of State shall not issue an authorisation under section 3 above to an applicant whose head office is not in a member State unless the applicant has a representative fulfilling the requirements of section 10 below.
- (5) The Secretary of State shall not issue an authorisation under Section 3 above to an applicant whose head office is not in a member State if it appears to the Secretary of State that—
- (a) the representative of the applicant referred to in subsection(4) above or the individual representative referred to in section 10(5) below, or
  - (b) any director, controller or manager of the applicant, or
  - (c) a main agent of the applicant,
- is not a fit and proper person to hold the position held by him.
- (6) In this section " controller ", " manager" and " main agent" have the same meanings as in section 7 above, except that for the purposes of this section the controllers of the applicant shall be taken to include any officer or employee who, either alone or jointly

with others, is responsible for the conduct of the whole of the insurance business carried on by the applicant in the United Kingdom, not being a person who—

- (a) is also responsible for the conduct of insurance business carried on by it elsewhere ; and
  - (b) has a subordinate who is responsible for the whole of the insurance business carried on by the applicant in the United Kingdom.
- (7) Regulations under this Act may make such provision as to deposits under this section as appears to the Secretary of State to be necessary or expedient, including provision for the deposit of securities instead of money, and, in relation to deposits with the Accountant General of the Supreme Court, provision applying (with or without modification) any of the provisions of the rules for the time being in force under section 38(7) of the Administration of Justice Act 1982.

## **10 General representatives**

- (1) The requirements referred to in sections 8(1) and 9(4) above are those set out in the following provisions of this section.
- (2) The representative must be a person resident in the United Kingdom who has been designated as the applicant's representative for the purposes of this section.
- (3) The representative must be authorised to act generally, and to accept service of any document, on behalf of the applicant.
- (4) The representative must not be an auditor, or a partner or employee of an auditor, of the accounts of any business carried on by the applicant.
- (5) If the representative is not an individual, it must be a company as defined in section 455 of the Companies Act 1948 or section 399 of the Companies Act (Northern Ireland) 1960 with its head office in the United Kingdom and must itself have an individual representative resident in the United Kingdom who is authorised to act generally, and to accept service of any document, on behalf of the company in its capacity as representative of the applicant.