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STATUTORY INSTRUMENTS

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**1993 No. 174**

**INSURANCE**

**The Insurance Companies (Amendment) Regulations 1993**

*Made* - - - - *1st February 1993*

*Coming into force* - - *20th May 1993*

Whereas the Secretary of State is a Minister designated<sup>(1)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(2)</sup> in relation to the authorisation of the carrying on of insurance business and the regulation of such business and its conduct and in relation to the transfer of long term business from one insurance undertaking to another;

And whereas a draft of these Regulations has been approved by a resolution of each House of Parliament pursuant to section 2(2) of and paragraph 2(2) of Schedule 2 to that Act;

Now, therefore, the Secretary of State in exercise of the powers conferred on him by section 2(2) of that Act and of all other powers enabling him in that behalf hereby makes the following Regulations:—

general

**Citation, commencement and purpose**

1.—(1) These Regulations may be cited as the Insurance Companies (Amendment) Regulations 1993 and shall come into force on 20th May 1993.

(2) In these Regulations—

“the 1982 Act” means the Insurance Companies Act 1982<sup>(3)</sup>;

“the 1986 Act” means the Financial Services Act 1986<sup>(4)</sup>;

“the 1992 Regulations” means the Insurance Companies (Amendment) Regulations 1992<sup>(5)</sup>.

(3) These Regulations give effect to Council Directive [90/619/EEC](#) of 8 November 1990<sup>(6)</sup> on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#)<sup>(7)</sup>.

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(1) S.I.1976/2141; S.I. 1990/600.

(2) 1972 c. 68.

(3) 1982 c. 50.

(4) 1986 c. 60.

(5) S.I. 1992/2890.

(6) O.J. No. L330, 29.11.90, p.50.

(7) O.J. No. L63, 13.3.79, p.1; amended by the 1979 Act of Accession (Greece) (O.J. No. L291, 19.11.79, p.17), the 1985 Act of Accession (Portugal and Spain) (O.J. No. L302, 15.11.85, p.23) and Council Directive [90/619/EEC](#).

## amendments of the 1982 act

### Grounds for exercising supervisory powers

2.—(1) In the following provisions of the 1982 Act, namely—

- (a) subsection (2)(aa) of section 11(8) (withdrawal of authorisation in respect of new business: grounds);
- (b) subsection (2)(b)(ia) of section 37(9) (powers of intervention: grounds: failure to satisfy obligations);
- (c) subsections (1)(bb) and (2)(bb) of section 54(10) (winding up on petition of Secretary of State under the Insolvency Act 1986 or corresponding Northern Ireland provisions); and
- (d) section 83A(11) (Lloyd’s underwriters – insurance Directives),

for the words “general insurance Directives” substitute the words “general or long term insurance Directives”.

### Transfers of long term business

3.—(1) Part II of the 1982 Act (regulation of insurance companies) is amended as follows.

(2) After subsection (6) of section 49 (sanction of court for transfer of long term business) insert—

“(6A) Without prejudice to the generality of subsection (6) above, where the head office of the transferee company is situated in a member State other than the United Kingdom the court shall not make an order sanctioning the scheme unless—

- (a) the supervisory authorities of that member State certify that the transferee company possesses the necessary margin of solvency after taking the proposed transfer into account; or
- (b) every policy included in the proposed scheme evidences a contract of reinsurance.

(6B) Notwithstanding the provisions of subsection (6) above, where the establishment of the transferee company to which the policies are to be transferred is situated in a member State other than the United Kingdom, the court may make an order sanctioning the scheme if it is satisfied that—

- (a) the transfer relates to commitments situated in the United Kingdom;
- (b) the transferee company is entitled in accordance with section 81B below to provide insurance in the United Kingdom in respect of those commitments through that establishment; and
- (c) the supervisory authorities of the member State in which the establishment is situated agree to the transfer.”

(3) After section 49 (sanction of court for transfer of long term business) insert—

#### “Modifications of section 49 in certain cases.

49A.—(1) This section applies where—

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(8) Section 11(2)(aa) was inserted by S.I. 1990/1333, reg. 8(1).  
 (9) Section 37(2)(b)(ia) was inserted by S.I. 1990/1333, reg. 8(2).  
 (10) Section 54 was amended by the Companies Consolidation (Consequential Provisions) Act 1985 (c. 9), Schedule 2, by the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. 1986/1035 (N.I.9)), Schedule 1, by the Insolvency Act 1986 (c. 45), Schedule 14 and by S.I. 1990/1333, reg. 8(3).  
 (11) Section 83A was inserted by S.I. 1992/2890, reg. 8.

