
STATUTORY INSTRUMENTS

1997 No. 686

INSURANCE

The Insurance (Lloyd's) Regulations 1997

<i>Made</i>	- - - -	<i>8th March 1997</i>
<i>Laid before Parliament</i>		<i>11th March 1997</i>
<i>Coming into force</i>	- -	<i>1st January 1998</i>

The Secretary of State, in exercise of his powers under sections 84(1), 86, 90, 96(1) and 97 of the Insurance Companies Act 1982(1) and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Insurance (Lloyd's) Regulations 1997 and shall come into force on 1st January 1998.

Interpretation

2. In these Regulations—

“the 1982 Act” means the Insurance Companies Act 1982; and

“the 1983 Regulations” means the Insurance (Lloyd's) Regulations 1983(2).

Financial Resources

3.—(1) For regulation 3 of the 1983 Regulations(3) (financial resources) substitute—

“3.—(1) In their application to the members of Lloyd's taken together, section 32 of the Act (margins of solvency) and regulations made for the purposes of that section shall have effect subject to the following modifications.

(2) No valuation regulations shall be applicable.

(3) The following items shall have no value except in pursuance of a determination made by the Secretary of State pursuant to section 84(1) of the Act, that is to say—

(a) those relating to future profits;

(1) 1982 c. 50.

(2) S.I. 1983/224, as amended by S.I. 1994/1516 and S.I. 1996/3011.

(3) Regulation 3 was amended by S.I. 1994/1516, reg. 85 (2)(c) to (f).

- (b) those relating to zillmerising, that is to say the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses; and
 - (c) those relating to hidden reserves resulting from the under-estimation of assets and the over-estimation of liabilities (other than mathematical reserves).
- (4) Subject to paragraph (3) above, the value of the assets and the amount of the liabilities of the members of Lloyd's taken together shall be determined on a basis approved by the Secretary of State.
- (5) The members of Lloyd's taken together shall maintain both a global margin of solvency and a combined margin of solvency, calculated as follows—
- (a) the global margin of solvency shall be the sum arrived at by applying regulation 17(1) of the Insurance Companies Regulations 1994⁽⁴⁾ (margins of solvency: determination) to the members of Lloyd's taken together, subject to the modifications made to Schedules 3 and 4 to those Regulations (relating to general business margins of solvency) which are set out in Schedule 1 below; and
 - (b) the combined margin of solvency shall be the sum arrived at by aggregating the prescribed surpluses of all such members calculated in accordance with Schedule 1A below.
- (6) In determining whether at any time the global margin of solvency is maintained by the members of Lloyd's taken together, account shall be taken of the assets and liabilities of Lloyd's in addition to the assets and liabilities of the members.
- (7) In determining whether at any time the combined margin of solvency is maintained by the members of Lloyd's taken together—
- (a) the assets and liabilities of members shall be aggregated except that no account shall be taken of the assets of any member to the extent that they exceed the prescribed surplus of that member; and
 - (b) the assets of Lloyd's shall be taken into account to the extent that they are available to meet the liabilities of any member.

3A. In the application to the members of Lloyd's taken together of section 33 of the Act (failure to maintain minimum margin) and of regulations made for the purposes of that section, whether in relation to the global or the combined margin of solvency, those regulations shall have effect as if such members taken together were authorised for all classes of general business carried on at Lloyd's.

3B. In the application to the members of Lloyd's taken together of section 35 of the Act (form and situation of assets) and of regulations made for the purposes of that section, all insurance business carried on by members of Lloyd's as such members shall be treated as carried on in the United Kingdom except business carried on in accordance with an authority or permission under the laws of another country and included in a return to a supervisory authority in that country.”

(2) After Schedule 1 to the 1983 Regulations (modifications of Schedules 3 and 4 to the Insurance Companies Regulations 1994), insert Schedule 1A (calculation of prescribed surplus), as set out in Schedule 1 to these Regulations.

Statement of business by Council of Lloyd's

- 4.** In Schedule 3 to the 1983 Regulations (statement of business by Council of Lloyd's)—

(4) S.I. 1994/1516.

