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STATUTORY INSTRUMENTS

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**1993 No. 3127**

**INSURANCE**

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

*Made* - - - - *13th December 1993*  
*Laid before Parliament* *15th December 1993*  
*Coming into force* - - *5th January 1994*

The Secretary of State being a Minister designated(1) for the purposes of section 2(2) of the European Communities Act 1972(2) 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 insurance contracts other than contracts of life assurance from one insurance undertaking to another, in exercise of his powers under the said section 2(2) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

GENERAL

**Citation, commencement and interpretation**

1.—(1) These Regulations may be cited as the Insurance Companies (Switzerland) Regulations 1993 and shall come into force on 5th January 1994.

(2) In these Regulations—

“the 1982 Act” means the Insurance Companies Act 1982(3);

“the 1981 Regulations” means the Insurance Companies Regulations 1981(4);

“the 1983 Regulations” means the Insurance Companies (Accounts and Statements) Regulations 1983(5).

AMENDMENTS OF THE 1982 ACT

**Applications for authorisation**

2.—(1) Part I of the 1982 Act (restrictions on carrying on insurance business) shall be amended as follows.

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(1) S.I.1976/2141; S.I. 1975/427.  
(2) 1972 c. 68.  
(3) 1982 c. 50.  
(4) S.I. 1981/1654.  
(5) S.I. 1983/1811.

(2) After subsection (3) of section 8 (applicants from other member States) insert the following subsection—

“(3A) Where the authorisation sought by an applicant whose head office is in Switzerland—

- (a) is an authorisation to carry on general business; and
- (b) is not restricted to reinsurance business,

this section shall apply in relation to that applicant as it applies in relation to an applicant whose head office is in a member State other than the United Kingdom.”

(3) After subsection (5) of section 9 (applicants from outside the Community) insert the following subsection—

“(5A) This section shall not apply where the authorisation sought by an applicant whose head office is in Switzerland—

- (a) is an authorisation to carry on general business; and
- (b) is not restricted to reinsurance business.”

(4) In subsection (2) of section 11 (withdrawal of authorisation in respect of new business), after paragraph (c) insert the following paragraph—

“(d) that the company is a Swiss general insurance company which has ceased to be authorised to effect contracts of insurance, or contracts of a particular description, in Switzerland.”

(5) For subsection (5) of that section substitute the following subsection—

“(5) Where a direction under this section has been given in respect of—

- (a) a company which has its head office, or has in accordance with section 9(2) above made a deposit, in a member State other than the United Kingdom; or
- (b) a Swiss general insurance company, the Secretary of State may revoke or vary the direction if after consultation with the supervisory authority in that member State or, as the case may be, in Switzerland he considers it appropriate to do so.”

(6) After subsection (6) of that section insert the following subsection—

“(7) In this Act “Swiss general insurance company” means an insurance company—

- (a) whose head office is in Switzerland;
- (b) which is authorised under section 3 or 4 above to carry on general business; and
- (c) whose authorisation is not restricted to reinsurance business.”

### **Regulation of insurance companies**

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

(2) In section 27 (companies from outside the Community), for the words “whose head office is not in a member State” substitute the following paragraphs—

- “(a) whose head office is not in a member State; and
- (b) which is not a Swiss general insurance company.”

(3) In subsection (3) of section 32 (margins of solvency), after the words “restricted to reinsurance” insert the words “or if it is a Swiss general insurance company”.

(4) In subsection (1) of section 34 (companies supervised in other member States), after paragraph (b) insert the words “or

- (c) which is a Swiss general insurance company.”

(5) In subsection (2) of section 35 (form and situation of assets), after the words “whose head office is in a member State” insert the words “or which is a Swiss general insurance company”.

(6) In subsection (2) of section 37 (grounds on which powers are exercisable), after paragraph (g) insert the following paragraph—

“(h) that the company is a Swiss general insurance company which has ceased to be authorised to effect contracts of insurance, or contracts of a particular description, in Switzerland.”

(7) In subsection (3)(a) of section 38 (requirements about investments), after the words “such a member State,” insert the words “or which is a Swiss general insurance company,”.

(8) In subsection (4A)(6) of section 51 (approval of transfers of general business)—

(a) after the words “another member State” insert the words “or to a Swiss general insurance company”; and

(b) after the words “of that State” insert the words “or, as the case may be, of Switzerland”.

