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## SCHEDULES

### [<sup>F1</sup>SCHEDULE 2F]

#### RECOGNITION IN THE UNITED KINGDOM OF EC AND EFTA COMPANIES]

##### Textual Amendments

**F1** Sch. 2F inserted (1.7.1994) by S.I. 1994/1696, reg. 45(2), Sch. 6

##### Modifications etc. (not altering text)

**C1** Sch. 2F: Power to contract out certain functions conferred (18.11.1998) by S.I. 1998/2842, arts. 2, 3, Sch. Pt. I para. 60

### PART I

#### EC COMPANIES CARRYING ON BUSINESS ETC. IN THE UNITED KINGDOM

##### *Requirements for carrying on direct insurance business*

- 1 (1) An EC company shall not carry on direct insurance business of a class or part of a class through a branch in the United Kingdom unless—
- (a) the company is authorised in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive to carry on insurance business of that class or part of a class; and
  - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are—
- (a) that the supervisory authority in the company's home State has sent to the [<sup>F2</sup>Treasury]—
    - (i) a notice which contains the requisite details; and
    - (ii) a certificate in accordance with sub-paragraph (3) below; and
  - (b) that either—
    - (i) the [<sup>F2</sup>Treasury][<sup>F3</sup>have] informed that authority of the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch; or
    - (ii) the period of two months beginning with the day on which the [<sup>F2</sup>Treasury] received the notice and certificate mentioned in paragraph (a) above has elapsed.

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- (3) A certificate given in respect of the company by the supervisory authority in its home State is in accordance with this sub-paragraph if it—
- (a) attests that the company has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
  - (b) indicates the classes of business which the company is authorised to carry on in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive.
- (4) The [F<sup>2</sup>Treasury] shall as soon as practicable—
- (a) acknowledge receipt of the documents sent by the supervisory authority in the company's home State; and
  - (b) where necessary, send a copy of those documents and a note of the date of their receipt to every other authority which [F<sup>4</sup>they know] is a connected UK authority.
- (5) Any connected UK authority which receives any documents under sub-paragraph (4) (b) above shall, within one month of the date on which they were received, inform the [F<sup>2</sup>Treasury] in writing of such provisions of the Acts, rules and regulations applying to insurance companies which the authority regulates as, having regard to the insurance business mentioned in the documents, it considers appropriate.

#### Textual Amendments

- F2** Word in Sch. 2F para. 1 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)
- F3** Word in Sch. 2F para. 1(2)(b)(i) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 73(a) (with art. 7)
- F4** Words in Sch. 2F para. 1(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 73(b) (with art. 7)

- 2 (1) An EC company shall not change the requisite details of a branch—
- (a) which has been established by it in the United Kingdom; and
  - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
- (a) that the company has given a notice to the [F<sup>5</sup>Treasury], and to the supervisory authority in its home State, stating the details of the proposed change not less than one month before the change is to take place;
  - (b) that the [F<sup>5</sup>Treasury][F<sup>6</sup>have] received from that authority a notice stating that it has approved the proposed change; and
  - (c) that either—
    - (i) the [F<sup>5</sup>Treasury][F<sup>7</sup>have] informed that authority of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch; or

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- (ii) the period of two months beginning with the day on which the company gave the [F5Treasury] the notice under paragraph (a) above has elapsed.
- (3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or after the change) give a notice to the [F5Treasury], and to the supervisory authority in its home State, stating the details of the change.
- (4) The [F5Treasury] shall as soon as practicable—
- (a) acknowledge receipt of the documents sent under sub-paragraph (2) or (3) above;
  - (b) send a copy of those documents, and a note of the date of their receipt, to every other authority which [F8they know] is a connected UK authority; and
  - (c) in the case of a notice under sub-paragraph (3) above, inform the supervisory authority in the home State of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch.