- (a) after paragraph 3(5) insert—

“3A. In the case of any shortfall in the assets of any underwriter which are available to meet the underwriter’s liability in respect of insurance business and the prescribed surplus calculated in accordance with Schedule 1A to the Insurance (Lloyd’s) Regulations 1983, there are sufficient assets of Lloyd’s available to meet that shortfall.”;

- (b) for paragraph 5(6) substitute the following paragraph—

“5. The rules and regulations of Lloyd’s determining the value of assets and the amount of liabilities for the purposes of section 32 of the Insurance Companies Act 1982 have been complied with in respect of every underwriter at Lloyd’s.”;

- (c) omit Form 4;

- (d) in Form 6—

(i) for the heading substitute “STATEMENT OF SOLVENCY OF UNDERWRITERS AT LLOYD’S (GLOBAL BASIS)”;

- (ii) after Note 2 insert the following—

“3. The required minimum margin shown above is calculated taking together the business of all underwriters at Lloyd’s. The form demonstrates the extent to which the assets of underwriters and Lloyd’s exceed the required minimum margin calculated on that basis.

4. The amounts shown in lines 1 and 6 of Form 6 and line 1 of Forms 6A and 6B respectively are derived from the same underlying syndicate information. However, the figures in Form 6 represent the required minimum margin in respect of general and long term business for the underwriters at Lloyd’s taken together, while those in Forms 6A and 6B are calculated from the aggregate for general and long term business of the prescribed surpluses of every underwriter at Lloyd’s.”;

- (e) after Form 6 insert Forms 6A and 6B as set out in Schedule 2 to these Regulations; and

- (f) in Form 9—

(i) in line 14, after the words “Central Fund” insert “and New Central Fund”; and

(ii) in Note 5(7), for the words “Central Fund is a fund” substitute the words “Central Fund and New Central Fund are funds” and for “to which underwriters contribute” substitute the words “contributed to by underwriters”.

8th March 1997

Anthony Nelson,
Minister for Trade,
Department of Trade and Industry

(5) Paragraph 3 was substituted by S.I. 1996/3011, reg. 9(2).

(6) Paragraph 5 was substituted by S.I. 1996/3011, reg. 9(3).

(7) Note 5 was substituted by S.I. 1996/3011, reg. 9(4)(h)(ii).

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SCHEDULE 1

Regulation 3(2)

[SCHEDULE 1A TO 1983 REGULATIONS]
CALCULATION OF PRESCRIBED SURPLUS

1. For the purposes of this Schedule, “syndicate” means a group of underwriting members of Lloyd’s underwriting insurance business at Lloyd’s through the agency of a managing agent to which a particular syndicate number is assigned by, or under the authority of, the Council of Lloyd’s and “syndicate year” means a year of account of a syndicate.

2. The prescribed surplus of a member of Lloyd’s shall be determined separately for long term business and general business in accordance with the provisions of this Schedule.

3. The prescribed surplus of a member of Lloyd’s shall be the amount of the margin of solvency which the member would be required to maintain under section 32 of the Act if the member were a UK company (within the meaning of section 5 of the Act) and the required margin of solvency were determined in accordance with regulation 17 of, and Schedules 3 and 4 to, the Insurance Companies Regulations 1994 (the “1994 Regulations”) as modified by paragraphs 5 to 13 below.