- (a) it is proposed to carry out a scheme under which the whole or part of any long term business (other than reinsurance) carried on in the United Kingdom by an insurance company to which this Part of this Act applies (“the transferor company”) is to be transferred to another insurance company (“the transferee company”);
  - (b) all of the policies comprised in the business proposed to be transferred were written in the course of the provision of services in a member State other than the United Kingdom; and
  - (c) the head office of the transferee company is situated in a member State.
- (2) In any case where this section applies, section 49 above shall have effect as if–
- (a) in paragraph (a) of subsection (3), for the words “in the London, Edinburgh and Belfast Gazettes and, except where the court has otherwise directed, in two national newspapers” there were substituted the words “in two national newspapers in the United Kingdom, and in such publications or in such manner in the member State of the commitment as the court has directed,”;
  - (b) in paragraph (d) of that subsection, for the words “at offices in the United Kingdom of the companies concerned” there were substituted the words “at offices in the United Kingdom of the transferor company and at such place in the member State of the commitment as the court has directed”: and
  - (c) for the provisions of subsections (6) to (6B) there were substituted the following provisions of this section.
- (3) Where the establishment of the transferee company to which the policies are to be transferred is situated in the United Kingdom, the court shall not make an order sanctioning the scheme unless it is satisfied that–
- (a) the transferee company fulfils the conditions in Articles 11, 12, 14 and 16 of the second long term insurance Directive in the member State of the commitment;
  - (b) the supervisory authorities of that member State agree to the transfer; and
  - (c) the transferee company is, or immediately after the making of the order will be, authorised under section 3 or 4 above to carry on long term business of the class or classes to be transferred under the scheme.
- (4) Where the establishment of the transferee company to which the policies are to be transferred is situated in a member State other than the United Kingdom, the court shall not make an order sanctioning the scheme unless–
- (a) it is satisfied that the supervisory authorities of the member State where the establishment of the transferee company to which the policies are to be transferred is situated agree to the transfer; and
  - (b) where the member State of the commitment is not the member State in which the establishment is situated, it is also satisfied that–
    - (i) the establishment fulfils the conditions in Articles 11, 12, 14 and 16 of the second long term insurance Directive in the member State of the commitment;
    - (ii) the law of that member State provides for the possibility of such a transfer; and
    - (iii) the supervisory authorities of that member State agree to the transfer.
- (5) Where the head office of the transferee company is situated in a member State other than the United Kingdom, the court shall not make an order sanctioning the scheme unless the supervisory authorities of that member State certify that the transferee company possesses the necessary margin of solvency after taking the proposed transfer into account.
- (6) Where the court makes an order sanctioning the scheme, it shall direct that–

- (a) notice of the making of any order, or the execution of any instrument, giving effect to the transfer shall be published in the member State of the commitment; and
- (b) the notice shall specify a period during which any policy holder affected may cancel the policy;

and such an instrument or order shall not bind such a policy holder if either such a notice is not so published or the policy holder cancels the policy during the period so specified.”

- (4) In section 52A(12) (issue of certificates by Secretary of State)–
  - (a) in subsection (1), for the words “general policies”, in both places where they occur, there shall be substituted the words “general or long term policies”; and
  - (b) in subsection (2), after the definition of “general policy” there shall be inserted the following definition–
 

“long term policy” means a policy evidencing a contract the effecting of which constitutes the carrying on of long term business, other than reinsurance.

#### **Provision of insurance from another Member State**

4.—(1) Part IIIA of the 1982 Act(13) (provision of insurance from another member State) is amended as follows.

