
STATUTORY INSTRUMENTS

1996 No. 946

The Insurance Companies (Reserves) Regulations 1996

PART I

PRELIMINARY

Citation, commencement and application

1.—(1) These Regulations may be cited as the Insurance Companies (Reserves) Regulations 1996 and shall come into force on 23rd December 1996.

(2) These Regulations shall have effect in respect of any financial year of a company ending on or after 23rd December 1996.

Interpretation

2.—(1) In these Regulations, unless the context requires otherwise —

“the 1994 Regulations” means the Insurance Companies Regulations 1994(1);

“the 1996 Regulations” means the Insurance Companies (Accounts and Statements) Regulations 1996(2);

“the Act” means the Insurance Companies Act 1982;

“accounting class” refers to the accounting classes set out in regulation 3(1) (interpretation) of the 1996 Regulations;

“accounted for” means reported pursuant to the 1996 Regulations;

“assessable mutual” means a mutual association—

(a) where the insurance business carried on by the association is limited to the provision of insurance to its members; and

(b) whose articles of association, rules or bye laws provide for the calling of additional contributions from members to meet claims;

“business categories corresponding to an accounting class” means the business categories specified in regulation 10(1) of the 1996 Regulations corresponding to the same general business classes;

“business group” means a group comprising descriptions of general business determined in accordance with regulation 6(1) below;

“business group maximum” has the meaning given in Part III of Schedule 1 to these Regulations;

“claim” means a claim against a company under a contract of insurance;

(1) S.I. 1994/1516, as amended by S.I. 1994/3133; S.I. 1995/3248; S.I. 1996/942; and S.I. 1996/944.

(2) S.I. 1996/943.

“claims management costs” refers to those claims management costs required by the shareholder accounts rules (note (4) to the profit and loss account format) to be included in claims incurred other than those which, whether or not incurred through the employment of the company’s own staff, are directly attributable to particular claims;

“company” means an insurance company;

“consequential loss risks” means risks falling within general business class 16 comprising risks of the persons insured sustaining loss attributable to interruptions of the carrying on of business carried on by them or to reduction of the scope of business so carried on;

“contract of insurance” includes a contract of reinsurance;

“credit insurance business” means all insurance business falling within general business class 14 that is not reinsurance business;

“direct business” refers to insurance business other than reinsurance business;

“equalisation reserve” means a reserve to be maintained under section 34A of the Act;

“facultative business” refers to facultative reinsurance business;

“financial year” means a period of account;

“general policy” means a policy evidencing a contract the effecting of which constitutes the carrying on of general business of a relevant description;

“gross premiums earned” in respect of a financial year means such proportion of gross premiums written as is attributable to risks borne by the company during that financial year;

“gross premiums written” means the amounts required by Schedule 9A to the Companies Act 1985(3) and Schedule 9A to the Companies (Northern Ireland) Order 1986(4) to be shown in the profit and loss account of an insurance company at general business technical account item I.1.(a);

“the last financial year” means the financial year which last ended before the date on which accounts and statements of the company relating to that financial year are required to be deposited with the Secretary of State pursuant to section 22 of the Act;

“maximum reserve” means the aggregate value of the business group maxima as calculated in accordance with Part III of Schedule 1 to these Regulations;

“net claims incurred” in respect of a financial year means claims arising from incidents occurring during that financial year (including direct claims handling expenses), net of reinsurance and other recoveries but excluding claims management costs;

“net claims paid” in respect of a financial year means claims paid during that financial year (including direct claims handling expenses), net of reinsurance and other recoveries but excluding claims management costs, regardless of whether incidents giving rise to such claims occurred during that financial year or any prior financial year;

“net operating expenses” means the net amount paid in a financial year in respect of commissions, other acquisition expenses, administrative expenses, reinsurers' commissions and profit participations;

“net premiums earned” and “net premiums written” mean, respectively, gross premiums earned, net of reinsurance premiums earned and gross premiums written, net of reinsurance premiums payable under reinsurance ceded;

(3) 1985 c. 6; Schedule 9A was substituted by S.I. 1993/3246, reg. 4 and amended by S.I. 1994/1516, reg. 85(1); the Insurance Companies (Reserves) Act 1995, section 3(3); and S.I. 1996/189, reg. 14(7).
(4) S.I. 1986/1032 (N.I.6); Schedule 9A was substituted by S.R. (N.I.) 1994 No. 428, reg. 4 and amended by the Insurance Companies (Reserves) Act 1995, section 3(3).