#### Textual Amendments

- F5** Word in Sch. 2F para. 2 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)
- F6** Word in Sch. 2F para. 2(2)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 74(a) (i) (with art. 7)
- F7** Word in Sch. 2F para. 2(2)(c)(i) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 74(a) (ii) (with art. 7)
- F8** Words in Sch. 2F para. 2(4)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 74(b) (with art. 7)

#### *Requisite details for purposes of paragraphs 1 and 2*

- 3 The requisite details for the purposes of paragraphs 1 and 2 above are—
- (a) the name of the company;
  - (b) the address of the branch in the United Kingdom and confirmation that it is an address for service on the company's authorised agent;
  - (c) the name of the company's authorised agent;
  - (d) a scheme of operations prepared in accordance with such requirements as may be imposed by the supervisory authority in its home State; and
  - (e) in the case of a company which intends to cover relevant motor vehicle risks, confirmation that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

#### *Requirements for carrying on reinsurance business*

- 4 (1) An EC company shall not carry on reinsurance business of any description through a branch in the United Kingdom unless—

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- (a) the company is entitled under the law of its home State to carry on business of that description; and
  - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are—
- (a) that the company has served on the [<sup>F9</sup>Treasury]—
    - (i) a written notice stating its intention to carry on reinsurance business and containing the requisite details; and
    - (ii) a statement from the supervisory authority in its home State stating the classes of business which the company carries on and declaring that the company has the required margin of solvency or minimum guarantee fund; and
  - (b) that either—
    - (i) the [<sup>F9</sup>Treasury][<sup>F10</sup>have] informed the company that it may begin to carry on the reinsurance business; or
    - (ii) the period of three months beginning with the date of service of that notice has expired.

#### Textual Amendments

- F9** Word in *Sch. 2F para. 4* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 72* (with art. 7)
- F10** Word in *Sch. 2F para. 4(2)(b)(i)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 75* (with art. 7)

- 5 (1) An EC company shall not change the requisite details of a branch—
- (a) which has been established by it in the United Kingdom; and
  - (b) through which it carries on reinsurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the company has given a notice to the [<sup>F11</sup>Treasury] stating the details of the proposed change not less than one month before the change is to take place.
- (3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or after the change) give a notice to the [<sup>F11</sup>Treasury] stating the details of the change.

#### Textual Amendments

- F11** Word in *Sch. 2F para. 5* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 72* (with art. 7)

#### *Requisite details for purposes of paragraphs 4 and 5*

- 6 The requisite details for the purposes of paragraphs 4 and 5 above are—

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- (a) the name of the company;
- (b) the address of the branch in the United Kingdom and confirmation that it is an address for service on the company's authorised agent;
- (c) the name of the company's authorised agent;
- (d) a scheme of operations containing particulars of the reinsurance business to be carried on through the branch.

*Power of Secretary of State where notice given under paragraph 4 or 5*

- 7
- (1) This paragraph applies where the [F12Treasury][F13receive] from an EC company a notice given in accordance with paragraph 4 or 5 above.
  - (2) The [F12Treasury] may, before the end of the period of three months beginning with the day on which [F14they receive] the notice, direct that Part II of this Act shall apply to the company.
  - (3) Before giving a direction under sub-paragraph (2) above, the [F12Treasury] shall serve on the company a written notice stating—
    - (a) that [F15they are] considering giving a direction and particulars of the ground on which [F15they are] considering it; and
    - (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the [F12Treasury] and, if the company so requests, oral representations to an officer of the [F16Treasury] appointed for the purpose by the [F12Treasury].
  - (4) Where representations are made in response to a notice under sub-paragraph (3) above, the [F12Treasury] shall take them into account before giving a direction.

**Textual Amendments**

- F12** Word in Sch. 2F para. 7 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)
- F13** Word in Sch. 2F para. 7(1) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 76(a) (with art. 7)
- F14** Words in Sch. 2F para. 7(2) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 76(b) (with art. 7)
- F15** Words in Sch. 2F para. 7(3)(a) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 76(c) (i) (with art. 7)
- F16** Word in Sch. 2F para. 7(3)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 76(c) (ii) (with art. 7)

*Requirements for providing insurance*

- 8
- (1) An EC company shall not provide insurance of a class or part of a class in the United Kingdom unless the company is authorised in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive to carry on insurance business of that class or part of a class and either—

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- (a) the requirements of this paragraph have been complied with in respect of that insurance; or
  - (b) the insurance is provided by the company participating in a Community co-insurance operation otherwise than as the leading insurer.
- (2) The requirements of this paragraph are—
- (a) that the supervisory authority in the company’s home State has sent to the [F17Treasury] a notice containing the requisite details and a certificate in accordance with sub-paragraph (3) below; and
  - (b) that the company has been notified by that authority that it has sent such a notice to the [F17Treasury].
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the company has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
    - (i) Articles 16 and 17 of the first general insurance Directive, and
    - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
  - (b) indicates the classes of business which the company is authorised to carry on in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive.