(9) For subsection (1) of section 52A(7) (issue of certificates by Secretary of State) substitute the following subsection—

“(1) Where it is proposed to execute an instrument by which—

(a) an insurance company established in another member State is to transfer to an insurance company whose head office is situated in the United Kingdom all its rights and obligations under such general or long term policies, or general or long term policies of such descriptions, as may be specified in the instrument; or

(b) a Swiss general insurance company is to transfer to an insurance company whose head office is so situated all its rights and obligations under such general policies, or general policies of such descriptions, as may be so specified,

the Secretary of State may, if he is satisfied that the company whose head office is so situated possesses the necessary margin of solvency after taking the proposed transfer into account, issue a certificate to that effect.”

(10) In subsection (1) of section 63 (change of manager etc. of company from outside United Kingdom), after the words “restricted to reinsurance,” insert the words “and in relation to a Swiss general insurance company”.

## Definitions

4. In subsection (1) of section 96 of the 1982 Act (general interpretation), for the definition of “supervisory authority” substitute the following definitions—

““supervisory authority”, in relation to a member State other than the United Kingdom or in relation to Switzerland, means the authority responsible in that State or country for supervising insurance companies; ‘Swiss general insurance company’ has the meaning given in section 11 above;”.

## AMENDMENTS OF REGULATIONS

### Amendments of the 1981 Regulations

5.—(1) In paragraph (1) of regulation 2 of the 1981 Regulations (interpretation: general)—

(a) for the definition of “external company” substitute the following definition—

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(6) Subsection (4A) was inserted by S.I. 1990/1333, reg. 9(1) and amended by S.I. 1992/2890, reg. 3.

(7) Section 52A was inserted by S.I. 1990/1333, reg. 9(2) and was amended by S.I. 1993/174, reg. 3(4).

““external company” means a company, other than a Swiss general insurance company, whose head office is not in a member State;” and

(b) after the definition of “subsidiary” insert the following definition—

““Swiss general insurance company” has the same meaning as in the Insurance Companies Act 1982 except that it also includes a company whose head office is in Switzerland and which has applied for an authorisation to which paragraph (1A) below applies;”.

(2) After that paragraph insert the following paragraph—

“(1A) This paragraph applies to any authorisation under section 3 of the Insurance Companies Act 1982 which is an authorisation to carry on general business and is not restricted to reinsurance business.”

(3) In paragraph (3) of regulation 29 of those Regulations (authorisation: submission of information), for the definition of “non-UK Community company” substitute the following definition—

““non-UK Community company”, in Schedule 4 and paragraph (2) so far as relating to that Schedule, means an insurance company whose head office is in a member State other than the United Kingdom, and in Schedule 5 and paragraph (2) so far as relating to that Schedule, means such an insurance company or a Swiss general insurance company.”

(4) At the beginning of paragraph 9 of Part II of Schedule 5 to those Regulations (information to be submitted: general business), insert the words “In the case of an insurance company whose head office is in a member State other than the United Kingdom,”.

(5) After that paragraph insert the following paragraph—

“**9A.** In the case of a Swiss general insurance company, a statement from the supervisory authorities in Switzerland—

- (a) stating the classes of insurance business which the company is authorised to carry on in Switzerland,
- (b) specifying the risks covered there,
- (c) declaring that the company is constituted in Switzerland in a form permitted by Annex 3 of the Agreement signed on 10th October 1989 between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance<sup>(8)</sup>,
- (d) confirming that the company limits its business activities to insurance and to operations directly arising therefrom to the exclusion of all other commercial business,
- (e) declaring that the company has the required solvency margin or minimum guarantee fund, and
- (f) specifying the financial resources from which the costs referred to in paragraph 17 below will be met.”

### **Amendments of the 1983 Regulations**

**6.—**(1) In paragraph (1) of regulation 3 of the 1983 Regulations (interpretation)<sup>(9)</sup>—

- (a) at the end of the definition of “Community company” insert the words “or a Swiss general insurance company”;

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<sup>(8)</sup> O.J. No. L205, 27.7.91, p. 3.

<sup>(9)</sup> S.I. 1983/1811, to which there have been amendments not relevant to these Regulations.

(b) for the definition of “external company” substitute the following definition—

““external company” means a company, other than a company to which section 9(2) of the Act applies or a Swiss general insurance company, whose head office is not in a member State;”; and

(c) after the definition of “subordinated” insert the following definition—

““Swiss general insurance company” has the same meaning as in the Act;”.

(2) In regulation 31 of those Regulations (transitional provisions) after paragraph (3) insert the following paragraph—

“(4) For financial years ending on or before the 31st December 1992, a Swiss general insurance company shall submit to the Secretary of State or prepare the documents which it would be required by these Regulations so to submit or to prepare if it were an external company.”

**Consequential revocation.**

7. Paragraph (4)(a) of regulation 3 of the Insurance Companies (Amendment) Regulations 1993(10) (which is superseded by regulation 3(8) above) is hereby revoked.

