

1976 No. 131

INSURANCE

**Insurance Companies (Linked Properties and Indices) Regulations
(Northern Ireland) 1976**

Made 21st April 1976

Coming into operation 7th June 1976

The Department(a) of Commerce, in exercise of the powers conferred upon it by Articles 79(1), (2)(a), (4) and (5) and 93 of the Insurance Companies (Northern Ireland) Order 1976(b) and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Insurance Companies (Linked Properties and Indices) Regulations (Northern Ireland) 1976 and shall come into operation on 7th June 1976.

Interpretation

2.—(1) In these regulations—

“the Order” means the Insurance Companies (Northern Ireland) Order 1976;

“ordinary long term insurance business contracts” means contracts of the kind mentioned in the definition of “ordinary long term insurance business” in Article 3(2) of the Order;

“retirement benefits scheme” means a scheme for the provision to a member of the scheme or to his wife or widow, children, dependants or personal representatives of any pension, annuity, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a member occurring during his service or of his death by accident so occurring and for no other reason.

(2) Any reference in these regulations to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects:—

(a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract, and

(b) the insurance company or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

(a) Formerly Ministry: see 1973 c. 36 s. 40 and Sch. 5 para. 8(1)

(b) S.I. 1976/59 (N.I. 3)

Application

3.—(1) These regulations apply to ordinary long term insurance business contracts which—

- (a) are entered into by insurance companies to which Part III of the Order applies or by members of Lloyd's, or of any other association of underwriters approved for the purposes of Part II of the Order by the Department of Commerce or have been entered into by any such insurance company or other person at any time before the coming into operation of these regulations and are then still in force;
- (b) are contracts under which the benefits payable to the policyholder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (c) are not contracts specified in paragraph (2) as being contracts to which these regulations do not apply.

(2) The contracts referred to in paragraph 1(c) to which these regulations do not apply are as follows:—

- (a) contracts entered into before the date of the making of these regulations providing for benefits which would, if they had become due for payment on that date, have been wholly or partly determined either—
 - (i) by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than those specified in Part I of the Schedule, or
 - (ii) by reference to fluctuations in an index of the value of property other than those specified in Part II of the Schedule;
- (b) contracts entered into after the making of these regulations but before 1st September 1976, which are contracts of a similar description to any contract falling within sub-paragraph (a);
- (c) contracts with any policyholder who is a person not ordinarily resident in the United Kingdom;
- (d) contracts the effecting of which by the insurer constitutes the carrying on of industrial assurance business;
- (e) contracts entered into by an insurance company to which Part III of the Order applies by reason only that the policyholder is eligible to participate in any established surplus as defined in Article 29(4) of the Order;
- (f) contracts under or relating to a retirement benefits scheme (whether evidenced by deed, agreement or series of agreements or other arrangement) not being a scheme whereby—
 - (i) the benefit is assured by means of one or more contracts;
 - (ii) each contract provides in respect of each member of the scheme separate assurance, the proceeds of which are to go to that member at least to the extent that they are not greater than the benefits to which he is entitled at normal pension age;
 - (iii) the premium payable under each contract in respect of each member is payable at least annually; and
 - (iv) the amount of the premium (expressed as an annual rate) remains unchanged except in consequence of the declaration of a bonus or a change in the premium rate of the insurer.

Requirements for determination of benefits

4. Benefits payable under any contract to which these regulations apply shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than—

(a) property of any of the descriptions specified in Part I of the Schedule,

or

(b) property which was property of any of the descriptions specified in paragraphs 1 to 7 of Part I of the Schedule when it first became a property by reference to which benefits under that contract, or under any contract of a similar description to that contract, were to be determined, and which ceased to conform with that description not more than 15 months previously.

5. Benefits payable under any contract to which these regulations apply shall not be determined, either wholly or partly, by reference to fluctuations in any index of the value of property other than those described in Part II of the Schedule.

Sealed with the Official Seal of the Department of Commerce for Northern Ireland on 21st April 1976.

(L.S.)

