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STATUTORY INSTRUMENTS

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**2000 No. 2104**

**INCOME TAX**

**The Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2000**

<i>Made</i>	- - - -	<i>1st August 2000</i>
<i>Laid before the House of Commons</i>	- - - -	<i>2nd August 2000</i>
<i>Coming into force</i>	- -	<i>23rd August 2000</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 431E of the Income and Corporation Taxes Act 1988<sup>(1)</sup> and paragraph 58 of Schedule 8 to the Finance Act 1995, hereby make the following Regulations:

**Citation, commencement and effect**

1.—(1) These Regulations may be cited as the Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2000 and shall come into force on 23rd August 2000.

(2) Regulations 3(2), 4, 5, 6(2), (3) and (4), 7, 9, 10, 11, 13, 14, 15, 16, 17(2)(a) and (3), and 19(2), (3), (4) and (5) shall have effect in relation to policies or contracts made by, or, as the case may be, transferred to, an insurance company on or after 22nd August 2000.

(3) Regulation 3(3) and 12 shall have effect in relation to policies or contracts made by, or, as the case may be, transferred to, an insurance company on or after 8th November 1999.

(4) Regulations 8 and 19(6) shall have effect in relation to—

(a) accounting periods ending on or after 31st December 1999; or

(b) where an insurance company has so elected by written notice given to an officer of the Board on or before 31st December 1999, the first accounting period beginning on or after 1st October 1999 and ending after 31st December 1999 and subsequent accounting periods.

(5) Regulation 18 shall have effect in relation to cases occurring on or after 8th November 1999.

**Interpretation**

2. In these Regulations—

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(1) 1988 c. 1; section 431E was inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 (c. 4).

- “the Board” means the Commissioners of Inland Revenue;
- “the principal Regulations” means the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995(2);
- “regulation” means a regulation of the principal Regulations.

### **Amendments to regulation 2**

- 3.—(1) Amend regulation 2(3) as follows.
- (2) In paragraph (1)—
- (a) for the definition of “beneficiary” substitute—
- ““beneficiary” has the meaning given by regulation 2 of the Excluded Business Regulations;”;
- (b) after the definition of “company tax return” insert—
- ““excluded business” means business which is excluded from section 431D(4) (as amended by section 108 of the Finance Act 2000 and from time to time) by the Excluded Business Regulations;
- “the Excluded Business Regulations” means the Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000(5);”;
- (c) omit the definition of “settlor”;
- (d) for the definition of “term assurance business” substitute—
- ““term assurance business” means life assurance business in relation to which the policy or contract, or the underlying policy, is one which—
- (a) is for a specified term; and
- (b) is not capable of acquiring a surrender value that exceeds the amount of premiums paid;”
- (3) In paragraph (3) for “7” substitute “7A”.
- (4) After paragraph (4) insert—
- “(5) Save where otherwise indicated, any reference in these Regulations to any of the provisions of section 431D is a reference to that provision as it had effect prior to the amendment of that section by section 108 of the Finance Act 2000.”

### **Amendments to regulation 5**

- 4.—(1) Amend regulation 5(6) as follows.
- (2) In paragraph (1)(e) for “one to which section 431D(2) or (4) applies ” substitute “for excluded business”.
- (3) In paragraph (1A)(d) for “for that business” to the end substitute “ is not for excluded business”.

### **Amendments to regulation 7**

- 5.—(1) Amend regulation 7(7) as follows.

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- (2) S.I. 1995/3237, relevantly amended by S.I. 1999/2839.
- (3) Relevantly amended by S.I. 1999/2839, regulation 3(2)
- (4) Inserted by paragraph 2 of Schedule 8 to the Finance Act 1995 and amended by section 108 of the Finance Act 2000.
- (5) S.I. 2000/2089.
- (6) Relevantly amended by S.I. 1999/2839, regulation 5(2) and (3).
- (7) Relevantly amended by S.I. 1999/2839, regulation 6(8).

(2) In paragraph (2)(b) for “section 431D(5) applies” substitute “ the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

(3) For paragraph (5) substitute—

“(5) The declaration prescribed is a declaration that the policy or contract is not for excluded business.”