4.—(1) For the purposes of those paragraphs—

- (a) a syndicate year shall be treated as being closed at the time as from which reinsurance to close that syndicate in accordance with Lloyd’s byelaws takes effect, either into another syndicate year or into an insurance company approved by the Secretary of State for the purposes of these Regulations;
- (b) a syndicate year shall be treated as open until it is closed;
- (c) a syndicate year shall be taken to be closed into another syndicate year if it was closed by way of a contract of reinsurance to close into that other syndicate year, either directly or through a succession of such contracts;
- (d) in relation to any member, the following amounts, namely—
 - (i) in the case of general business, premiums receivable, claims paid, claims outstanding and amounts recoverable under reinsurance contracts ceded; and
 - (ii) in the case of long term business, mathematical reserves (both before and after deduction of reinsurance cessions) and capital at risk,shall be treated in accordance with sub-paragraph (e) below;
- (e) any amounts to which sub-paragraph (d) above applies shall be deemed to include, and only to include, such amounts as arose in respect of the member’s share of—
 - (i) open syndicate years in which the member participated at the end of the last preceding financial year; and
 - (ii) any other syndicate years which have not been closed into such open syndicate years (whether or not such amounts in respect of such other syndicate years were receivable, paid, outstanding or recoverable before the date of closure and whether or not such amounts relate to a date before the date of closure); and
- (f) in the case of amounts falling within sub-paragraph (e)(ii) above, the member’s share of any such other syndicate year shall be determined by reference to the share of the open syndicate year into which it has been closed and not by reference to the member’s share (if any) of the other syndicate year.

(2) For the purposes of paragraph 2 of the said Schedule 4, a member of Lloyd’s shall be taken to be a company which has been in existence from the date of commencement of the oldest of the open syndicate years and other syndicate years referred to in sub-paragraph (1)(e) above.

5. In Schedule 3 to the Insurance Companies Regulations 1994, for the definition of “gross premiums” in paragraph 1 there shall be substituted the following definition—

““gross premiums”—

- (a) means premiums (including premiums under contracts of reinsurance accepted) after deductions of discounts, refunds and rebates and after deduction of commission payable but before deduction of premiums for reinsurance ceded; but
- (b) excludes amounts receivable under contracts of reinsurance to close accepted.”

6. After paragraph 2 of the said Schedule 3 insert—

“2A. The aggregate arrived at under paragraph 2 above shall be multiplied by a flat-rate percentage determined for that year by the Secretary of State in the light of the most recent statistical data on commissions paid and the resulting product shall be reduced by a flat-rate percentage determined by the Secretary of State in the light of the most recent statistical data on reinsurance premiums ceded between syndicates at Lloyd's.”

7. In paragraph 3 of the said Schedule 3, for the words “aggregate arrived at under paragraph 2” there shall be substituted the words “amount arrived at under paragraph 2A”; and in subparagraph (b), after the word “levies” insert the words “other than levies payable to Lloyd's”.

8. For paragraph 5 of the said Schedule 3 there shall be substituted the following paragraph—

“5. There shall be calculated 16 per cent. of the amount arrived at under paragraph 4 above.”

9. Paragraphs 6 to 9 of the said Schedule 3 shall not apply and in paragraph 15 of that Schedule for the words from “paragraph 6” to “as the case may be” there shall be substituted the words “paragraph 5”.

10. After paragraph 12 of the said Schedule 3 insert—

“12A. Where in applying paragraphs 10 to 12 above to any financial year ending on or before 31 December 1996 it is found that the provisions for claims outstanding (before reductions for amounts recoverable from reinsurers) is not readily ascertainable, that provision shall be estimated from the provision for outstanding claims after deduction for amounts recoverable from reinsurers, using such methods as shall be approved by the Secretary of State.”

11. After paragraph 4 of Schedule 4 to the Insurance Companies Regulations 1994 insert—

“4A. The aggregate arrived at under paragraph 4 shall be reduced by a flat-rate percentage determined by the Secretary of State in the light of the most recent statistical data on amounts recoverable from reinsurance between syndicates at Lloyd's.”

12. For paragraph 5 of the said Schedule 4 there shall be substituted the following paragraph—

“5. There shall be calculated 23 per cent. of the amount arrived at under paragraph 4A above.”

13. Paragraphs 6 to 9 of the said Schedule 4 shall not apply and in paragraph 10 of that Schedule for the words “paragraph 6” to “as the case may be” there shall be substituted the words “paragraph 5”.

