

SCHEDULES

SCHEDULE 10

Section 129.

REGULATED INSURANCE COMPANIES

Preliminary

- 1 In this Part of this Schedule " a regulated insurance company " means any such company as is mentioned in section 129 of this Act.

Authorisations for investment business and insurance business

- 2 (1) An insurance company to which section 22 of this Act applies shall not be an authorised person except by virtue of that section.
- (2) If an insurance company to which Part II of the Insurance Companies Act 1982 applies but to which section 22 of this Act does not apply becomes an authorised person by virtue of any other provision of this Act it shall be an authorised person only as respects the management of the investments of any pension fund which is established solely for the benefit of the officers or employees and their dependants of that company or of any other body corporate in the same group as that company.
- (3) An insurance company to which section 31 of this Act applies shall not, so long as it is an authorised person by virtue of that section, be an authorised person by virtue of any other provision of this Act.
- (4) None of the provisions of Part I of this Act shall be construed as authorising any person to carry on insurance business in any case in which he could not lawfully do so apart from those provisions.

Recognition of self-regulating organisation with insurance company members

- 3 (1) In the case of a self-regulating organisation whose members include or may include regulated insurance companies the requirements of Schedule 2 to this Act shall include a requirement that the rules of the organisation must take proper account of Part II of the Insurance Companies Act 1982 or, as the case may be, of the provisions for corresponding purposes in the law of any member State in which such companies are established.
- (2) Where the function of making or revoking a recognition order in respect of such a self-regulating organisation is exercisable by a designated agency it shall not regard that requirement as satisfied unless the Secretary of State has certified that he also regards it as satisfied.
- (3) A delegation order—
- (a) may reserve to the Secretary of State the function of revoking a recognition order in respect of such a self-regulating organisation as is mentioned in sub-

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paragraph (1) above on the ground that the requirement there mentioned is not satisfied ; and

- (b) shall not transfer to a designated agency the function of revoking any such recognition order on the ground that the organisation has contravened sub-paragraphs (3) or (4) of paragraph 6 below as applied by sub-paragraph (5) of that paragraph.

- (4) In the case of such a self-regulating organisation as is mentioned in sub-paragraph (1) above the requirements of Schedule 2 to this Act referred to in section 187(2)(a) of this Act shall include the requirement mentioned in that sub-paragraph.

Modification of provisions as to conduct of investment business

- 4 (1) The rules under section 48 of this Act shall not apply to a regulated insurance company except so far as they make provision as respects the matters mentioned in sub-paragraph (2) below.
- (2) The matters referred to in sub-paragraph (1) above are—
 - (a) procuring proposals for policies the rights under which constitute an investment for the purposes of this Act and advising persons on such policies and the exercise of the rights conferred by them ;
 - (b) managing the investments of pension funds, procuring persons to enter into contracts for the management of such investments and advising persons on such contracts and the exercise of the rights conferred by them ;
 - (c) matters incidental to those mentioned in paragraph (a) and (b) above.
- (3) The rules under section 49 of this Act shall not apply to an insurance company which is an authorised person by virtue of section 31 of this Act.
- (4) The rules under sections 53 and 54 of this Act shall not apply to loss arising as a result of a regulated insurance company being unable to meet its liabilities under a contract of insurance.
- (5) A direction under section 59 of this Act shall not prohibit the employment of a person by a regulated insurance company except in connection with—
 - (a) the matters mentioned in sub-paragraph (2) above ; or
 - (b) investment business carried on in connection with or for the purposes of those matters.
- (6) The Secretary of State shall not make a delegation order transferring any functions of making rules or regulations under Chapter V of Part I of this Act in relation to a regulated insurance company unless he is satisfied that those rules and regulations will take proper account of Part II of the Insurance Companies Act 1982 or, as the case may be, of the provisions for corresponding purposes in the law of the member State in which the company is established; and in section 115(5) of this Act the reference to the requirements of section 114(9)(b) shall include a reference to the requirements of this subparagraph.

Restriction of provisions as to conduct of insurance business

- 5 (1) Regulations under section 72 of the Insurance Companies Act 1982 (insurance advertisements) shall not apply to so much of any advertisement issued by an authorised person as relates to a contract of insurance the rights under which constitute an investment for the purposes of this Act.

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- (2) No requirement imposed under section 74 of that Act (intermediaries in insurance transactions) shall apply in respect of an invitation issued by, or by an appointed representative of, an authorised person in relation to a contract of insurance the rights under which constitute an investment for the purposes of this Act.
- (3) Subject to sub-paragraph (4) below, sections 75 to 77 of that Act (right to withdraw from long-term policies) shall not apply to a regulated insurance company in respect of a contract of insurance the rights under which constitute an investment for the purposes of this Act.
- (4) Sub-paragraph (3) above does not affect the operation of the said sections 75 to 77 in a case in which the statutory notice required by those sections has been or ought to have been served before the coming into force of that sub-paragraph.

Exercise of powers of intervention etc.