#### Textual Amendments

**F17** Word in [Sch. 2F para. 8](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))

#### Modifications etc. (not altering text)

**C2** [Sch. 2F para. 8](#) modified (1.7.1994) by [S.I. 1994/1696, regs. 69\(2\), 71\(3\)](#)

- 9
- (1) An EC company shall not change the requisite details relating to the provision of insurance in the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.
  - (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
    - (a) that the company has given a notice to the supervisory authority in its home State stating the details of the proposed change; and
    - (b) that that authority has passed to the [F18Treasury] the information contained in that notice.
  - (3) In the case of a change occasioned by circumstances beyond the company’s control, the requirements of this paragraph are that the company shall, as soon as practicable, give a notice to the supervisory authority in its home State stating the details of the change.

#### Textual Amendments

**F18** Word in [Sch. 2F para. 9\(2\)\(b\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))

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*Requisite details for purposes of paragraphs 8 and 9*

- 10 The requisite details for the purposes of paragraph 8 and 9 are—
- (a) the name and address of the company;
  - (b) the nature of the risks or commitments which the company proposes to cover in the United Kingdom; and
  - (c) in the case of a company which intends to cover relevant motor vehicle risks—
    - (i) the name and address of the claims representative, and
    - (ii) confirmation that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

*Additional requirements for covering relevant motor vehicle risks*

- 11 An EC company shall not provide insurance in the United Kingdom to cover relevant motorvehicle risks unless—
- (a) it is a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and
  - (b) either it has appointed a claims representative or the insurance is provided by it participating in a Community co-insurance operation otherwise than as the leading insurer.

*Power to prevent disposal of assets*

- 12 (1) The powers conferred on the [<sup>F19</sup>Treasury] by section 40A above shall be exercisable in relation to an EC company if the supervisory authority in the company's home State has, in accordance with Article 20(5) of the first general insurance Directive or Article 24(5) of the first long term insurance Directive, requested the [<sup>F19</sup>Treasury] to prohibit the free disposal of assets of that company and has confirmed—
- (a) that the company has failed to comply with the requirements of Article 15 of the first general insurance Directive or Article 17 of the first long term insurance Directive;
  - (b) that the solvency margin of the company has fallen below the minimum required by Article 16(3) of the first general insurance Directive or Article 19 of the first long term insurance Directive; or
  - (c) that the solvency margin of the company has fallen below the guarantee fund as defined in Article 17 of the first general insurance Directive or Article 20 of the first long term insurance Directive.
- (2) Those powers shall also be so exercisable if the [<sup>F19</sup>Treasury][<sup>F20</sup>are] notified by that authority that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term insurance Directive.



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#### Textual Amendments

- F19** Word in [Sch. 2F para. 12](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))
- F20** Word in [Sch. 2F para. 12\(2\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 77](#) (with [art. 7](#))

#### *Powers to obtain information*

- 13 (1) Subject to sub-paragraph (2) below, the powers conferred by section 44 above on the [<sup>F21</sup>Treasury] or persons authorised by [<sup>F22</sup>them] shall be exercisable in respect of an EC company if either—
- (a) the following requirements are fulfilled, namely—
- (i) the supervisory authority in the company's home State has made a written request to the [<sup>F21</sup>Treasury] to obtain information from the company; and
- (ii) the [<sup>F21</sup>Treasury][<sup>F23</sup>them] that the information to be acquired is necessary to enable that supervisory authority to perform its obligations under Article 19 of the first general insurance Directive or Article 23 of the first long term insurance Directive; or
- (b) the [<sup>F21</sup>Treasury][<sup>F24</sup>consider] the exercise of those powers in respect of that company to be necessary to enable [<sup>F24</sup>them to perform their] functions under this Act.
- (2) The [<sup>F21</sup>Treasury] shall not exercise the powers conferred by subsection (2A), (2B) or (4A) of section 44 above in respect of an EC company unless the requirements of sub-paragraph (1)(a) above are fulfilled.

