

SCHEDULES

TENTH SCHEDULE

Section 50.

PROVISIONS AS TO ARRANGEMENTS FOR SPECIAL RESERVE FUNDS IN RELATION TO LLOYD'S AND OTHER UNDERWRITERS

Adherence to, and withdrawal from, arrangements

- 1 (1) The arrangements must provide that an underwriting member who wishes to elect to take advantage of the arrangements shall do so by giving notice in writing to the surveyor and to such other persons as may be specified in the arrangements.
- (2) Any such notice as aforesaid is referred to in the subsequent provisions of this Schedule as a notice of adherence, and, in the said provisions, the expression " the underwriter " means an underwriting member who has given such a notice.
- 2 (1) The arrangements must enable the underwriter, if he thinks fit so to do, by giving notice in writing to the surveyor and to such other persons as may be specified in the arrangements, to withdraw from the arrangements to the extent appearing from the subsequent provisions of this Schedule.
- (2) Any such notice as aforesaid is referred to in the subsequent provisions of this Schedule as a notice of withdrawal.
- 3 Where the underwriter has given a notice of withdrawal, he shall not be entitled to give another notice of adherence.

Setting up and management of, and payments into and out of, special reserve funds

- 4 The arrangements must provide for the setting up, in relation to the underwriter, of a special reserve fund vested in trustees who have control over it and power to invest the capital thereof and to vary the investments :
- Provided that where part of the business of the underwriter is carried on through an underwriting agent and part thereof is not so carried on, or where different parts of his business are carried on through different underwriting agents, the arrangements may provide for separate special reserve funds being constituted in relation to the different parts of his business.
- 5 The arrangements must provide for the income arising from the investments of the underwriter's special reserve fund or funds being held on trust for the underwriter, his personal representatives or assigns.
- 6 (1) The arrangements must be such as to secure that if, for an underwriting year corresponding to a year of assessment to which this paragraph applies, the underwriter makes a profit from his business, he has the right to make, into his special reserve fund or funds, payments, the gross amount of which is not in the aggregate greater than one thousand five hundred pounds or one-quarter of that profit, whichever is the less :

Provided that—

- (a) no such payment shall be made after the expiration of six months from the date as at which the accounts of the business for that underwriting year are deemed by the Commissioners of Inland Revenue for the purposes of the arrangements to be closed, or such longer period as those Commissioners may allow ;
 - (b) where the underwriter carries on his business during part only of that year of assessment, the maximum gross amount of the said payments shall be reduced by the application thereto of the proportion which the part of that year of assessment for which he is entitled to profits from the business bears to a full year.
- (2) Subject to the provisions of paragraph 12 of this Schedule (which relates to the effect of the cancellation by the Commissioners of Inland Revenue or the Board of Trade of their approval or certificate with respect to the arrangements) the years of assessment to which this paragraph applies are—
- (a) where the notice of adherence is given before the end of the year nineteen hundred and forty-nine, the year 1949-50 and all subsequent years of assessment during the whole or any part of which the underwriter continues to carry on his business ;
 - (b) where the notice of adherence is given after the end of the year nineteen hundred and forty-nine, all years of assessment during the whole or any part of which the underwriter continues to carry on his business subsequent to the year of assessment during which the notice of adherence is given:

Provided that—

- (i) in no case shall this paragraph apply to the year of assessment in which the underwriter commences to carry on his business, or to the year of assessment next following that year;
 - (ii) where the underwriter gives a notice of withdrawal, the last year of assessment to which this paragraph applies shall, subject to the provisions of the said paragraph 12, be the year of assessment corresponding to the underwriting year the accounts for which are deemed by the Commissioners of Inland Revenue for the purposes of the arrangements to be closed as at a date falling within the year of assessment preceding that in which the notice of withdrawal is given.
- (3) In sub-paragraph (1) of this paragraph, the expression " profit " means a profit computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under Case I of Schedule D if—
- (a) income arising from the investments forming part of the premiums trust fund of the underwriter, his special reserve fund or funds and any other fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business fell to be taken into account; and
 - (b) all shares of the profits of the business and all charges related to those profits or to the said income, being shares and charges payable to persons other than the underwriter and not otherwise taken into account, fell to be deducted.

- 7 (1) The arrangements must be such as to secure that, if it is certified that the underwriter has sustained a loss in his business for an underwriting year subsequent to that which corresponds to the first year of assessment to which paragraph 6 of this Schedule applies, there shall be made into his premiums trust fund, out of the capital of his special reserve fund or funds, payments the gross amount of which is equal in the aggregate to the certified amount of the loss:

Provided that if the capital of his special reserve fund or funds, reduced by so much thereof as represents sums paid into it or them as a consequence of a profit for a year later than the year of the loss, is less than the net amount of the payments required to be made by this sub-paragraph, the said payments shall be reduced so that the net amount thereof is equal to the capital of the said fund or funds as so reduced.