(4) For paragraph (8) substitute—

“(8) The certificate prescribed is a certificate stating that the circumstances are as set out in paragraph (1)(b) or (c), as the case may be, of regulation 5 of the Excluded Business Regulations.”

(5) In paragraph (9) for “section 431D(5) applies” substitute “the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

#### **Amendments to regulation 7A**

6.—(1) Amend regulation 7A(8) as follows.

(2) For paragraph (3) substitute—

“(3) The business shall be overseas life assurance business where the insurance company completes the certificate prescribed in paragraph (4) or (5) below.”

(3) In paragraph (4)—

- (a) in sub-paragraph (f) for “one to which section 431D(2) applies” substitute “ for excluded business”;
- (b) omit sub-paragraph (g);
- (c) in sub-paragraph (h) for “(g)” substitute “(f)”.

(4) For paragraph (5) substitute—

“(5) The certificate prescribed is a certificate—

- (a) showing the date on which it is given,
- (b) stating the name of the policy holder,
- (c) stating any unique identifying designation given to the policy or contract, and
- (d) stating that to the best of the company’s knowledge and belief the policy or contract is for business of a description falling within regulation 7(b) of the Excluded Business Regulations.”

(5) In paragraph (8)(b) for “a single document.” substitute “a single document.”.

#### **Amendments to regulation 8**

7.—(1) Amend regulation 8(9) as follows.

(2) In paragraph (2)(b) for “section 431D(5) applies” substitute “ the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

(3) For paragraph (5) substitute—

“(5) The declaration prescribed is a declaration that the policy or contract is not for excluded business.”

(4) For paragraph (8) substitute—

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(8) Inserted by S.I. 1999/2839, regulation 7.

(9) Relevantly amended by S.I. 1999/2839, regulation 8(7).

“(8) the certificate prescribed is a certificate stating that the circumstances are as set out in regulation 5(1)(b) or (c) of the Excluded Business Regulations.”

(5) In paragraph (9) for “section 431D(5) applies” substitute “the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

#### **Amendment to regulation 9**

8. In regulation 9(10) in paragraph (3)(a) after “regulation 5(4)” insert “or (4A)”.

#### **Amendments to regulation 10**

9. In regulation 10(11) in both paragraphs (3)(b) and (4)(b) for “ section 431D(5) applies” substitute “the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

#### **Amendments to regulation 10A**

10.—(1) Amend regulation 10A as follows.

(2) In paragraph (2)(b) before “the undertaking” insert “where the cedant company has completed the certificate prescribed in regulation 7A(4), ”.

(3) In paragraph (4) for the words “paragraph (4) or (5) of regulation 7A, as the case may be,” substitute “regulation 7A(4)”.

#### **Amendments to regulation 11**

11. In regulation 11 in both paragraphs (3) and (4)(b) for “section 431D(5) applies” substitute “the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations”.

#### **Amendment to regulation 12**

12. In regulation 12 for “16” substitute “16A”.

#### **Amendments to regulation 14**

13.—(1) Amend regulation 14(12) as follows.

(2) In paragraph (2) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.

(3) After paragraph (3) insert—

“(3A) Subject to paragraph (3) above, where the policy is for term assurance business, the territory in which the policy holder was residing at the time the policy was made or transferred shall be the territory in which, to the best of the company’s knowledge or belief, the policy holder was residing at the time the policy was made or transferred.”

(4) In paragraph (4) for “or (3)” substitute “, (3) or (3A)”.

#### **Amendments to regulation 14A**

14.—(1) Amend regulation 14A(13) as follows.

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(10) Relevantly amended by S.I. 1999/2839, regulation 9(3).

(11) Relevantly amended by S.I. 1999/2839, regulation 10(4)(b).

(12) Relevantly amended by S.I. 1999/2839, regulation 14(4) and (6).

(13) Inserted by S.I. 1999/2839, regulation 15.