#### Textual Amendments

- F21** Word in [Sch. 2F para. 13](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))
- F22** Word in [Sch. 2F para. 13\(1\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 78\(a\)](#) (with [art. 7](#))
- F23** Word in [Sch. 2F para. 13\(1\)\(a\)\(ii\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 78\(b\)](#) (with [art. 7](#))
- F24** Words in [Sch. 2F para. 13\(1\)\(b\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 78\(c\)](#) (with [art. 7](#))

- 14 (1) The powers conferred by section 44 above on the [<sup>F25</sup>Treasury] shall be exercisable in respect of an EC company by a person authorised by the supervisory authority in the company's home State if—
- (a) the information to be requested by that person is necessary to enable the authority to perform its obligations in respect of the company under Article 19 of the first general insurance Directive or Article 23 of the first long term insurance Directive; and
- (b) the authority has notified the [<sup>F25</sup>Treasury] in writing of that person's intention to exercise those powers.



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- (2) An officer or agent of the [F25Treasury] may accompany a person so authorised while he is acting in the exercise of those powers.

**Textual Amendments**

**F25** Word in Sch. 2F para. 14 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)

- [F26]14A Paragraphs 13 and 14 above shall apply in relation to the powers conferred by section 44 above on the Secretary of State or persons authorised by him as they apply in relation to the powers conferred by that section on the Treasury or persons authorised by them; and for those purposes the references in those paragraphs to the Treasury shall be construed as references to the Secretary of State.]

**Textual Amendments**

**F26** Sch. 2F para. 14A inserted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 79 (with art. 7)

*Residual power to protect policy holders*

- 15 The [F27Treasury] may exercise [F28their] powers under section 45 above in relation to an EC company if the supervisory authority in the company's home State—
- (a) has informed the [F27Treasury] that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term Directive; and
  - (b) in accordance with that Article, has requested the [F27Treasury] to take measures in the United Kingdom to safeguard the interests of policy holders of the company.

**Textual Amendments**

**F27** Word in Sch. 2F para. 15 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)

**F28** Word in Sch. 2F para. 15 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 80 (with art. 7)

*Powers of intervention*

- 16 (1) Where it appears to the [F29Treasury] that an EC company has failed to comply with any provision of law applicable to its insurance activities in the United Kingdom, [F30they] may require it to take such steps as [F30they] may specify to comply with that provision.
- (2) If the company fails to comply with a requirement under sub-paragraph (1) above, the [F29Treasury] shall notify the supervisory authority in the home State.
- (3) If, after the [F29Treasury][F31have] taken the action mentioned in sub-paragraphs (1) and (2) above, the company persists in contravening the provision in question, the

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[<sup>F29</sup>Treasury] may, after informing the supervisory authority of the home State, direct the company to cease to carry on insurance business or provide insurance, or to cease to carry on insurance business or provide insurance of any specified description, in the United Kingdom.

- (4) The [<sup>F29</sup>Treasury] may exercise his powers under sub-paragraph (3) above without the conditions there mentioned being fulfilled if [<sup>F32</sup>they consider] that those powers should be exercised as a matter of urgency.
- (5) After giving a direction under this paragraph, the [<sup>F29</sup>Treasury] shall by notice in writing inform the company of [<sup>F33</sup>their] reasons for doing so.
- (6) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.
- (7) A requirement or direction under this paragraph may be varied or revoked by the [<sup>F29</sup>Treasury].

#### Textual Amendments

- F29** Word in Sch. 2F para. 16 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 72 (with art. 7)
- F30** Word in Sch. 2F para. 16(1) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 81(a) (with art. 7)
- F31** Word in Sch. 2F para. 16(3) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 81(b) (with art. 7)
- F32** Words in Sch. 2F para. 16(4) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 81(c) (with art. 7)
- F33** Word in Sch. 2F para. 16(5) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 81(d) (with art. 7)

#### *Power to withdraw recognition*

- 17 (1) This paragraph applies where—
- (a) an EC company is carrying on insurance business or providing insurance in the United Kingdom; and
  - (b) the [<sup>F34</sup>Treasury][<sup>F35</sup>are] notified by the supervisory authority in the home State that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term insurance Directive.
- (2) The [<sup>F34</sup>Treasury] may direct the company to cease to carry on insurance business or provide insurance, or to cease to carry on insurance business or provide insurance of a specified description, in the United Kingdom through all, or any specified, establishments.
- (3) Where the [<sup>F34</sup>Treasury][<sup>F36</sup>receive] notification under sub-paragraph (1) above [<sup>F37</sup>they] shall forthwith inform the connected UK authorities of its receipt.
- (4) After giving such a direction, the [<sup>F34</sup>Treasury] shall by notice in writing inform the company of [<sup>F38</sup>their] reasons for doing so.