- (2) In this paragraph, the expression " loss " means a loss computed in the manner in which the profits or gains of the business of the underwriting year in question would fall to be computed under sub-paragraph (3) of the last preceding paragraph:

Provided that where, under any arrangement between the underwriter and another person which provides for the sharing of losses, any amount is paid to the underwriter by that person as that person's share of a loss for that year, the loss, as computed for the purposes of this paragraph, shall be reduced by that amount.

- (3) In this paragraph, the expression " certified " means certified by a certificate of the surveyor:

Provided that—

- (a) no certificate shall be given by the surveyor until twenty-eight days have elapsed from the date on which he has given to the underwriter or his personal representatives notice in writing stating his intention to give a certificate and stating the amount which he proposes to specify therein as the amount of the loss;
- (b) the underwriter or his personal representatives may, on giving notice in writing to the surveyor within the said twenty-eight days, appeal to the Special Commissioners ;
- (c) where notice is so given by the underwriter or his personal representatives, the surveyor shall not without the consent of the underwriter or his personal representatives give any certificate until after the hearing of the appeal; and
- (d) on the hearing of the appeal, the Special Commissioners may direct the surveyor not to give a certificate or to give it with such an amount specified therein as the amount of the loss as may be specified in the direction.

- 8 The arrangements must provide that, on the underwriter ceasing to carry on his business, the capital of his special reserve fund or funds, so far as not required for giving effect to the requirements of the last preceding paragraph, shall be paid over to the underwriter or his personal representatives or assigns.

Income tax consequences

- 9 (1) Where such a payment as is mentioned in sub-paragraph (1) of paragraph 6 of this Schedule is made into a special reserve fund of an underwriter by reason of the making by him of a profit for an underwriting year—
- (a) the payment shall be deemed for all the purposes of the Income Tax Acts to be an annual payment chargeable to income tax by way of deduction

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- and payable and paid in the year of assessment corresponding to that underwriting year; and
- (b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for that year of assessment.
- (2) Where such a payment as is mentioned in sub-paragraph (1) of paragraph 7 of this Schedule is made out of a special reserve fund of an underwriter into a premiums trust fund of his by reason that he has sustained a loss for an underwriting year—
- (a) the payment shall be deemed for all the purposes of the Income Tax Acts—
- (i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to tax ; and
- (ii) to have been payable and paid to the underwriter; and
- (iii) to have been payable and paid to him on the last day of the year of assessment which immediately preceded the year of assessment corresponding to that underwriting year or, if he ceased to carry on his business before that day, on the last day on which he carried on his business ; and
- (b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for the year of assessment in which the payment is deemed as aforesaid to have been payable and paid.
- (3) Where the underwriter ceases to carry on his business before his death and, under so much of the arrangements as gives effect to paragraph 8 of this Schedule, a sum is paid to him or his personal representatives or assigns—
- (a) the payment shall be deemed for all the purposes of the Income Tax Acts—
- (i) to be an annual payment chargeable to income tax by way of deduction and paid out of profits or gains brought into charge to tax ;
- (ii) to have been payable and paid to the underwriter ; and
- (iii) to have been payable and paid to him on the last day on which he carried on his business ; and
- (b) the sum actually paid shall be deemed for the purposes of this Schedule and for all the purposes of the Income Tax Acts to be a net amount corresponding to a gross amount from which income tax has been duly deducted at the standard rate for the year of assessment in which the payment is deemed as aforesaid to have been payable and paid.
- (4) Neither the arrangements, nor any disposition, trust, covenant, agreement or arrangement entered into for the purposes thereof, shall be treated as included in the expression " settlement " for the purposes of Part IV of the Finance Act, 1938, or section twenty-eight of the Finance Act, 1946, and nothing in section, thirty-four of the Finance Act, 1927, shall be construed as applying to the payments referred to in sub-paragraphs (2) and (3) of this paragraph.

Profits tax consequences

- 10 (1) Section thirty-one of the Finance Act, 1947 (which exempts individuals from the profits tax) shall not apply in relation to the business of the underwriter carried on

in, or in any part of, an underwriting year which ends in any such year of assessment as is hereafter referred to in this sub-paragraph, and, accordingly, any accounting periods of that business which consist of or fall within any such underwriting year as aforesaid, (hereafter in this paragraph referred to as "chargeable accounting periods to which this paragraph applies") shall be chargeable accounting periods.

The years of assessment hereinbefore referred to are those which respectively correspond to an underwriting year as to which the following conditions are fulfilled, that is to say—

- (a) that the underwriter was carrying on his business therein ; and
- (b) that either—
 - (i) by reason of making a profit therefor, he had a right to make a payment or payments into his special reserve fund or funds; or
 - (ii) he would have had such a right if he had made such a profit,

- (2) In computing for profits tax purposes the profits of the business of the underwriter for a chargeable accounting period to which this paragraph applies, a deduction shall be made (as if for the remuneration of a person employed for the purposes of the business) of two thousand five hundred pounds or fifteen per cent. of the profits of the business computed apart from the deduction, whichever is the greater, so, however, that the deduction shall not exceed fifteen thousand pounds :

Provided that in relation to a chargeable accounting period of less than twelve months any reference in this sub-paragraph to two thousand five hundred pounds or fifteen thousand pounds shall be construed as a reference to a sum which bears the same proportion to two thousand five hundred pounds or fifteen thousand pounds, as the case may be, as the length of the period bears to twelve months.

