
S T A T U T O R Y I N S T R U M E N T S

1981 No. 1657 (C.44)

INSURANCE

**The Insurance Companies Act 1981
(Commencement) Order 1981**

Made - - - - 19th November 1981

The Secretary of State, in exercise of his powers under section 37(1) and (2) of the Insurance Companies Act 1981(a), hereby makes the following Order:—

1. This Order may be cited as the Insurance Companies Act 1981 (Commencement) Order 1981.
2. Subject to the Schedule to this Order, the Insurance Companies Act 1981 shall come into operation on 1st January 1982.
3. The saving, transitional and other commencement provisions in the Schedule to this Order shall have effect.

Reginald Eyre,
Parliamentary Under-Secretary of State,
Department of Trade.

19th November 1981.

SCHEDULE

1. In this Schedule—

“the 1974 Act” means the Insurance Companies Act 1974(a);

“the 1981 Act” means the Insurance Companies Act 1981;

“the appointed day” means 1st January 1982.

2. The amendment of section 14 of the 1974 Act effected by section 17(1) to (3) of the 1981 Act shall not apply in relation to any period of twelve months beginning before 1st October 1982.

3. For the purposes of section 25(1) of the 1974 Act, where an established surplus corresponds partly but not wholly with a previously established surplus which was the latest to be established before the appointed day—

- (a) an adjustment shall be made to that previously established surplus so as to make it as nearly as may be comparable with the first-mentioned surplus, and
- (b) the relevant minimum shall be determined on the basis of that adjustment and an analogous adjustment of the allocation from that previously established surplus.

4. The requirements of sections 26A and 26B of the 1974 Act (or of regulations made for the purposes of those sections) shall not apply until 15th March 1984 in relation to long term business if the company concerned—

- (a) was carrying on long term business in the United Kingdom immediately before the appointed day, and
- (b) does not after the appointed day obtain an authorisation under the 1981 Act for a class of long term business for which on the appointed day it was not authorised under that Act.

5. So long as paragraph 4 above applies to a company and a class of long term business carried on by it, then, in relation to that company and that business, the grounds for withdrawal of authorisation set out in section 11(2) of the 1981 Act shall be deemed to include the grounds set out in section 28(1)(a) and (2) of the 1974 Act as in force immediately before the appointed day.

6. For the purposes of section 28(1)(f) of the 1974 Act, a scheme of operations submitted pursuant to regulation 5 of the Insurance Companies (Authorisation and Accounts: General Business) Regulations 1978(b) shall be regarded as a proposal or forecast submitted in accordance with section 5 of the 1981 Act.

7. Where a requirement under section 29 of the 1974 Act was in force immediately before the appointed day—

- (a) that requirement shall continue in force,
- (b) any requirement imposed under sections 30 to 37 of the 1974 Act on the company concerned, if it was in force immediately before the appointed day, shall continue in force, and
- (c) section 40(1) of the 1974 Act shall continue to apply to any requirement that continues in force under sub-paragraph (a) or (b) above.

8. Until 15th March 1984, sections 22(1) and 23(2) of the 1981 Act shall not affect requirements imposed on companies before the appointed day in respect of long term business.

(a) 1974 c. 49; extended to Northern Ireland and amended by the Insurance Companies Act 1980 (c. 25) and amended by the Insurance Companies Act 1981 (c. 31).

(b) S.I. 1978/720.

9. Where an application for authorisation under the 1974 Act has been made and not disposed of before the appointed day—

- (a) the application shall be dealt with in accordance with the law in force immediately before the appointed day, and
- (b) section 4 of the 1981 Act shall apply to the authorisation (if issued) as if the authorisation had been effective immediately before the appointed day.

10. The Insurance Companies (Accounts and Forms) Regulations 1968(a) and the Industrial Assurance (Companies Forms, etc) Regulations 1968(b), as extended to Northern Ireland by Schedule 2 to the Insurance Companies Act 1980(c), shall continue to apply in Northern Ireland after the appointed day in relation to the period beginning on 1st June 1980 and ending on 31st December 1980.

11. A deposit made under regulation 6 of the Insurance Companies (Solvency: General Business) Regulations 1977(d) shall, in so far as it remained with the Accountant General of the Supreme Court immediately before the appointed day, be regarded as having been made under section 9(1)(c) of the 1981 Act.

12. Where—

- (a) as a result of the repeal of section 83(2)(b) of the 1974 Act any particular kind of ordinary long-term insurance business has become general business, and
- (b) an insurance company was immediately before the appointed day lawfully carrying on that particular kind of business in the United Kingdom,

then, notwithstanding the lack of an authorisation to carry on general business, the company may continue to carry out any contract of insurance relating to that particular kind of business if the contract was made before the appointed day.

13. A right or obligation under the Insurance Companies (Solvency: General Business) Regulations 1977 which—

- (a) subsisted immediately before the appointed day, and
- (b) was expressed in the European units of account (EUA) mentioned in regulation 7 of those regulations,

shall on the appointed day be converted into a right or obligation, as the case may be, of an equal number of the European units of account (ECU) mentioned in regulation 2(2) of the Insurance Companies Regulations 1981(e).

14. Where an application to the Secretary of State under the Insurance (Transfer of General Business) Regulations 1980(f) for approval of a transfer has been made and not determined before the appointed day, the application shall be determined in accordance with the law in force immediately before the appointed day.

15. The amendment of section 42 of the 1974 Act effected by section 27 of the 1981 Act shall not apply in relation to an application made to the court under the said section 42 before the appointed day.