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SCHEDULE 2

Regulation 4(e)

[FORMS 6A AND 6B IN SCHEDULE 3 TO 1983 REGULATIONS]

FORM 6A — STATEMENT OF SOLVENCY OF UNDERWRITERS AT LLOYD'S (COMBINED BASIS)

		As at 31 December xxxx £000	As at 31 December xxxx £000
GENERAL BUSINESS			
Amount of the required minimum margin (combined basis) (Note 1)	1		
Underwriters' assets available to meet prescribed surpluses (Note 2)	2		
Amount by which underwriters fail to meet prescribed surpluses (line 1-2)	3		
Central Fund, New Central Fund and other net assets of Lloyd's available to meet shortfall (Note 3)	4		
Amount of Central Fund, New Central Fund and other net assets of Lloyd's in excess of shortfall (line 4-3)	5		

FORM 6B — STATEMENT OF SOLVENCY OF UNDERWRITERS AT LLOYD'S (COMBINED BASIS)

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		As at 31 December xxxx £000	As at 31 December xxxx £000
LONG TERM BUSINESS			
Amount of the required minimum margin (combined basis) (Note 1)	1		
Underwriters' assets available to meet prescribed surpluses (Note 2)	2		
Amount by which underwriters fail to meet prescribed surpluses (line 1-2)	3		
Central Fund, New Central Fund and other net assets of Lloyd's available to meet shortfall (Note 3)	4		
Amount of Central Fund, New Central Fund and other net assets of Lloyd's in excess of shortfall (line 4-3)	5		

Notes:

1. The required minimum margin (RMM) in Forms 6A and 6B reflect the combined basis of calculation required by regulation 3(5)(b) of, and Schedule 1A to, the Insurance (Lloyd's) Regulations 1983 as amended. The RMMs shown above are different from the amounts of the RMMs shown in Forms 6, 7 and 8. Forms 6A and 6B show that, where underwriters are unable to cover their liabilities and prescribed surpluses (calculated pursuant to Schedule 1A) from their funds at Lloyd's, there are sufficient assets held by Lloyd's to cover any shortfalls.

2. Line 2 shows only assets covering the prescribed surpluses and does not include any additional assets of underwriters.

3. The sum of the amounts shown in line 4 of Forms 6A and 6B are equal to the sum of the amounts shown in lines 14 and 15 of Form 9 respectively.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 1st January 1998, amend the Insurance (Lloyd's) Regulations 1983 (S.I.1983/224), as amended by the Insurance Companies Regulations 1994 (S.I. 1994/1516) and the Insurance (Lloyd's) Regulations 1996 (S.I. 1996/3011) ("the 1983 Regulations").

Regulation 3(1) substitutes for regulation 3 of the 1983 Regulations a new regulation which—

- (a) retains the previous requirement for the members of Lloyd's taken together to maintain a global margin of solvency (paragraph (5)(a) read with Schedule 1 to the 1983 Regulations);

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- (b) introduces a requirement upon them to maintain an additional, combined margin of solvency, arrived at by aggregating the prescribed surpluses of all members, calculated in accordance with a new Schedule 1A (paragraph (5)(b)); and
- (c) provides that in determining whether the combined margin of solvency is maintained, the assets and liabilities of members are to be aggregated, except that no account is to be taken of the assets of any member to the extent that they exceed his prescribed surplus (paragraph (7)).

In addition, paragraph (4) of the new regulation 3 requires that for the purposes of deciding whether either the global or the combined margin of solvency is maintained, the value of the assets and the amount of the liabilities of the members of Lloyd's taken together are to be determined on a basis approved by the Secretary of State. This will include any provisions required in relation to coinsurance operations (and regulation 63 of, and Schedule 13 to, the Insurance Companies Regulations 1994 are accordingly disapplied).

Regulation 3(2) and **Schedule 1** introduce the new Schedule 1A to the 1983 Regulations which is mentioned above.

Regulation 4 and **Schedule 2** amend the form of the annual statement of business of Lloyd's as prescribed by regulation 5 of, and Schedule 3 to, the 1983 Regulations so as to reflect the new requirements introduced by regulation 3.