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- (5) A direction under this paragraph does not prevent the company from effecting or carrying out a contract of insurance in pursuance of a term of a subsisting contract of insurance.

#### Textual Amendments

- F34** Word in [Sch. 2F para. 17](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))
- F35** Word in [Sch. 2F para. 17\(1\)\(b\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 82\(a\)](#) (with [art. 7](#))
- F36** Word in [Sch. 2F para. 17\(3\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 82\(b\)\(i\)](#) (with [art. 7](#))
- F37** Word in [Sch. 2F para. 17\(3\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 82\(b\)\(ii\)](#) (with [art. 7](#))
- F38** Word in [Sch. 2F para. 17\(4\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 82\(c\)](#) (with [art. 7](#))

## PART II

### EFTA COMPANIES PROVIDING INSURANCE IN UNITED KINGDOM

#### *Documents to be furnished to the Secretary of State*

- 18 (1) An EFTA company which intends to provide insurance in the United Kingdom shall send to the [<sup>F39</sup>Treasury]—
- (a) a certificate, issued by the supervisory authority in the EFTA State in which the company's head office is situated, which attests—
- (i) that the company possesses for its activities as a whole the minimum solvency margin calculated in accordance with the relevant provisions; and
- (ii) that the company's authorisation in accordance with Article 7(1) of the relevant Directive enables the company to operate outside the EEA State in which the establishment through which the insurance will be provided is situated (“the EEA State of establishment”);
- (b) a certificate, issued by the supervisory authority in the EEA State of establishment, which—
- (i) indicates the classes of insurance business which the company has been authorised to undertake through that establishment;
- (ii) states that the authority does not object to the company providing insurance in the United Kingdom; and
- (iii) where the company intends to provide long term insurance in the United Kingdom, confirms that all the commitments which the company intends to cover fall within the classes of insurance business which the company has been authorised to undertake through that establishment;
- (c) a statement by the company of the nature of the risks or commitments which it proposes to cover in the United Kingdom;

*Status: Point in time view as at 05/01/1998.*

**Changes to legislation:** *Insurance Companies Act 1982 (repealed), SCHEDULE 2F] is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (d) a notice stating the address of the company for the purpose of service of documents under this Schedule; and
  - (e) in the case of a company which intends to provide insurance to cover relevant motor vehicle risks—
    - (i) a notice stating the name and address of the claims representative; and
    - (ii) a declaration that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);
 and the company shall not provide insurance in the United Kingdom before the date certified as that on which those documents were received by the [F39Treasury].
- (2) Where an EFTA company wishes to provide insurance in the United Kingdom in respect of risks or commitments other than those mentioned in the statement given in accordance with sub-paragraph (1)(c) above, it shall give written notice to the [F39Treasury] amending that statement; and it shall not provide insurance in the United Kingdom in respect of such risks or commitments before the date certified as that on which written notice of the amendment was received by the [F39Treasury].
- (3) An EFTA company providing insurance in the United Kingdom shall notify the [F39Treasury] in writing of—
- (a) any change of address of the company for the purpose of the service of documents; and
  - (b) where it provides insurance to cover relevant motor vehicle risks, any change of name or address of the claims representative.
- (4) In sub-paragraph (1) above “the relevant Directive” and “the relevant provisions” mean respectively—
- (a) if the company intends to cover risks, the first general insurance Directive and Articles 16 and 17 of that Directive;
  - (b) if the company intends to cover commitments, the first long term insurance Directive and Articles 18, 19 and 20 of that Directive.
- (5) Any insurance which is provided by the company participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

#### **Textual Amendments**

**F39** Word in [Sch. 2F para. 18](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))

#### *Additional requirements with respect to relevant motor vehicle risks*

- 19 An EFTA company shall not provide insurance in the United Kingdom to cover relevant motor vehicle risks unless—
- (a) it is a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and

*Status: Point in time view as at 05/01/1998.*

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- (b) either it has appointed a claims representative or the insurance is provided by it participating in a Community co-insurance operation otherwise than as the leading insurer.