- (2) For subsection (1) of section 81A (introductory provisions) substitute–
 

“(1) References in this Part to the provision of insurance in a member State are to either or both of the following–

  - (a) the covering of a risk situated there through an establishment in another member State (referred to in this Part as the provision of general insurance); and
  - (b) the covering of a commitment there through an establishment in another member State (referred to in this Part as the provision of long term insurance).”
- (3) In subsection (3) of that section–
  - (a) in paragraph (a), after the word “Directive” insert the words “or Article 6 of the first long term insurance Directive”; and
  - (b) after paragraph (b) replace the full stop at the end of paragraph (b) with a semi-colon and insert
 

“and

    - (c) references to the covering of a commitment are to the covering (otherwise than by way of reinsurance) of a commitment to which this Part applies.”
- (4) For subsection (4) of that section substitute–
 

“(4) This Part applies to–

  - (a) risks falling within Schedule 2 to this Act (general business), other than–
    - class 1, so far as it relates to accidents at work;
    - class 13, so far as it relates to nuclear civil liability and pharmaceutical product liability;
    - classes 9 and 13, so far as they relate to the compulsory insurance of building works; and
  - (b) commitments falling within Schedule 1 to this Act other than class VII.”

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(12) Section 52A was inserted by S.I. 1990/1333, reg. 9(2).

(13) Part IIIA was inserted by S.I. 1990/1333, reg. 10 and amended by S.I. 1992/2890, reg. 7.

(5) In subsection (1) of section 81B (provision of insurance in the United Kingdom: documents to be furnished to the Secretary of State)–

(a) in paragraph (a), for the words “Articles 16 and 17 of the first general insurance Directive” substitute the words “the relevant provisions” and for the words “that Directive” substitute the words “the relevant Directive”;

(b) in paragraph (b), after sub-paragraph (ii) insert  
“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,”; and

(c) in paragraph (c), after the word “risks” insert the words “or commitments”.

(6) After subsection (1A) of that section insert–

“(1B) In subsection (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.”

(7) In subsection (2) of that section, after the word “risks”, in each place where it occurs, insert the words “or commitments”.

(8) In subsections (1) and (2)(a) of section 81C (information to be given to the policy holder), after the word “risk” insert the words “or commitment”.

(9) In subsection (1) of section 81F (withdrawal of authorisation), for the words “Article 22 of the first general insurance Directive” substitute–

“(a) Article 22 of the first general insurance Directive; or

(b) Article 26 of the first long term insurance Directive.”.

(10) In subsections (2) and (4) of section 81G (provision of insurance in another member State: notification to Secretary of State), after the word “risks”, in each place where it occurs, insert the words “or commitments”.

(11) In subsection (1) of section 81H (issue of certificates by Secretary of State)–

(a) in paragraph (a), for the words “Articles 16 and 17 of the first general insurance Directive” substitute the words “the relevant provisions”; and

(b) in paragraph (b), for the words “that Directive” substitute the words “the relevant Directive”.

(12) After that subsection insert–

“(1A) In subsection (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.”

### **Law applicable to certain contracts of insurance**

5.—(1) Part V of the 1982 Act (supplementary provisions) is amended as follows.

(2) In subsection (1) of section 94B(14) (law applicable to certain contracts of insurance), after the words “the provisions of” insert the words “Part I of”.

(3) For subsection (2) of that section substitute—

“(1A) The law applicable to a contract of insurance to which Article 1 of the first long term insurance Directive applies shall be determined in accordance with the provisions of Part II of Schedule 3A to this Act if—

- (a) where the policy holder is an individual, he is habitually resident in a member State; or
- (b) where the policy holder is not an individual, the establishment of the policy holder to which the contract relates is situated in a member State.

(2) Subsections (1) and (1A) above do not apply in relation to a contract of reinsurance.”

(4) The provisions of Schedule 3A to the 1982 Act(15) (law applicable to certain contracts of insurance) shall become Part I of that Schedule under the heading “GENERAL BUSINESS”; and in that Part—

- (a) in paragraphs 3(2), 4(2) and 5(1), for the words “this Schedule” substitute the words “this Part of this Schedule”;
- (b) in paragraph 5(1), for the words from “shall apply” to the end substitute the words “shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990;” and
- (c) in paragraph 5(2), for the words “those rules” substitute the words “those provisions”.

(5) After that Part of that Schedule insert—

## “PART II

### LONG TERM BUSINESS

#### *General rules as to applicable law*

6. The law applicable to the contract is the law of the member State of the commitment. However, where the law of that member State so allows, the parties may choose the law of another country.

7. Where the policy holder is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

#### *Mandatory rules*

8. Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

#### *Supplementary provisions*

9.—(1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.

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(14) Section 94B was inserted by S.I. 1990/1333, reg. 6(1) and renumbered by S.I. 1992/2890, reg. 9(2).

(15) Schedule 3A was inserted by S.I. 1990/1333, reg. 6(2).