“nuclear installation” means any installation prescribed by the Nuclear Installations Regulations 1971⁽⁵⁾;

“nuclear matter” and “nuclear reactor” have the same meanings as in the Nuclear Installations Act 1965⁽⁶⁾;

“nuclear risks” means risks falling within any class of general business and arising in connection with the construction or use of any nuclear reactor or nuclear installation or the carriage of any nuclear matter;

“Part II business” and “Part III business” mean, respectively, business to which Part II and Part III of these Regulations applies;

“Part II company” and “Part III company” mean, respectively, a company to which Part II and Part III of these Regulations applies;

“proportional reinsurance treaty” means a reinsurance treaty under which in return for a proportion of the premium a pre-determined proportion of each claim payment by the cedant under policies subject to the treaty is recoverable from the reinsurer; and “non-proportional reinsurance treaty” shall be construed accordingly;

“reinsurance” and “reinsurer” include retrocession and retrocessionaire respectively;

“reinsurance recoveries” means amounts in respect of claims receivable by a company from a reinsurer under a contract of reinsurance;

“the shareholder accounts rules” means the rules contained in Schedule 9A to the Companies Act 1985 and Schedule 9A to the Companies (Northern Ireland) Order 1986 for the preparation of accounts by insurance companies;

“technical provisions” means the items required by Schedule 9A to the Companies Act 1985 and Schedule 9A to the Companies (Northern Ireland) Order 1986 to be shown in the balance sheet of an insurance company at liabilities items C.1 to 6; and

“unit of account” means the unit of account known as the ECU.

(2) For the purposes of these Regulations, business is accounted for on an accident year basis in respect of a financial year if, in the accounts and statements required to be deposited with the Secretary of State pursuant to section 22 of the Act, it is accounted for using Forms 21, 22 and 23 prescribed by the 1996 Regulations, and business is accounted for on an underwriting year basis if it is accounted for using Forms 24 and 25 prescribed by those Regulations.

(3) In these Regulations, references to a numbered class of general business are references to the class so numbered in Part I of Schedule 2 to the Act.

Scope

3.—(1) Part II of these Regulations makes provision for the purposes of section 34A of the Act (general business: equalisation reserve) in relation to business other than credit insurance business; and Part III makes provision for the purposes of that section in relation to credit insurance business.

(2) In relation to Part II—

- (a) any business to which that Part applies is hereby prescribed for the purposes of section 34A(1) as a description of general business; and
- (b) for the purposes of section 34A(3) (companies to which section 34A does not apply), there is hereby prescribed any company which is an assessable mutual.

(3) In relation to Part III—

(5) S.I. 1971/1381.

(6) 1965 c. 57.

- (a) any business to which that Part applies is hereby prescribed for the purposes of section 34A(1) as a description of general business; and
- (b) for the purposes of section 34A(3) there is hereby prescribed any company other than—
 - (i) a UK company; and
 - (ii) a non-EC company.

PART II

BUSINESS OTHER THAN CREDIT INSURANCE BUSINESS

Application: Part II

4.—(1) Subject to paragraph (2) below, this Part of these Regulations applies to every company to which Part II of the Act applies—

- (a) whose head office is in the United Kingdom;
- (b) whose business in the United Kingdom is restricted to reinsurance; or
- (c) whose head office is not in a member State.

(2) This Part of these Regulations does not apply to any company which is an assessable mutual.

(3) This Part of these Regulations applies to general business falling within any of the following sub-paragraphs—

- (a) business in accounting class 6 and corresponding proportional reinsurance treaty business categories;
- (b) direct, facultative and proportional reinsurance treaty consequential loss risks;
- (c) business in accounting classes 3 and 4 and corresponding reinsurance treaty business categories;
- (d) nuclear risks; and
- (e) non-proportional reinsurance treaty business categories corresponding to business in accounting class 6 and non-proportional reinsurance treaty consequential loss risks.

(4) For the purposes of paragraph (3) above, any business falling within sub-paragraph (d) shall be treated as if it did not fall within sub-paragraph (a), (b), (c) or (e).

Equalisation reserve: Part II

5.—(1) Subject to paragraph (2) below, a Part II company shall maintain an equalisation reserve in respect of Part II business in accordance with regulations 6 to 10 below.

(2) Regulations 6 to 10 below shall not apply—

- (a) in respect of any Part II business where net premiums written in a financial year of a company in respect of all that business are—
 - (i) less than 1,500,000 units of account; or
 - (ii) less than 4 per cent. of net premiums written in that financial year in respect of all its general business and less than 2,500,000 units of account,and the company has no equalisation reserve to be brought forward from the previous financial year; and
- (b) in respect of Part II business carried on outside the United Kingdom by a company whose head office is not in the United Kingdom.

