



Insurance Companies Act 1974

1974 CHAPTER 49

PART II

REGULATION OF INSURANCE COMPANIES

Powers of intervention

28 **Grounds on which powers are exercisable**

- (1) Any power conferred on the Secretary of State by sections 29 to 37 below shall be exercisable in relation to any insurance company to which this Part of this Act applies and shall be exercisable on any of the following grounds—
- (a) that the Secretary of State considers the exercise of the power to be desirable for protecting policy holders or potential policy holders of the company against the risk that the company may be unable to meet its liabilities or, in the case of long term business, to fulfil the reasonable expectations of policy holders or potential policy holders;
 - (b) that it appears to him—
 - (i) that the company has failed to satisfy an obligation to which it is or was subject by virtue of this Act or any enactment repealed thereby;
 - (ii) that a company of which it is a subsidiary has failed to satisfy an obligation to which it is or was subject by virtue of section 24(6) above or section 8(6) of the Insurance Companies Amendment Act 1973; or
 - (iii) that a subordinate company within the meaning of section 26 above of the company has failed to satisfy an obligation to which it is or was subject by virtue of that section or section 22 above or of section 6 or 10 of the said Act of 1973 ;
 - (c) that it appears to him that the company has furnished misleading or inaccurate information to the Secretary of State under or for the purposes of any provision of this Act or any enactment repealed thereby;

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- (d) that he is not satisfied that adequate arrangements are in force or will be made for the reinsurance of risks against which persons are insured by the company in the course of carrying on business, being risks of a class in the case of which he considers that such arrangements are required;
 - (e) that there exists a ground on which he would be prohibited, by section 7 above, from issuing an authorisation with respect to the company if it were applied for.
- (2) Any power mentioned in subsection (1) above shall also be exercisable in relation to any such company as is there mentioned—
- (a) if it is carrying on general business, on the ground that the Secretary of State is not satisfied that the company is not to be deemed (by virtue of section 44(1) below) for the purposes of section 222 or 399 of the Companies Act 1948 to be unable to pay its debts;
 - (b) if it is carrying on long term business, on the ground that he is not satisfied that the value of the assets representing the fund or funds maintained in respect of its long term business exceeds the amount of the liabilities of its long term business;
- and for the purposes of paragraph (b) above the value of any assets and the amount of any liabilities shall be determined in accordance with any applicable valuation regulations.
- (3) The power conferred on the Secretary of State by subsections (2) to (4) of section 36 below shall also be exercisable on the ground that he considers the exercise of that power to be desirable in the general interests of persons who are or may become policy holders of insurance companies to which this Part of this Act applies, and references in those subsections to a company include references to any body (whether incorporated or not) which appears to the Secretary of State to be an insurance company to which this Part of this Act applies.
- (4) Any power conferred on the Secretary of State by sections 29 to 34, 36(1) or 37 below shall also be exercisable, whether or not any of the grounds specified in subsections (1) to (3) above exists, in relation to—
- (a) any body in respect of which the Secretary of State has issued an authorisation;
 - (b) any insurance company to which this Part of this Act applies in the case of which a person has become a controller within the meaning of section 7(2) (c) above,
- if that power is exercised before the expiration of the period of five years beginning with the date on which the authorisation was issued or that person became such a controller, as the case may be; but no requirement imposed by virtue of this subsection shall continue in force after the expiration of the period of ten years beginning with that date.
- (5) The power conferred on the Secretary of State by section 37 below shall not be exercisable except in a case in which he considers that the purpose mentioned in that section cannot be appropriately achieved by the exercise of the powers conferred by sections 29 to 36 below or by the exercise of those powers alone.
- (6) The Secretary of State shall, when exercising any power conferred by sections 29 to 37 below, state the ground on which he is exercising it or, if he is exercising it by virtue of subsection (4) above, that he is so exercising it; but this subsection shall not apply where the Secretary of State has given notice under section 38 or 39 below of the proposed exercise of the power.

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- (7) The grounds specified in subsections (1)(b) to (e), (2) and (3) above are without prejudice to the ground specified in subsection (1)(a) above.