(2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.

**10.**—(1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990.

(2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 what freedom of choice the parties have under the law of a part of the United Kingdom.”

### Interpretation

**6.**—(1) Part V of the 1982 Act (supplementary provisions) shall be amended as follows.

(2) In subsection (1) of section 96(**16**) (general interpretation)—

(a) after the definition of “claims representative” insert—

““commitment” means a commitment represented by insurance business of any of the classes specified in Schedule 1 to this Act;”

(b) after the definition of “margin of solvency” insert—

““member State of the commitment”, in relation to a commitment entered into at any date, means—

(a) where the policy holder is an individual, the member State in which he had his habitual residence at that date; or

(b) where the policy holder is not an individual, the member State in which the establishment of the policy holder to which the commitment relates was situated at that date;”.

(3) In the side-note to section 96A(**17**) (interpretation of expressions derived from general insurance Directives), omit the word “general”.

(4) For subsection (1B) of that section substitute—

“(1B) In this Act—

(a) “the first long term insurance Directive” means Council Directive [79/267/EEC](#) of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance;

(b) “the second long term insurance Directive” means Council Directive [90/619/EEC](#) of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#);

and “the long term insurance Directives” means those Directives.”

(5) In subsection (2) of that section, after the word “general” insert the words “or long term”.

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(16) Section 96 was amended by the Companies Consolidation (Consequential Provisions) Act [1985 \(c. 9\)](#), Schedule 2, by the Companies Consolidation (Consequential Provisions) (Northern Ireland) Order 1986 (S.I. [1986/1035 \(N.I.9\)](#)), by the Insolvency Act [1986 \(c. 45\)](#), Schedule 14 and by S.I. [1992/2890](#), reg. 9(3).

(17) Section 96A was inserted by S.I. [1990/1333](#), reg. 2(1), and amended by S.I. [1992/2890](#), reg. 9(4).

## amendments of the 1986 act

### Notice of commencement of business

7. After paragraph 2(3) of Schedule 10 to the 1986 Act (regulated insurance companies) insert—

“(3A) An insurance company—

- (a) to which section 31 of this Act applies; and
- (b) which has complied with the requirements of section 81B of the Insurance Companies Act 1982 (documents to be furnished to the Secretary of State) in relation to the provision of long term insurance in the United Kingdom,

shall be deemed to have complied with section 32 of this Act in relation to any investment business consisting in the covering of commitments for the time being mentioned in the statement given by it in accordance with subsection (1)(c) of the said section 81B.

(3B) In sub-paragraph (3A) above “commitment” and “provision of long term insurance” have respectively the same meanings as in the Insurance Companies Act 1982.”

### Reciprocal facilities for insurance business

8.—(1) No notice shall be served under section 183 of the 1986 Act (reciprocal facilities for financial business) on an insurance company incorporated in or formed under the law of any part of the United Kingdom which—

- (a) appears to the Secretary of State or the Treasury to be a subsidiary undertaking of a person connected with a country outside the United Kingdom; and
- (b) is carrying on, or appears to the Secretary of State or the Treasury to intend to carry on, insurance business other than reinsurance business in, or in relation to, the United Kingdom,

if the sole ground for giving that notice is the ground specified in paragraph (2) below.

(2) The ground referred to in paragraph (1) above is that it appears to the Secretary of State or the Treasury that by reason of—

- (a) the law of the country concerned; or
- (b) any action taken by or the practices of the government or any other authority or body in that country,

insurance companies connected with the United Kingdom are unable to carry on insurance business other than reinsurance business in, or in relation to, that country on terms as favourable as those on which insurance companies connected with that country are able to carry on such business in, or in relation to, the United Kingdom.

(3) For the purposes of this regulation—

“insurance company” has the same meaning as in Part V of the 1982 Act;

“subsidiary undertaking” has the same meaning as in Part VII of the Companies Act 1985<sup>(18)</sup> or Part VIII of the Companies (Northern Ireland) Order 1986<sup>(19)</sup>.

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<sup>(18)</sup> 1985 c. 6; section 258 was inserted by the Companies Act 1989 (c. 40), section 21(1), and section 259 was inserted by section 22 of the Companies Act 1989.

<sup>(19)</sup> S.I. 1986/1032 (N.I. 6); Article 266 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I. 5)), Article 23(1), and Article 267 was inserted by Article 24 of the Companies (Northern Ireland) Order 1990.