- 6 (1) The powers conferred by Chapter VI of Part I of this Act shall not be exercisable in relation to a regulated insurance company on the ground specified in section 64(1)(a) of this Act for reasons relating to the ability of the company to meet its liabilities to policy holders or potential policy holders.
- (2) The powers conferred by sections 66 and 68 of this Act, and those conferred by section 67 of this Act so far as applicable to assets belonging to the authorised person, shall not be exercisable in relation to a regulated insurance company.
- (3) A designated agency shall not in the case of a regulated insurance company impose any prohibition or requirement under section 65 or 67 of this Act, or vary any such prohibition or requirement, unless it has given reasonable notice of its intention to do so to the Secretary of State and informed him—
 - (a) of the manner in which and the date on or after which it intends to exercise that power ; and
 - (b) in the case of a proposal to impose a prohibition or requirement, on which of the grounds specified in section 64(1) of this Act it proposes to act and its reasons for considering that the ground in question exists and that it is necessary to impose the prohibition or requirement
- (4) A designated agency shall not exercise any power to which sub-paragraph (3) above applies if the Secretary of State has before the date specified in accordance with sub-paragraph (3), above served on it a notice in writing directing it not to do so ; and the Secretary of State may serve such a notice if he considers it desirable for protecting policy holders or potential policy holders of the company against the risk that it may be unable to meet its liabilities or to fulfil the reasonable expectations of its policy holders or potential policy holders.
- (5) Sub-paragraphs (3) and (4) above shall, with the necessary modifications, apply also where a recognised self-regulating organisation proposes to exercise, in the case of a member who is a regulated insurance company, any powers of the organisation for purposes corresponding to those of Chapter VI of Part I of this Act
- (6) The powers conferred by sections 72 and 73 of this Act shall not be exercisable in relation to a regulated insurance company.

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Withdrawal of insurance business authorisation

- 7 (1) At the end of section 11(2)(a) of the Insurance Companies Act 1982 (withdrawal of authorisation in respect of new business where insurance company has failed to satisfy an obligation to which it is subject by virtue of that Act) there shall be inserted the words " or the Financial Services Act 1986 or, if it is a member of a recognised self-regulating organisation within the meaning of that Act, an obligation to which it is subject by virtue of the rules of that organisation ".
- (2) After subsection (2) of section 13 of that Act (final withdrawal of authorisation) there shall be inserted—
- “(2A) The Secretary of State may direct that an insurance company shall cease to be authorised to carry on business which is insurance business by virtue of section 95(c)(ii) of this Act if it appears to him that the company has failed to satisfy an obligation to which it is subject by virtue of the Financial Services Act 1986 or, if it is a member of a recognised self-regulating organisation within the meaning of that Act, an obligation to which it is subject by virtue of the rules of that organisation.
- (2B) Subsections (3), (5) and (6) of section 11 and subsections (1) and (5) to (8) of section 12 above shall apply to a direction under subsection (2A) above as they apply to a direction under section 11.”

Termination of investment business authorisation of insurer established in other member State

- 8 (1) Sections 33(1)(b) and 34 of this Act shall not apply to a regulated insurance company.
- (2) A direction under section 33(1)(a) of this Act in respect of such an insurance company may provide that the company shall cease to be an authorised person except as respects investment business of a kind specified in the direction and shall not make it unlawful for the company to effect a contract of insurance in pursuance of a subsisting contract of insurance.
- (3) Where the Secretary of State proposes to give a direction under section 33(1)(a) of this Act in respect of such an insurance company he shall give it written notice of his intention to do so, giving particulars of the grounds on which he proposes to act and of the rights exercisable under sub-paragraph (4) below.
- (4) An insurance company on which a notice is served under sub-paragraph (3) above may within fourteen days after the date of service make written representations to the Secretary of State and, if desired, oral representations to a person appointed for that purpose by the Secretary of State; and the Secretary of State shall have regard to any representations made in accordance with this sub-paragraph in determining whether to give the direction.
- (5) After giving a direction under section 33(1)(a) of this Act in respect of a regulated insurance company the Secretary of State shall inform the company in writing of the reasons for giving the direction.
- (6) A delegation order shall not transfer to a designated agency the function of giving a direction under section 33(1)(a) of this Act in respect of a regulated insurance company.

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Powers of Tribunal

- 9 In the case of a regulated insurance company the provisions mentioned in section 98(4) of this Act shall include sections 11 and 13(2A) of the Insurance Companies Act 1982 but where the Tribunal reports that the appropriate decision would be to take action under either of those sections or under section 33((1)(a)) of this Act the Secretary of State shall take the report into consideration but shall not be bound to act upon it

Consultation with designated agencies

- 10 (1) Where any functions under this Act are for the time being exercisable by a designated agency in relation to regulated insurance companies the Secretary of State shall, before issuing an authorisation under section 3 of the Insurance Companies Act 1982 to an applicant who proposes to carry on in the United Kingdom insurance business which is investment business—
- (a) seek the advice of the designated agency with respect to any matters which are relevant to those functions of the agency and relate to the applicant, his proposed business or persons who will be associated with him in, or in connection with, that business; and
 - (b) take into account any advice on those matters given to him by the agency before the end of the period within which the application is required to be decided.
- (2) The Secretary of State may for the purpose of obtaining the advice of a designated agency under sub-paragraph (1) above furnish it with any information obtained by him in connection with the application.
- (3) If a designated agency by which any functions under this Act are for the time being exercisable in relation to regulated insurance companies has reasonable grounds for believing that any such insurance company has failed to comply with an obligation to which it is subject by virtue of this Act it shall forthwith give notice of that fact to the Secretary of State so that he can take it into consideration in deciding whether to give a direction in respect of the company under section 11 or 13(2A) of the said Act of 1982 or section 33 of this Act.
- (4) A notice under sub-paragraph (3) above shall contain particulars of the obligation in question and of the agency's reasons for considering that the company has failed to satisfy that obligation.
- (5) A designated agency need not give a notice under subparagraph (3) above in respect of any matter unless it considers that that matter (either alone or in conjunction with other matters) would justify the withdrawal of authorisation under section 28 of this Act in the case of a person to whom that section applies.