Business groups

6.—(1) For the purposes of applying this Part of these Regulations, a Part II company shall classify its Part II business into separate business groups comprising—

- (a) business group A— business falling within sub-paragraph (a) of paragraph (3) of regulation 4 above;
- (b) business group B— business falling within sub-paragraph (b) of that paragraph;
- (c) business group C— business falling within sub-paragraph (c) of that paragraph;
- (d) business group D— business falling within sub-paragraph (d) of that paragraph; and
- (e) business group E— business falling within sub-paragraph (e) of that paragraph.

(2) The company shall further divide its business falling within each business group into business accounted for on an accident year basis and business accounted for on an underwriting year basis.

Transfers to and from the equalisation reserve

7.—(1) At the end of each financial year, a Part II company shall make transfers to the equalisation reserve and transfers from the equalisation reserve in accordance with paragraphs (2) to (6) below.

(2) The company shall calculate—

- (a) the aggregate value of transfers to be made to the equalisation reserve in accordance with Part I of Schedule 1 to these Regulations; and
- (b) the aggregate value of transfers to be made from the equalisation reserve in accordance with Part II of Schedule 1 to these Regulations.

(3) Subject to paragraph (5) below, if the aggregate value of transfers to be made to the equalisation reserve exceeds the aggregate value of transfers to be made from the equalisation reserve, the company shall transfer an amount equal to the excess to the equalisation reserve.

(4) Subject to paragraph (5) below, if the aggregate value of transfers to be made from the equalisation reserve exceeds the aggregate value of transfers to be made to the equalisation reserve, the company shall transfer from the equalisation reserve an amount equal to such excess, or the amount of the equalisation reserve brought forward from the previous financial year (in this regulation referred to as the “previous year’s equalisation reserve”), whichever is the lower.

(5) If the value of the previous year’s equalisation reserve together with the aggregate value of transfers to be made to the equalisation reserve, less the aggregate value of transfers to be made from the equalisation reserve, exceeds the maximum reserve calculated in accordance with Part III of Schedule 1 to these Regulations, the company shall transfer such an amount as is necessary to make the equalisation reserve equal to the maximum reserve.

Transfers of business by insurance company

8.—(1) If a Part II company transfers to another body all its rights and obligations under any general policies (whether by novation or pursuant to a transfer approved by the Secretary of State under Schedule 2C to the Act)(7), Schedule 1 to these Regulations shall apply to that company at the end of the financial year in which such transfer takes place with the following modifications.

(2) For the purposes of calculating amounts to be transferred to the equalisation reserve (pursuant to Part I of Schedule 1 below) and the business group maxima applicable to the company’s business (pursuant to Part III of that Schedule), net premiums written in respect of policies which were the subject of the transfer shall be excluded.

(7) Schedule 2C was inserted by S.I. 1994/1696, reg. 28 and amended by S.I. 1994/3132, reg. 7.

(3) If all the company's rights and obligations under all general policies falling within a business group have been transferred, the business group maximum for that business group shall be zero.

Transfers of business to insurance company

9.—(1) If a Part II company acquires from another body (the“transferor”) all the transferor's rights and obligations under any general policies (whether by novation or pursuant to a transfer approved by the Secretary of State under Schedule 2C to the Act), Schedule 1 to these Regulations shall apply to that company at the end of the financial year in which such acquisition takes place with the following modifications.

(2) Where consideration payable in respect of the acquisition is accounted for by the company as an adjustment to premiums—

- (a) for the purposes of calculating amounts to be transferred to the equalisation reserve (pursuant to Part I of Schedule 1 below) and the business group maxima applicable to the company's business (pursuant to Part III of that Schedule), net premiums earned or net premiums written, as the case may require, shall be adjusted by any amounts in respect of such consideration; and
- (b) for the purposes of calculating amounts to be transferred from the equalisation reserve (pursuant to Part II of Schedule 1 below), net premiums earned or net premiums written, as the case may require, shall include any amounts in respect of such consideration.

(3) Where consideration payable in respect of the acquisition is accounted for by the company as an adjustment to claims—

- (a) for the purposes of calculating amounts to be transferred from the equalisation reserve (pursuant to Part II of Schedule 1 below), net premiums earned or net premiums written, as the case may require, shall be such amount as would have been calculated had such consideration been accounted for by the company as an adjustment to premiums; and
- (b) for the purposes of calculating amounts to be transferred from the equalisation reserve (pursuant to Part II of Schedule 1 below), net claims incurred or net claims paid, as the case may require, shall be calculated as if such adjustment had not been made.