## miscellaneous and supplemental

### **Amendment to Contracts (Applicable Law) Act 1990**

**9.** After subsection (1) of section 2 of the Contracts (Applicable Law) Act 1990(20) (conventions to have the force of law) insert–

“(1A) The provisions of Schedule 3A to the Insurance Companies Act 1982 (law applicable to certain contracts of insurance) are the internal law for the purposes of Article 1(3) of the Rome Convention.”

### **Amendments to the 1992 Regulations: provision of statements**

**10.**—(1) Regulation 13 of the 1992 Regulations (provision of statements and accounts) is amended as follows.

(2) In paragraph (1)–

- (a) for the words “provides insurance” substitute the words “provides general insurance”; and
- (b) for the words “insurance so provided” substitute the words “general insurance so provided”.

(3) After paragraph (2) insert–

“(2A) Every insurance company–

- (a) to which Part II of the 1982 Act applies; and
- (b) which in a financial year provides long term insurance in another member State (within the meaning of Part IIIA of that Act) through an establishment in the United Kingdom,

shall prepare in respect of long term insurance so provided by it a statement in Form 85 (analysis of gross premiums receivable by each of classes I to VI) in accordance with the requirements of Schedule 2.”

(4) In paragraph (3), for the words “and (2)” substitute the words “, (2) and (2A)”.

(5) In paragraph (4), for the words “provides insurance” substitute the words “provides general insurance”.

(6) In paragraph (6), for the word “statement” substitute the word “statements”.

(7) After the Schedule to the 1992 Regulations, which shall be numbered as Schedule 1, insert as Schedule 2 the provisions set out in the Schedule to these Regulations.

### **Consequential and transitional provisions**

**11.** In respect of any financial year the whole or part of which falls before the commencement of these Regulations, the statement required by regulation 13(2A) of the 1992 Regulations may be prepared solely in respect of insurance provided after that commencement.

1st February 1993

*N. Hamilton*  
Parliamentary Under-Secretary of  
State, Department of Trade and Industry

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

SCHEDULE

Regulation 10

[schedule 2 to the insurance companies (amendment) regulations 1992]  
long term business: analysis of gross premiums

SCHEDULE

Regulation 10

[SCHEDULE 2 TO THE INSURANCE COMPANIES (AMENDMENT) REGULATIONS 1992]

LONG TERM BUSINESS: ANALYSIS OF GROSS PREMIUMS

Returns under Insurance Companies Legislation

**Form 85**

**Long term business: Analysis of gross premiums receivable for provision of direct insurance in other Member States**

Name of Company

Financial year ended

Member State of commitment

Class description	Authorisation Class	Financial year ended			Units	Member State <sup>1</sup> of commitment	For official use
		day	month	year			
				19	£000		
		Gross Premiums Receivable					
		Article 12 <sup>2</sup> business			Article 14 <sup>3</sup> business		
Life and annuity	I	1					
Marriage and birth	II	2					
Linked long term	III	3					
Permanent health	IV	4					
Tontines	V	5					
Capital redemption	VI	6					

**Instructions:**

- <sup>1</sup> The box described as "Member State of commitment" is to be completed by inserting the appropriate Country Code
- <sup>2</sup> Units are to be entered here in respect of business which is subject to supervision in the Member State of commitment under Article 12 of Council Directive 90/619/EEC
- <sup>3</sup> Units are to be entered here in respect of business which is subject to supervision only in the United Kingdom under Article 14 of Council Directive 90/619/EEC

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These regulations make amendments to the Insurance Companies Act 1982 (“the 1982 Act”), the Financial Services Act 1986 (“the 1986 Act”), the Insurance Companies (Amendment) Regulations 1992 (“the 1992 Regulations”) and the Contracts (Applicable Law) Act 1990. The purpose of these amendments is to implement Council Directive [90/619/EEC](#) (O.J. No. L330, 29.11.90, p.50) relating to life insurance. Council Directive [79/267/EEC](#) (O.J. No. L63, 13.3.79, p.1) created a supervisory regime for direct life “establishment” business (ie life insurance business carried on by insurers through an establishment in a member State). Directive [90/619/EEC](#) introduces changes to that regime, and makes new provision for the regulation of insurers who provide direct life insurance to cover commitments in a member State on a “services” basis, ie otherwise than through an establishment in that State. These regulations also limit the application of section 183 of the 1986 Act (reciprocal facilities for financial business).

