
STATUTORY INSTRUMENTS

1996 No. 1669

**The Financial Institutions (Prudential
Supervision) Regulations 1996**

PART VI

INSURANCE COMPANIES

Restrictions on issue of authorisation by Secretary of State

18.—(1) After subsection (1A) of section 5 of the Insurance Companies Act (submission of proposals etc.) there shall be inserted the following subsections—

“(1B) The Secretary of State shall not issue an authorisation under section 3 above to an applicant which is a UK or non-EC company if it appears to him that—

- (a) the applicant is an undertaking which is closely linked with any person; and
- (b) the applicant’s close links with that person, or any matters relating to any non-EEA laws or administrative provisions to which that person is subject, are such as would prevent the effective exercise by the Secretary of State of his functions under this Act in relation to the applicant;

and in this subsection “non-EEA laws” means laws of a country or territory outside the European Economic Area and “non-EEA administrative provisions” shall be construed accordingly.

(1C) The Secretary of State shall not issue an authorisation under section 3 above to an applicant—

- (a) which is incorporated in the United Kingdom;
- (b) whose head office is outside the United Kingdom;
- (b) whose business is not restricted to business to which subsection (5) below applies; and
- (d) which is not excluded from each Directive mentioned in that subsection by Article 3 of that Directive.”

(2) In the following provisions, namely—

- (a) subsection (2)(b) of section 11 of that Act (withdrawal of authorisation in respect of new business); and
 - (b) subsection (2)(e) of section 37 of that Act (grounds on which powers are exercisable),
- for the words “section 7, 8 or 9” there shall be substituted the words “section 5(1B) or (1C), 7, 8 or 9”.

Communication by auditor with Secretary of State

19. For subsection (1) of section 21A of the Insurance Companies Act (communication by auditor with Secretary of State) there shall be substituted the following subsection—

“(1) No duty to which—

- (a) an auditor of an insurance company to which this Part of this Act applies; or
- (b) an auditor of any body with which a UK or non-EC company is closely linked by control who is also an auditor of the insurance company,

may be subject shall be regarded as contravened by reason of his communicating in good faith to the Secretary of State, whether or not in response to a request from him, any information or opinion on a matter of which the auditor has become aware in his capacity as auditor of that company or body and which is relevant to any functions of the Secretary of State under this Act”.

Disclosure of information by Secretary of State

20.—(1) In the Table in sub-paragraph (1) of paragraph 3 of Schedule 2B to the Insurance Companies Act (disclosure for facilitating discharge of functions by other regulatory authorities), for entry 25 there shall be substituted the following entries—

25 An auditor appointed under section 21 above, section 384 of the Companies Act 1985 or section 107 of the Financial Services Act 1986 or a person approved under section 108 of the Financial Services Act 1986. All functions.

26 A recognised supervisory body (within the meaning of Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990). Functions in its capacity as such a body under that Part, or functions in relation to disciplinary proceedings against auditors.

27 A recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 or Article 350 of the Insolvency (Northern Ireland) Order 1989). Functions in its capacity as such a body under that Act or that Order, or functions in relation to disciplinary proceedings against insolvency practitioners (within the meaning of that Act or that Order).

28 An actuary exercising functions under this Act. Those functions.

29 The Institute of Actuaries or the Faculty of Actuaries. Supervisory functions in relation to an actuary exercising functions under this Act.”

(2) At the beginning of sub-paragraph (9) of that paragraph there shall be inserted the words “Subject to sub-paragraph (10) below,” and after that sub-paragraph there shall be inserted the following sub-paragraph—

“(10) Sub-paragraph (9) above shall not apply in relation to references to enabling or assisting the discharge or exercise of the following functions, namely—

- (a) functions of the Secretary of State under Part XIV of the Companies Act 1985, Part XIII of the Insolvency Act 1986 or Part II of the Companies Act 1989 or, so far as relating to the breach of any law relating to companies, under section 83 of the Companies Act 1989;

- (b) functions of an inspector under Part XIV of the Companies Act 1985 or, so far as relating to offences involving securities of a company, under section 177 of the Financial Services Act 1986;
- (b) functions of a person authorised to exercise powers under section 84 of the Companies Act 1989, so far as relating to the breach of any law relating to companies;
- (d) functions of the Department of Economic Development in Northern Ireland under Part XV of the Companies (Northern Ireland) Order 1986, Part XII of the Insolvency (Northern Ireland) Order 1989 or Part III of the Companies (Northern Ireland) Order 1990;
- (e) functions of an inspector under Part XV of the Companies (Northern Ireland) Order 1986;
- (f) functions of a recognised professional body (within the meaning of section 391 of the Insolvency Act 1986 or Article 350 of the Insolvency (Northern Ireland) Order 1989);
- (g) functions of a recognised supervisory body (within the meaning of Part II of the Companies Act 1989 or Part III of the Companies (Northern Ireland) Order 1990).”

(3) After sub-paragraph (4) of paragraph 5 of that Schedule (information supplied by a supervisory authority) there shall be inserted the following sub-paragraph—

“(4A) Before the Secretary of State discloses information to any person under sub-paragraph (3) above, he shall notify the supervisory authority which supplied the information of the name and responsibilities of that person.”

(4) In relation to information relating to the business or other affairs of companies which are neither UK nor non-EC companies within the meaning of the Insurance Companies Act, paragraph 3 of Schedule 2B to that Act shall have effect without the amendments made by paragraphs (1) and (2) above.

Duty to notify close links to Secretary of State

21.—(1) This regulation applies where on any day—

- (a) a UK or non-EC company becomes closely linked with any person; and
- (b) that person does not also become its controller (within the meaning of the Insurance Companies Act).

(2) Within 30 days of that day, the company shall give written notice to the Secretary of State stating that it has become so linked.

(3) A notice under paragraph (2) above shall also state—

- (a) the name of the person with whom it is closely linked;
- (b) the nature of its close links with that person; and
- (c) the requisite particulars of that person.

(4) The requisite particulars of any person are as follows—

- (a) where that person is a body corporate, the country or territory in which it is incorporated and, if it is registered, its registered number;
- (b) where that person is an individual, the date and place of his birth; and
- (c) where that person is a partnership, the particulars mentioned in paragraph (a) or (b) above in respect of each partner.

- (5) Any person who makes default in complying with this regulation shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both;
 - (b) on summary conviction, to a fine not exceeding the statutory maximum.
- (6) Where a UK or non-EC company has become closely linked with any person before the day on which these Regulations come into force, these Regulations shall have effect as if the company had become closely linked with that person on that day.
- (7) In this regulation “UK company” and “non-EC company” have the same meanings as in the Insurance Companies Act.