Ernest Simpson

Assistant Secretary

SCHEDULE

PART I

Descriptions of property by reference to which benefits may be determined

1. Securities quoted on any recognised stock exchange specified in Part III.
2. Land (including any interest in land) in Australia, Belgium, Canada, the Channel Islands, Denmark, the Republic of Ireland, the Federal Republic of Germany, France, Gibraltar, Hong Kong, Italy, the Isle of Man, Luxembourg, the Netherlands, New Zealand, the Republic of South Africa, Singapore, Spain, the United Kingdom and the United States of America.
3. Loans—
 - (a) which are fully secured by mortgage or charge on land (or any interest in land) which—
 - (i) is situated in any of the countries specified in paragraph 2, and
 - (ii) in the case of a loan made to a person other than a body corporate, is not used wholly or mainly for domestic purposes; and
 - (b) of which the rate of interest and the due dates for the payment of interest and the repayment of principal can be fully ascertained from the terms of any agreement relating to the loan.
4. Units in an authorised unit trust scheme within the meaning of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(c) or the Prevention of Fraud (Investments) Act 1958(d).
5. Shares in or deposits with a building society within the meaning of the Building Societies Act (Northern Ireland) 1967(e) or the Building Societies Act 1962(f).
6. Loans to or deposits with Her Majesty's Government in the United Kingdom or any public or local authority or nationalised industry or undertaking in the United Kingdom.
7. Loans to, deposits with (including certificates of deposits issued by), amounts standing to the credit of any account with and bills of exchange accepted by any of the following:—
 - (a) the Bank of England;
 - (b) the National Savings Bank;
 - (c) the National Giro;
 - (d) a Trustee Savings Bank within the meaning of the Trustee Savings Banks Act 1969(g);
 - (e) a banking or discount company within the meaning of paragraph 23 of Schedule 6 to the Companies Act (Northern Ireland) 1960(h) or the Protection of Depositors Act 1963(i).
8. Amounts held in the currency of any country or on deposit or otherwise on account with a bank or other financial institution in any country:—
 - (a) for the purpose of acquiring property of any of the descriptions specified in paragraphs 1 and 2 situated in that country, or which are reasonably required to meet any expenditure incurred or to be incurred in respect of any such property, or, for a period not exceeding 90 days, as the proceeds of sale of or the income from any such property; or

(c) 1940 c. 9 (N.I.)

(d) 1958 c. 45

(e) 1967 c. 31 (N.I.)

(f) 1962 c. 37

(g) 1969 c. 50

(h) 1960 c. 22 (N.I.)

(i) 1963 c. 16

(b) for the purpose of making a loan of the description specified in paragraph 3 to any person in that country or, for a period not exceeding 90 days, as payment of interest or repayment of principal received in respect of any such loan.

9. Income due or to become due in respect of property of any of the descriptions specified in the foregoing paragraphs of this Schedule.

10. Cash in sterling.

PART II

Indices by reference to which benefits may be determined

11. The Financial Times Industrial Ordinary Stock Index.

12. The Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries.

PART III

13. In this Schedule "recognised stock exchange" means any of the following:—

- (a) the Stock Exchange;
- (b) any stock exchange in any of the countries specified below which is a stock exchange within the meaning of the law of that country relating to stock exchanges:
Austria; Belgium; Italy; Japan; Luxembourg; the Netherlands; Norway; Spain;
- (c) the Copenhagen Stock Exchange; the Helsinki Stock Exchange; the Johannesburg Stock Exchange;
- (d) any stock exchange in Australia which is a member of the Australian Associated Stock Exchanges, being a prescribed stock exchange within the meaning of Australian law relating to stock exchanges;
- (e) any stock exchange prescribed for the purposes of the Canadian Income Tax Act;
- (f) any stock exchange approved under the laws relating to stock exchanges in the Federal Republic of Germany;
- (g) any stock exchange set up in France in accordance with the French legislation;
- (h) any stock exchange in Hong Kong which is recognised under section 2A(1) of the Hong Kong Companies Ordinance;
- (i) any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange.

EXPLANATORY NOTE

(This note is not part of the regulations, but is intended to indicate their general purport.)

These regulations restrict the descriptions of property and the indices of the value of property to which benefits may be linked under ordinary long term insurance business contracts. They extend to contracts entered into before as well as after the coming into operation of the regulations; but they do not apply to contracts which have been entered into before the date of the making of the regulations and which are at that date linked to properties or indices other than those prescribed in the regulations, nor do they apply to contracts of a similar description to such contracts entered into between the date of the making of the regulations and 1st September 1976. The regulations also do not apply to contracts with policyholders who are not ordinarily resident in the United Kingdom and to contracts relating to certain retirement benefit schemes.