- (2) In paragraph (3)—
  - (a) for “paragraph (4) below” substitute “paragraphs (4), (4A) and (4B) below”;
  - (b) for “ paragraph (4) of regulation 7A” to the end substitute “regulation 7A(4) above”.
- (3) After paragraph (4) insert—
  - “(4A) Subject to paragraph (4) above, where the policy is for term assurance business, the territory in which the policy holder was residing at the time the policy was made or transferred shall be the territory in which, to the best of the company’s knowledge or belief, the policy holder was residing at the time the policy was made or transferred.
  - (4B) Where the policy or contract is for business of a description falling within regulation 7(b) of the Excluded Business Regulations, the territory in which the policy holder was residing at the time the policy or contract was made or transferred shall be the territory under the law of which the scheme mentioned in that regulation is established.”
- (4) In paragraph (5) for “or (4)” substitute “, (4), (4A) or (4B)”.

#### **Amendments to regulation 16**

- 15.**—(1) Amend regulation 16 as follows.
  - (2) In paragraph (2) for “paragraph (3)” substitute “paragraphs (3) and (3A)”.
  - (3) After paragraph (3) insert—
    - “(3A) Subject to paragraph (3) above, where the underlying policy is for term assurance business, the territory in which the policy holder was residing at the time the underlying policy was made or transferred shall be the territory in which, to the best of the company’s knowledge or belief, the policy holder was residing at the time the underlying policy was made or transferred.”
  - (4) In paragraph (4) for “or (3)” substitute “, (3) or (3A)”.

#### **Amendments to regulation 16A**

- 16.**—(1) Amend regulation 16A(14) as follows.
  - (2) In paragraph (2)—
    - (a) for “paragraph (3)” substitute “paragraphs (3), (3A) and (3B)”;
    - (b) for “paragraph (4)” to the end substitute “regulation 7A(4) above”.
  - (3) After paragraph (3) insert—
    - “(3A) Subject to paragraph (3) above, where the underlying policy is for term assurance business, the territory in which the policy holder was residing at the time the underlying policy was made or transferred shall be the territory in which, to the best of the company’s knowledge or belief, the policy holder was residing at the time the underlying policy was made or transferred.
    - (3B) Where the underlying policy is for business of a description falling within regulation 7(b) of the Excluded Business Regulations, the territory in which the policy holder was residing at the time the underlying policy was made or transferred shall be the territory under the law of which the scheme mentioned in that regulation is established.”
  - (4) In paragraph (4) for “or (3)” substitute “, (3), (3A) or (3B)”.

### Amendments to regulation 18

- 17.**—(1) Amend regulation 18(15) as follows.
- (2) In paragraph (1)(a)—
- (a) in paragraph (ii) after “section 431D(5) applies” insert “, or where the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations,”;
  - (b) in paragraph (iii) for “7(A)(1)” substitute “7A(1)”.
- (3) In paragraph (1)(e) for “that any of the requirements” to the end substitute “that—
- (a) any of the requirements of section 431D (other than those relating to where the policy holder is residing) was not fulfilled (notwithstanding its possession of any certificate, declaration or other document), or
  - (b) the business was excluded business.”

### Amendment to regulation 18A

- 18.** In regulation 18A(16) in paragraph (1)(b) after “5(4)” insert “or (4A)”.

### Amendments to regulation 19

- 19.**—(1) Amend regulation 19(17) as follows.
- (2) In paragraph (1)(a) after “section 431D(5) applies” insert “, or the business is of a description falling within the circumstances set out in regulation 5 of the Excluded Business Regulations,”.
- (3) In paragraph (1)(e) for “that any of the requirements” to end substitute “that—
- (a) any of the requirements of section 431D (other than those relating to where the policy holder is residing) was not fulfilled (notwithstanding its possession of any certificate, declaration or other document), or
  - (b) the business was excluded business.”
- (4) In paragraph (3) for “paragraph (3A)” substitute “paragraphs (3A) and (3B)”.
- (5) After paragraph (3A) insert—
- “(3B) Paragraph (3) above shall not apply where—
- (a) the case concerned falls within paragraph (1)(e) above,
  - (b) the policy or contract fell within the description set out in regulation 7(c) of the Excluded Business Regulations when it was made or transferred, or the underlying policy fell within that description when it was made,
  - (c) the case falls within paragraph (1)(e) above by reason of the fact that, at some time that is more than three years after the date on which the policy or contract was made or transferred, or the underlying policy was made, the number of persons for or in respect of whom benefits were to be provided under the policy or contract, or the underlying policy, and who were not relevant overseas employees within the meaning of regulation 2 of the Excluded Business Regulations, became a not