(4) For the purposes of paragraphs (2) and (3) above, consideration payable in respect of the acquisition shall be apportioned between business groups (and within each business group between business accounted for on an accident year basis and business accounted for on an underwriting year basis) according to the business groups within which the general policies which are the subject of the acquisition fall.

(5) For the avoidance of doubt, an adjustment to premiums or claims for the purposes of paragraphs (2) and (3) above may, in either case, be by way of addition or deduction, as appropriate.

(6) In any financial year following that of the acquisition, Schedule 1 to these Regulations shall apply with the following modifications.

(7) Where any consideration payable in respect of the acquisition was accounted for by the company as an adjustment to premiums, for the purposes of calculating amounts to be transferred from the equalisation reserve pursuant to Part II of Schedule 1 below, net premiums earned shall include an appropriate amount in respect of the consideration for the transfer.

(8) Where consideration payable in respect of the acquisition was accounted for by the company as an adjustment to claims, for the purposes of calculating amounts to be transferred from the equalisation reserve pursuant to Part II of Schedule 1 below, net premiums earned shall be taken to be such amount as would have been calculated had the consideration been accounted for by the company as an adjustment to premiums.

Transfers from equalisation reserve where net premiums written fall below specified limits

10.—(1) This regulation applies to a Part II company where—

- (a) the company has carried on Part II business for no less than five financial years and net premiums written in respect of all that business in two or more of the four financial years preceding the last financial year are less than the amounts specified in regulation 5 (2)(a) (i) or (ii) above, as the case may be; or
- (b) the company has carried on Part II business for less than five financial years and the average net premiums written in respect of all that business in those years is less than the amounts specified in regulation 5 (2)(a)(i) or (ii) above, as the case may be; and
- (c) the company has an equalisation reserve to be brought forward from the financial year preceding the last financial year; and
- (d) net premiums written in the last financial year in respect of Part II business are less than the amounts specified in regulation 5 (2)(a)(i) or (ii) above, as the case may be.

(2) In this regulation “average net premiums written” means the average amount of net premiums written in respect of that business in a financial year and any previous financial years ending on or after 23rd December 1996.

(3) For the purposes of sub-paragraph (2) above, if any of the financial years which the company is required to take into account for the calculation of average net premiums written has been extended or shortened, pursuant to section 69 of the Act, the value of net premiums written in that financial year shall be the amount represented by the formula—

$$\frac{\text{NPW} \times 365}{d}$$

where—

NPW means net premiums written in the financial year concerned; and

d means the number of days falling in that financial year.

(4) A company to which this regulation applies shall, at the end of the financial year, make a transfer from the equalisation reserve of such an amount as is necessary to reduce the equalisation reserve to zero.

PART III

Application: Part III

11.—(1) This Part of these Regulations applies to—

- (a) every UK company which carries on credit insurance business; and
 - (b) every non-EC company which carries on credit insurance business in the United Kingdom.
- (2) This Part of these Regulations applies to credit insurance business.
- (3) This Part of these Regulations does not apply—
- (a) in the case of a UK company, where the net premiums written in any financial year in respect of its credit insurance business are less than 4 per cent. of the total net premiums written by it in that financial year and less than 2,500,000 units of account; or
 - (b) in the case of a non-EC company, where the net premiums written in any financial year in respect of its credit insurance business carried on through a branch in the United Kingdom are less than 4 per cent. of the total net premiums written by it in that financial year in respect of business carried on through that branch and less than 2,500,000 units of account.

Equalisation reserve: Part III

12. A Part III company shall maintain an equalisation reserve in respect of credit insurance business carried on by the company in accordance with Schedule 2 to these Regulations.

PART IV

MISCELLANEOUS AND SUPPLEMENTAL

Consequential amendment

13. For paragraph 50(8) of Schedule 9A to each of the Companies Act 1985 and the Companies (Northern Ireland) Order 1986 (form and content of accounts of insurance companies and groups) substitute—

“Equalisation reserves

50. The amount of any reserve maintained under section 34A of the Insurance Companies Act 1982 shall be determined in accordance with regulations made under that section.”

14. Regulations 76 to 78 of, and Schedule 14 to, the 1994 Regulations are hereby revoked.

Department of Trade and Industry
24th March 1996

Anthony Nelson
Minister for Trade,

(8) Paragraph 50 was substituted by the Insurance Companies (Reserves) Act 1995, section 3(3).