Department of Trade and Industry  
13th December 1993

*Neil Hamilton*  
Parliamentary Under-Secretary of State

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

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## EXPLANATORY NOTE

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

These Regulations make amendments to the Insurance Companies Act 1982 (“the 1982 Act”), the Insurance Companies Regulations 1981 (“the 1981 Regulations”) and the Insurance Companies (Accounts and Statements) Regulations 1983 (“the 1983 Regulations”). The purpose of these Regulations is to meet the obligation under Council Directive [91/371/EEC](#) (O.J.No.L205, 27.7.91, p. 48) to amend United Kingdom law to comply with the Agreement signed on 10 October 1989 between the European Economic Community and the Swiss Confederation on direct insurance other than life assurance (O.J.No.L205, 27.7.91, p. 3).

The Agreement has the effect of extending to Switzerland, and to companies having their head office there, the provisions of Council Directive [73/239/EEC](#) (O.J.No.L228, 16.8.73, p. 3), with limited modifications and exceptions, and taking account of the amendments to that Directive contained in Council Directives [84/641/EEC](#) (O.J.No.L339, 27.12.84, p. 21) and [87/343/EEC](#) (O.J.No.L185, 4.7.87, p. 72), and in Article 9 of Council Directive [87/344/EEC](#) (O.J.No.L185, 4.7.87, p. 77) and certain of the amendments in Title II of Council Directive [88/357/EEC](#) (O.J.No.L172, 4.7.88, p. 1).

The Agreement thus provides to companies with their head office in a member State or Switzerland and which carry on direct general insurance business a reciprocal right to establish branches or agencies in the territory of the other party to the Agreement.

**Regulation 1** makes provision for the citation and commencement of the Regulations, and defines the 1982 Act, the 1981 Regulations and the 1983 Regulations.

**Regulation 2** amends sections 8 and 9 of the 1982 Act, which are concerned with applications for authorisation to carry on insurance business in the United Kingdom, so that the provisions of section 8, which applies to applicants from other member States, apply also to Swiss companies which intend to carry on direct general insurance business in the United Kingdom. In addition, it amends section 11 of the 1982 Act so that the Secretary of State may withdraw authorisation from a Swiss general insurance company, as defined in paragraph (6) of regulation 2, if authorisation has been withdrawn from that company in Switzerland, and where the Secretary of State has issued a direction that authorisation be withdrawn from such a company, he may only vary or revoke that direction if he considers it appropriate to do so after consultation with the Swiss supervisory authorities.

**Regulation 3** amends, in the 1982 Act, section 27 which concerns accounts and records which must be held in the United Kingdom by companies whose head office is outside the Community, sections 32, 34 and 35, which are concerned with the margins of solvency and assets of insurance companies, sections 51 and 52A, which are concerned with transfers of insurance business, and section 63, which is concerned with changes of the managers etc of insurance companies, so that the provisions applicable to companies having their head office in another member State are applicable also to Swiss general insurance companies. In addition, it amends section 37 of the 1982 Act to allow the Secretary of State to exercise the powers of intervention in sections 38 and 41 to 45 of that Act against a Swiss general insurance company if the Swiss supervisory authorities have withdrawn authorisation from the company. Section 38 is amended so that the Secretary of State is prohibited from exercising powers in that section in respect of assets in excess of the liabilities of the business of such a company carried on in the United Kingdom.

**Regulation 4** amends the definition of “supervisory authority” in section 96 of the 1982 Act to extend to bodies responsible for supervising insurance companies in Switzerland.

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**Regulation 5** amends the definition of external company in regulation 2 of the 1981 Regulations, and inserts a definition of a Swiss general insurance company. It also amends regulation 29 of and Part II of Schedule 5 to the 1981 Regulations so that, for the most part, a Swiss insurance company seeking authorisation to carry on direct general business in the United Kingdom must supply the same information as that required from a company which has its head office in another member State and which intends to carry on direct general business in the United Kingdom.

**Regulation 6** amends the definitions of Community company and external company in regulation 3(1) of the 1983 Regulations with the effect that a Swiss general insurance company carrying on insurance business in the United Kingdom is subject to the same requirements under those Regulations as a company which has its head office in another member State. It also introduces a new transitional provision to regulation 31 to provide that Swiss general insurance companies are required to prepare accounts for financial years ending on or before 31 December 1992 on the basis that they are external companies.

**Regulation 7** revokes a provision of earlier regulations that is superseded by the present Regulations.

#### *Compliance costs*

The Regulations will not impose any new burdens on business, and therefore a Compliance Costs Assessment has not been prepared.