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(15) Relevantly amended by S.I. 1999/2839, regulation 19(2) and (7).

(16) Inserted by S.I. 1999/2839, regulation 20.

(17) Relevantly amended by S.I. 1999/2839, regulation 21(2)(c), (3) and (4).

insignificant number (“the relevant number”) for the purposes of regulation 7(c) of those Regulations, and

- (d) the relevant number has at no time exceeded the number which is equal to twenty per cent. of the total number of persons for or in respect of whom benefits are to be provided under the policy or contract or the underlying policy.”

(6) In paragraph (5)(b) for “14(5), 15(5) or 16(5)” substitute “14(5), 14A(5), 15(5), 16(5) or 16A(5)”.

1st August 2000

*Nick Montagu  
Tim Flesher*

Two of the Commissioners of Inland Revenue

*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 Regulations)*

These Regulations amend the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995 (S.I.1995/3237) (“the principal Regulations”). The majority of the amendments are either in consequence of the amendment of section 431D of the Income and Corporation Taxes Act 1988 (c. 1) (“section 431D”) by section 108 of the Finance Act 2000 (c. 17) or are of a drafting nature.

As amended, subsection (1) of section 431D defines “overseas life assurance business” by reference to business excluded by regulations made by the Commissioners of Inland Revenue. The Insurance Companies (Overseas Life Assurance Business) (Excluded Business) Regulations 2000 (S.I. 2000/2089) have been made under subsection (1) of section 431D.

Regulation 1 provides for citation, commencement and effect. Certain of these Regulations have retrospective effect in accordance with paragraph 58 of Schedule 8 to the Finance Act 1995 (c. 4).

Regulation 2 provides for interpretation.

Regulation 3 inserts various definitions in regulation 2 of the principal Regulations (interpretation).

Regulation 4 amends regulation 5 of the principal Regulations (business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom).

Regulation 5 amends regulation 7 of the principal Regulations (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policies or contracts made on or after 1st January 1996).

Regulation 6 amends regulation 7A of the principal Regulations (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7).

Regulation 7 amends regulation 8 of the principal Regulations (certain business other than reinsurance business where the company comes into possession of additional information).

Regulation 8 amends regulation 9 of the principal Regulations (reinsurance of business effected by a company resident in the United Kingdom outside the United Kingdom).

Regulation 9 amends regulation 10 of the principal Regulations (reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company).

Regulation 10 amends regulation 10A of the principal Regulations (reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7).

Regulation 11 amends regulation 11 of the principal Regulations (certain reinsurance business where the company comes into possession of additional information).

Regulation 12 amends regulation 12 of the principal Regulations (general).

Regulation 13 amends regulation 14 of the principal Regulations (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company). The amendment adds a new rule for determining the territory in which the policy holder was residing at the time the policy was made or transferred where the policy is for term assurance business.



Regulation 14 amends regulation 14A of the principal Regulations (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7).

Regulation 15 amends regulation 16 of the principal Regulations (reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company). The amendment corresponds to that made by regulation 13.

Regulation 16 amends regulation 16A of the principal Regulations (reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company—policy holder not within regulation 7). The amendment corresponds to that made by regulation 14.

Regulation 17 amends regulation 18 of the principal Regulations (reclassification of policy or contract from date when it was effected).

Regulation 18 amends regulation 18A of the principal Regulations (reclassification of policy or contract as relating to overseas life assurance business from date when it was made or transferred).

Regulation 19 amends regulation 19 of the principal Regulations (reclassification of policy or contract from date after it was effected).