16. Sections 7(3), 8(2) and 9(5) of the 1981 Act shall not apply to main agents until 1st April 1982, and section 29 of the 1981 Act (which inserts section 54A in the 1974 Act) shall not apply until that date.

(a) S.I. 1968/1408, amended by S.I. 1975/1996, 1976/549, 869, 2040, 1978/721.

(b) S.I. 1968/1571.

(c) 1980 c. 25.

(d) S.I. 1977/1553.

(e) S.I. 1981/1654.

(f) S.I. 1980/956.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order brings into force on 1st January 1982 the Insurance Companies Act 1981. The Schedule to the Order contains saving, transitional and other commencement provisions.

Section 14 of the 1974 Act required insurance companies carrying on long term business to carry out actuarial investigations at intervals of three years or less. Section 17(1) to (3) of the 1981 Act amends section 14 so as to require annual actuarial investigations. To cover the transition from triennial to annual investigations, paragraph 2 of the Schedule postpones the effect of the amendment so that it will affect only periods of twelve months beginning on or after 1st October 1982.

Section 25(1) of the 1974 Act, as amended by section 20 of the 1981 Act, calls for a comparison to be made between allocations from an established surplus and allocations from a previously established surplus. Paragraph 3 of the Schedule requires an appropriate adjustment to be made where the earlier allocation is partly but not entirely comparable.

Sections 26A and 26B of the 1974 Act, which are inserted by section 21 of the 1981 Act, impose solvency requirements on companies carrying on long term business. These sections also enable the Secretary of State to make regulations amplifying these requirements. No such requirements existed before the appointed day in respect of companies carrying on long term business. Paragraph 4 of the Schedule postpones those requirements until 15th March 1984 in the case of companies carrying on long term business immediately before the appointed day. The postponement ceases to apply if the company extends its business after the appointed day to any class of long term business for which it was not authorised on the appointed day.

So long as a company takes advantage of the postponement given by paragraph 4 of the Schedule, it will be unaffected by the sanctions for failing to comply with the solvency requirements. Paragraph 5 of the Schedule provides that in such a case the company will be subject to sanctions existing under the 1974 Act immediately before the appointed day.

Paragraph (f) was added to section 28(1) of the 1974 Act by section 22(2)(d) of the 1981 Act. Paragraph (f) provides that there is a ground for the exercise of the Secretary of State's powers of intervention if it appears to him that there has been a substantial departure from any proposal or forecast submitted to him under section 5 of the 1981 Act in connection with an application for authorisation. Paragraph 6 of the Schedule provides that a scheme of operations submitted under the regulations in force before the appointed day shall be regarded as a proposal or forecast to which section 28(1)(f) will apply.

Section 29 of the 1974 Act enabled the Secretary of State to impose restrictions on the writing of new business by an insurance company. Sections 30 to 37 of the 1974 Act enabled the Secretary of State to impose other restrictions. Section 29 has been repealed and has been replaced by section 11 of the 1981 Act, which provides for the withdrawal of authorisation in respect of new business. Sections 30 to 37 of the 1974 Act remain in force with modifications. Paragraph 7 of the Schedule provides that a requirement under section 29 in force immediately before the appointed day shall continue in force. It also provides that any requirements under sections 30 to 37 relating

to the relevant company shall also continue in force and that section 40(1) of the 1974 Act shall continue to apply so as to enable the Secretary of State to rescind or vary any of the requirements saved by this paragraph.

Sections 22(1) and 23(2) of the 1981 Act modify the power to impose restrictions under sections 30, 31 and 32 of the 1974 Act. Paragraph 8 of the Schedule provides that requirements imposed before the appointed day in respect of long term business shall continue in force until 15th March 1984 (which is the date on which companies carrying on long term business become subject to the solvency requirements of the 1981 Act).

Paragraph 9 of the Schedule provides that applications for authorisation made under the 1974 Act and not disposed of before the appointed day shall be disposed of in accordance with the law immediately before the appointed day. If an authorisation is issued, it will become an authorisation under the 1981 Act by the operation of section 4 of the 1981 Act.

Paragraph 10 of the Schedule provides that, if a company should now need to prepare accounts for Northern Ireland for the period 1st June to 31st December 1980, the accounts should be prepared in accordance with the specified regulations of 1968. Without this provision there would be no relevant regulations in force in Northern Ireland for this period.

Paragraph 11 of the Schedule provides that deposits made under the law in force before the appointed day shall be regarded as made under the 1981 Act.

As a result of the changes in classification made by the 1981 Act, there are some restricted types of business which were long term business under the 1974 Act and have now become general business. Paragraph 12 of the Schedule enables a company which had entered into a contract for business of the relevant type before the appointed day to continue to carry out the contract even though it is authorised only for long term business.

Paragraph 13 of the Schedule converts a right or obligation in the European unit of account known as EUA into a right or obligation in the European unit of account known as ECU.

Paragraph 14 of the Schedule provides that an application for a transfer of general business shall, if not disposed of before the appointed day, be disposed of in accordance with the law in force immediately before the appointed day.

Paragraph 15 of the Schedule provides that section 42 of the 1974 Act will continue to apply in its unamended form to applications under that section made before the appointed day.

Sections 7(3), 8(2) and 9(5) of the 1981 Act provide that the Secretary of State shall not issue an authorisation to an applicant if it appears to the Secretary of State that, among others, any main agent of the applicant is not a fit and proper person to hold his position. Paragraph 16 of the Schedule postpones the operation of these provisions until 1st April 1982. As a consequence, the operation of section 54A of the 1974 Act (which was inserted by section 29 of the 1981 Act and imposes a duty to notify a change of main agent) is also postponed until that date.

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