#### *Powers of intervention*

- 20 (1) Where it appears to the [<sup>F40</sup>Treasury] that an EFTA company providing insurance in the United Kingdom has failed to comply with any provision of this Act, [<sup>F41</sup>they] may require it to take such steps as [they] may specify to comply with that provision.
- (2) If the company fails to comply with a requirement under sub-paragraph (1) above, the [<sup>F40</sup>Treasury] shall notify the supervisory authority in the EEA State in which the establishment through which the insurance is provided is situated.
- (3) If the company persists in contravening a provision which has been the subject of a requirement under sub-paragraph (1) above, the [<sup>F40</sup>Treasury] may, after informing that supervisory authority, direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom.
- (4) After giving such a direction, the [<sup>F40</sup>Treasury] shall by notice in writing inform the company of [<sup>F42</sup>their] reasons for doing so.
- (5) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.
- (6) A requirement or direction under this paragraph may be varied or revoked by the [<sup>F40</sup>Treasury].

#### **Textual Amendments**

- F40** Word in *Sch. 2F para. 20* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 72* (with art. 7)
- F41** Word in *Sch. 2F para. 20(1)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 83(a)* (with art. 7)
- F42** Word in *Sch. 2F para. 20(4)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 83(b)* (with art. 7)

#### *Power to require information*

- 21 The [<sup>F43</sup>Treasury] may, for the purpose of facilitating the exercise by [<sup>F44</sup>them of their] functions under paragraph 20 above, require an EFTA company providing insurance in the United Kingdom to furnish [<sup>F45</sup>the Treasury], at specified times or intervals with information about such matters as [<sup>F46</sup>they] may specify being, if [<sup>F46</sup>they] so [<sup>F47</sup>require], information verified in a specified manner.

#### **Textual Amendments**

- F43** Word in *Sch. 2F para. 21* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 72* (with art. 7)
- F44** Words in *Sch. 2F para. 21* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 84(a)* (with art. 7)

*Status: Point in time view as at 05/01/1998.*

*Changes to legislation: Insurance Companies Act 1982 (repealed), SCHEDULE 2F] is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- F45** Words in **Sch. 2F para. 21** substituted (5.1.1998) by **S.I. 1997/2781, art. 8, Sch. Pt. I para. 84(b)** (with art. 7)
- F46** Word in **Sch. 2F para. 21** substituted (5.1.1998) by **S.I. 1997/2781, art. 8, Sch. Pt. I para. 84(c)**(with art. 7)
- F47** Word in **Sch. 2F para. 21** substituted (5.1.1998) by **S.I. 1997/2781, art. 8, Sch. Pt. I para. 84(d)** (with art. 7)

### *Withdrawal of authorisation*

- 22 (1) Where an EFTA company is providing insurance in the United Kingdom and the [<sup>F48</sup>Treasury][<sup>F49</sup>are] notified by the supervisory authority in the EEA State in which the establishment through which the insurance is provided, or the company's head office, is situated that the authorisation of the company has been withdrawn in accordance with—
- (a) Article 22 of the first general insurance Directive, or
  - (b) Article 26 of the first long term insurance Directive,
- [<sup>F50</sup>they] may direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom through all, or any specified, establishments.
- (2) After giving such a direction, the [<sup>F48</sup>Treasury] shall by notice in writing inform the company of [<sup>F51</sup>their] reasons for doing so.
- (3) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

#### **Textual Amendments**

- F48** Word in **Sch. 2F para. 22** substituted (5.1.1998) by **S.I. 1997/2781, art. 8, Sch. Pt. I para. 72** (with art. 7)
- F49** Word in **Sch. 2F para. 22(1)** substituted (5.1.1998) by **S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 85(a)(i)** (with art. 7)
- F50** Word in **Sch. 2F para. 22(1)** substituted (5.1.1998) by **S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 85(a)(ii)** (with art. 7)
- F51** Words in **Sch. 2F para. 22(2)** substituted (5.1.1998) by **S.I. 1997/2781, art. 8, Sch. Pt. I para. 85(b)** (with art. 7)

## **PART III**

### **EFTA COMPANIES PROVIDING INSURANCE THROUGH ESTABLISHMENTS IN THE UNITED KINGDOM**

#### *Notification to Secretary of State*

- 23 (1) Where an EFTA company intends to provide insurance through an establishment in the United Kingdom, it shall before doing so notify the [<sup>F52</sup>Treasury] of its intention.
- (2) The notification shall indicate—