- (3) The reference to income from investments or other property in the opening words of sub-paragraph (1) of paragraph 7 of the Fourth Schedule to the Finance Act, 1937 (as amended by section thirty-two of the Finance Act, 1947) shall, in relation to the business of the underwriter for a chargeable accounting period to which this paragraph applies, be construed as a reference to the income arising from investments in his premiums trust fund, his special reserve fund or funds and any other fund required or authorised by the rules of Lloyd's or the association in question, or required by the underwriting agent through whom the business or any part thereof is carried on, to be kept in connection with the business, and paragraph (c) of that sub-paragraph shall not apply to any such income.
- (4) Notwithstanding anything in paragraph (b) of sub-paragraph (3) of paragraph 2 of the said Fourth Schedule, the expression relevant accounting period" in sub-paragraph (2) of that paragraph shall, in relation to the business of the underwriter for any chargeable accounting period to which this paragraph applies, mean any chargeable accounting period to which this paragraph applies.
- (5) Subject to the provisions of this sub-paragraph, the references in section thirty of the Finance Act, 1947, to the net relevant distributions to proprietors shall, in relation to the business of the underwriter for a chargeable accounting period to which this paragraph applies, be -construed as if—
 - (a) the references in section thirty-four of that Act to any body corporate, unincorporated society or other body included references to the underwriter; but
 - (b) the reference in the said section thirty-four to the gross relevant distributions to proprietors (as defined by section thirty-five of that Act) were a reference

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to the amount of the profits for that chargeable accounting period, computed without abatement and including franked investment income, less the profits tax payable for that period, and less also the gross amount of any payment into a special reserve fund made by reason of a profit for that period:

Provided that where there has been a loss for any previous chargeable accounting period to which this paragraph applies, the reference in paragraph (b) of this sub-paragraph to the amount of the profits computed without abatement and including franked investment income shall be construed as a reference to what that amount would have been if sub-paragraph (2) of paragraph 2 of the Fourth Schedule to the Finance Act, 1937 (which authorises losses to be carried forward and deducted from profits for subsequent chargeable accounting periods) had applied only to losses if and in so far as they exceeded the aggregate of the gross amounts of the payments, if any, made out of special reserve funds into premiums trust funds as the result of losses sustained in the business for the years in question.

- (6) Nothing in paragraph 9 of this Schedule shall be construed as requiring or authorising any payment into or out of a special reserve fund to be taken into account in computing for profits tax purposes the profits for a chargeable accounting period to which this paragraph applies.

Supplemental

- 11 The arrangements may from time to time be varied with the consent of the Commissioners of Inland Revenue and the Board of Trade.
- 12 If, after giving notice in writing of their intention so to do to the Committee of Lloyd's or the managing body of whatever other association of underwriters is in question, the Commissioners of Inland Revenue or the Board of Trade cancel the approval or certificate which they have given with respect to the arrangements—
- (a) no underwriting member may give a notice of adherence to the arrangements after the date of the cancellation ; and
 - (b) paragraph 6 of this Schedule shall not apply, in the case of any underwriter, to any year of assessment after the year of assessment in which the approval or certificate is cancelled.
- 13 (1) In this Schedule—
- " business ", in relation to the underwriter, means his underwriting business as a member of Lloyd's or of whatever other association of underwriters is in question, whether carried on personally or through an underwriting agent, and does not include any other business carried on by him, and in particular, where he is himself an underwriting agent, does not include his business as such an agent;
 - " net amount " and " gross amount ", in relation to any payment, mean respectively the sum actually paid and the sum which, after deduction of income tax, is equal to the sum actually paid ;
 - " premiums trust fund " means such a trust fund as is referred to in paragraph 1 of the Eighth Schedule to the Assurance Companies Act, 1909, as amended by paragraph 3 of Part II of the Second Schedule to the Assurance Companies Act, 1946;
 - " underwriting year " means, in relation to the business of the underwriter as a member of Lloyd's, the calendar year, and, in relation to the business of the underwriter as a member of any other association of underwriters,

the period of twelve months for which, under the rules or practice of that association, the accounts of the business of the underwriter fall to be made up.

- (2) For the purpose of construing any reference in this Schedule to the year of assessment which corresponds to an underwriting year or to the underwriting year which corresponds to a year of assessment, an underwriting year and a year of assessment shall be deemed to correspond to each other in the case of an underwriter if, assuming that there were no question arising in connection with the commencement or cessation of the business of that underwriter, that underwriting year is the period on the profits or gains of which income tax for that year of assessment would fall to be computed under Case I of Schedule D in respect of that business.