Regulation 1 makes provision for the citation and commencement of the Regulations, describes their purpose as referred to above and defines the 1982 Act, the 1986 Act and the 1992 Regulations.

Regulation 2 amends section 11(2), 37(2) and 54(1) and (2) of the 1982 Act by extending the grounds on which the Secretary of State may withdraw a company’s authorisation, exercise powers of intervention or present a winding-up petition, to cases where an insurance company has failed to satisfy an obligation to which it is subject under the law of another member State giving effect to Directives [79/267/EEC](#) and [90/619/EEC](#). It also amends section 83A of the 1982 Act (introduced by the 1992 Regulations) to extend the Secretary of State’s powers of intervention under sections 38 to 41, 44 and 45 of the 1982 Act to Lloyd’s underwriters where they have failed to satisfy any such obligations.

Regulation 3 amends section 49 of the 1982 Act (transfer of long term business) by requiring that before the court approves a transfer (other than a transfer of contracts of reinsurance) to a company whose head office is in a member State other than the United Kingdom the supervisory authorities of that State must have issued a certificate that the company possesses the necessary margin of solvency after taking the proposed transfer into account. It also makes provision to enable a transfer of policies covering commitments in the United Kingdom to an insurance company established in another member State.

The regulation inserts a new section 49A which applies to transfers (other than transfers evidencing contracts of reinsurance) entered into by companies to which Part II of the 1982 Act applies on a services basis. Section 49A provides that before a court can approve a transfer to a company to which Part II of the 1982 Act applies it must be satisfied that the transferee company fulfils specified conditions in the member State of the commitment and that the supervisory authorities of that member State agree to the transfer. Where the transfer is to be to an insurance company established in another member State the court may only approve the transfer if the supervisory authorities in the member State where that establishment is situated and, if different, the supervisory authorities of the member State of the commitment agree to the transfer. Section 49A also requires that before the court approves a transfer to a company whose head office is in a member State other than the United Kingdom the supervisory authorities of that State must have issued a certificate that the company possesses the necessary margin of solvency after taking the proposed transfer into account. Notice of the transfer approved by the court must be published in the member State of the commitment and a policy holder has a right to cancel either as specified in the notice or in the event that the notice is not published.

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The regulation also amends section 52A of the 1982 Act which provides for the issue of certificates by the Secretary of State in cases where an insurance company's head office is situated in the United Kingdom to cover insurance companies which intend to provide long term insurance on a services basis.

Regulation 4 amends Part IIIA of the 1982 Act (provision of insurance from another member State) by extending sections 81A, 81B, 81C, 81F, 81G and 81H to apply to long term insurance.

Regulation 5 amends section 94B of the 1982 Act and Schedule 3A by inserting new rules governing the law applicable to contracts of direct long term insurance covering commitments in the Community. Where a contract has a connection with more than one country (including different parts of the United Kingdom) the rules will determine which law is to govern the contract.

Regulation 6 inserts new interpretation provisions in sections 96 and 96A of the 1982 Act.

Regulation 7 inserts a new paragraph 3A in Schedule 10 to the 1986 Act to provide that companies which have complied with the notification requirements of Part IIIA of the 1982 Act in respect of commitments constituting investment business shall be deemed to have complied with those of section 32 of the 1986 Act in respect of those commitments.

Regulation 8 precludes the issue of a notice under section 183 of the 1986 Act (reciprocal facilities for financial business) in relation to a subsidiary insurance company where the only ground for the issue of the notice is the failure of a third country with which the subsidiary company is connected to allow insurance companies connected with the United Kingdom to carry on direct insurance business on an equal basis.

Regulation 9 amends section 2 of the Contracts (Applicable Law) Act 1990 to provide that the internal law for the purposes of Article 1(3) of the Rome Convention is as set out in Schedule 3A to the 1982 Act.

Regulation 10 amends regulation 13 of the 1992 Regulations by requiring an insurance company which provides direct life insurance in another member State through an establishment in the United Kingdom to prepare additional information to be submitted to the Secretary of State in respect of those operations, namely an analysis of gross premiums. The form to be used for this purpose is specified in the Schedule.

Regulation 11 introduces a transitional period for the coming into force of regulation 13(2A) of the 1992 Regulations.