*Status: Point in time view as at 05/01/1998.*

*Changes to legislation: Insurance Companies Act 1982 (repealed), SCHEDULE 2F] is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) the EEA State in which the insurance is to be provided, and
  - (b) the nature of the risks or commitments which the company proposes to cover.
- (3) Where the company intends to provide insurance in more than one EEA State, the information specified above may be contained in a single notification but must be set out separately in relation to each such State.
- (4) Where a company has duly notified the [<sup>F52</sup>Treasury] of its intention to provide insurance in an EEA State where administrative authorisation is required for the provision of insurance, then, if the original notification related—
  - (a) only to risks or commitments in respect of which such authorisation is required, or
  - (b) only to risks or commitments in respect of which such authorisation is not required,

#### Textual Amendments

**F52** Word in [Sch. 2F para. 23](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))

#### *Issue of certificates by Secretary of State*

- 24 (1) An EFTA company which intends to provide insurance through an establishment in the United Kingdom may apply to the [<sup>F53</sup>Treasury] for a certificate—
- (a) indicating the classes of insurance which the company is authorised to carry on in the United Kingdom, and
  - (b) stating that the [<sup>F53</sup>Treasury][<sup>F54</sup>do] not object to the company providing the insurance.
- (2) If it appears to the [<sup>F53</sup>Treasury] that a certificate applied for under sub-paragraph (1) above ought to be issued, [<sup>F55</sup>they] shall issue the certificate accordingly.
- (3) If the [<sup>F53</sup>Treasury][<sup>F56</sup>refuse] to issue a certificate, [<sup>F57</sup>they] shall inform the company in writing of [<sup>F58</sup>their] decision and of the reasons for it.

#### Textual Amendments

**F53** Words in [Sch. 2F para. 24](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 72](#) (with [art. 7](#))

**F54** Word in [Sch. 2F para. 24\(1\)\(b\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 86\(a\)](#) (with [art. 7](#))

**F55** Word in [Sch. 2F para. 24\(2\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 86\(b\)](#) (with [art. 7](#))

**F56** Word in [Sch. 2F para. 24\(3\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 86\(c\)\(i\)](#) (with [art. 7](#))

**F57** Word in [Sch. 2F para. 24\(3\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 86\(c\)\(ii\)](#) (with [art. 7](#))

**F58** Word in [Sch. 2F para. 24\(3\)](#) substituted (5.1.1998) by [S.I. 1997/2781, art. 8, Sch. Pt. I para. 86\(c\)\(iii\)](#) (with [art. 7](#))



*Status: Point in time view as at 05/01/1998.*

*Changes to legislation: Insurance Companies Act 1982 (repealed), SCHEDULE 2F] is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

## PART IV

### SUPPLEMENTAL

#### *Offences*

- 25 (1) An EC company commits an offence if—
- (a) it carries on insurance business in the United Kingdom in contravention of paragraph 1 or 4 above;
  - (b) in contravention of paragraph 2 or 5 above, it changes the requisite details of a branch established by it in the United Kingdom;
  - (c) it provides insurance in the United Kingdom in contravention of paragraph 8 or 11 above;
  - (d) in contravention of paragraph 9 above, it changes the requisite details relating to the provision of insurance in the United Kingdom; or
  - (e) it makes default in complying with, or with a requirement imposed under, any other provision of Part I of this Schedule.
- (2) An EFTA company commits an offence if—
- (a) it provides insurance in the United Kingdom in contravention of paragraph 18 or 19 above; or
  - (b) it makes default in complying with, or with a requirement imposed under, any other provision of Part II or III of this Schedule.
- (3) A person commits an offence if—
- (a) in purported compliance with a requirement under paragraph 13, 14 or 21 above, he furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular; or
  - (b) he causes or permits to be included in a document required by paragraph 1, 2, 4, 8, 9 or 18 above to be sent to the [<sup>F59</sup>Treasury] a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (4) A person committing an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

#### **Textual Amendments**

**F59** Word in *Sch. 2F para. 25(3)(b)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 72* (with *art. 7*)

#### *Interpretation etc.*

- 26 (1) In this Schedule—
- “authorised agent”, in relation to an EC company, means an agent or employee of the company who has authority—

*Status: Point in time view as at 05/01/1998.*

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- (a) to bind the company in its relations with third parties; and
- (b) to represent the company in its relations with the supervisory authorities and courts in the United Kingdom;

“connected UK authority”, in relation to an EC company, means an authority in the United Kingdom which has regulatory functions in relation to the insurance business which the company proposes to carry on, or the insurance which it intends to provide, in the United Kingdom;

“direct insurance business” means insurance business other than reinsurance business.

(2) In this Schedule—

- (a) references in Part I to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom through an establishment in another member State;
- (b) references in Part II to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom through an establishment in another EEA State;
- (c) references in Part III to the provision of insurance through an establishment in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in another EEA State through an establishment in the United Kingdom.

(3) In sub-paragraph 2(b) and (c) above—

- (a) references to a risk do not include a risk falling within any of the following classes of Schedule 2 to this Act (general business), namely—
  - class 1, so far as it relates to accidents at work;
  - classes 9 and 13, so far as they relate to the compulsory insurance of building works;
  - class 13, so far as it relates to nuclear civil liability and pharmaceutical product liability; and
- (b) references to a commitment do not include a commitment falling within any of classes VII, VIII and IX of Schedule 1 to this Act (long term insurance).

(4) An EC or EFTA company shall not be regarded for the purposes of Parts I and II of this Act as carrying on insurance business in the United Kingdom by reason only of the fact that it provides insurance in the United Kingdom.

### *Gibraltar*

27 (1) Except in its application to a Gibraltar company, this Schedule shall apply as if Gibraltar were part of the United Kingdom.

(2) In this paragraph and paragraphs 28 and 29 below “Gibraltar company” means an insurance company whose head office is in Gibraltar.

28 (1) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 1 above have been complied with

*Status: Point in time view as at 05/01/1998.*

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in respect of a branch, the requirements of that paragraph, and those of paragraph 2 above, shall not apply in respect of that branch.

- (2) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 4 above have been complied with in respect of a branch, the requirements of that paragraph, and those of paragraph 5 above, shall not apply in respect of that branch.
  - (3) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 8 have been complied with in respect of the provision of any insurance, the requirements of that paragraph, and those of paragraph 9 above, shall not apply in respect of the provision of that insurance.
  - (4) Where, in the case of an EFTA company, Gibraltar requirements corresponding to those of paragraph 18 have been complied with in respect of the provision of any insurance, the requirements of that paragraph shall not apply in respect of the provision of that insurance.
  - (5) In this paragraph “Gibraltar requirements” means requirements imposed under any provision of the law of Gibraltar.
- 29
- (1) Where, in the case of an EC company which is not a Gibraltar company—
    - (a) the requirements of paragraph 1 or 4 above are complied with in respect of a branch; and
    - (b) the requisite details for the purposes of that paragraph indicate that the company intends to carry on insurance business in Gibraltar,
 the [F60Treasury] shall send to the supervisory authority in Gibraltar a notice which contains those details.
  - (2) Where, in the case of an EC company which is not a Gibraltar company—
    - (a) the requirements of paragraph 2 or 5 above are complied with in respect of a branch; and
    - (b) the changes in requisite details for the purposes of that paragraph indicate that the company intends to carry on insurance business in Gibraltar,
 the [F60Treasury] shall send to the supervisory authority in Gibraltar a notice which contains details of the changes.
  - (3) Where, in the case of an EC company which is not a Gibraltar company, the requirements of paragraph 8 above are complied with in respect of the provision of any insurance, the [F60Treasury] shall send to the supervisory authority in Gibraltar a notice which contains the requisite details for the purposes of that paragraph.
  - (4) Where, in the case of an EFTA company, the requirements of paragraph 18 above are complied with in respect of the provision of any insurance, the [F60Treasury] shall send to the supervisory authority in Gibraltar a notice which contains the requisite details for the purposes of that paragraph.

#### Textual Amendments

**F60** Word in *Sch. 2F para. 29* substituted (5.1.1998) by *S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 72* (with *art. 7*)

**Status:**

Point in time view as at 05/01/1998.

**Changes to legislation:**

Insurance Companies Act 1982 (repealed), SCHEDULE 2F] is up to date with all changes known to be in force on or before 17 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.