

*Status: Point in time view as at 01/10/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Policyholders Protection Act 1975 (repealed), SCHEDULE 1. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 1

Section 1.

#### ADDITIONAL PROVISIONS WITH RESPECT TO THE POLICYHOLDERS PROTECTION BOARD

##### **Modifications etc. (not altering text)**

- C1** **Sch. 1** (except paras. 5, 6): functions made exercisable by, or by employees of, such person as may be authorised in that behalf by the Treasury (18.11.1998) by **S.I. 1998/2842, art. 2, Sch. Pt. II para. 63(d)**

#### *Constitution of the Board*

- 1 (1) The Board shall consist of five persons appointed by the Secretary of State to be members of the Board, together with any persons appointed by the Secretary of State under sub-paragraph (3) below to be alternate members.
- (2) Of the persons appointed to be members of the Board—
- (a) at least three shall be persons who are directors, chief executives or managers of authorised insurance companies; and
- (b) at least one shall be a person appearing to the Secretary of State to be qualified to represent the interests of policyholders of authorised insurance companies.
- (3) The Secretary of State may appoint, in respect of each member of the Board, a person to perform his duties as a member in his absence, and a person so appointed shall be an alternate member of the Board and may take part in the proceedings of the Board in the absence of the member in respect of whom he was appointed or as provided by paragraph 4(4) below (but not otherwise).
- (4) A person appointed as an alternate member of the Board in respect of a person who is a director, chief executive or manager of an authorised insurance company shall himself be such a director, chief executive or manager; and a person so appointed in respect of any such person as is mentioned in sub-paragraph (2)(b) above shall himself be a person appearing to the Secretary of State to be qualified as there mentioned.
- (5) The Secretary of State shall consult persons appearing to him to be representative of the interests of authorised insurance companies before appointing a person who is a director, chief executive or manager of an authorised insurance company to be a member or alternate member of the Board.

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*Appointment and tenure of members, etc.*

- 2 (1) Any appointment made by the Secretary of State under paragraph 1 above shall be for a term not exceeding two years and the term of appointment of an alternate member shall not exceed the term, or the remainder of the term (as the case may be) of the member in respect of whom he is appointed.
- (2) Nothing in sub-paragraph (1) above shall be taken as prejudicing the power of the Secretary of State to re-appoint a person as a member or alternate member of the Board on his ceasing to hold office in either capacity, or at any time thereafter.
- 3 (1) The Secretary of State shall appoint one of the members of the Board to be the chairman of the Board.
- (2) If the chairman ceases to be a member of the Board he shall cease to be the chairman.
- 4 (1) Subject to the following provisions of this paragraph, the members and alternate members of the Board (including the chairman) shall hold and vacate office in accordance with the terms of their respective appointments.
- (2) A person may at any time resign his office as a member, as an alternate member or as chairman by giving to the Secretary of State a notice in writing signed by that person and stating that he resigns that office.
- (3) If the Secretary of State is satisfied that a member or an alternate member—
- (a) is incapacitated by physical or mental illness; or
  - (b) is otherwise unable or unfit to discharge his functions as such;
- the Secretary of State may by notice in writing given to the person in question remove him from office as member or (as the case may be) as alternate member; and his office shall thereupon become vacant.
- (4) Where before the end of the term for which he was appointed a member dies or vacates office by virtue of sub-paragraph (2) or (3) above—
- (a) the alternate member in respect of that member may act as member in his place until a person is appointed to fill his office as member; and
  - (b) the Secretary of State may vary the terms of appointment of the alternate member on appointing a person to fill the office vacated by the member in question.

*Remuneration, etc. of members*

- 5 (1) Subject to sub-paragraph (2) below, Board shall pay to each member or alternate member such remuneration and such travelling, subsistence or other allowances as the Board may determine.
- (2) Any determination of the Board with respect to the remuneration to be paid to any member or alternate member shall be subject to the approval of the Secretary of State, and the Secretary of State shall not give his approval without the consent of the Minister for the Civil Service.

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- 6 If a person ceases to be a member or an alternate member of the Board and it appears to the Secretary of State that there are special circumstances which make it right that that person should receive compensation, the Secretary of State may require the Board to pay to that person a sum of such amount as the Secretary of State may with the consent of the Minister for the Civil Service determine.

*Powers and procedure, etc.*

- 7 (1) The Board may invest any funds held by them which appear to them to be surplus to their requirements for the time being—
- (a) in any investment for the time being falling within Part I, Part II or Part III of Schedule 1 to the <sup>M1</sup>Trustee Investments Act 1961; or
  - (b) in any investment approved for the purpose by the Secretary of State.
- (2) Subject to sub-paragraph (1) above, the Board shall have power to do anything incidental or conducive to the proper performance of their functions under this Act.
- (3) Without prejudice to the generality of sub-paragraph (2) above, the measures open to the Board under any provision of this Act which authorises or requires the Board to take any measures appearing to them to be appropriate for any purpose include in particular—
- (a) the making of payments to any person, on such terms (including terms requiring repayment, in whole or in part) and on such conditions as the Board think fit;
  - (b) the giving of guarantees or indemnities to or in favour of any person; and
  - (c) the making of any other agreement or arrangement with or for the benefit of any person.

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**Marginal Citations**

**M1** 1961 c. 62.

- 8 Subject to the provisions of this Schedule, the Board shall have power to regulate their own procedure.
- 9 (1) Subject to sub-paragraph (2) below, a member or an alternate member of the Board who is in any way directly or indirectly interested (whether as being a member or policyholder of an insurance company or in any other manner whatsoever) in any matter falling to be considered by the Board shall disclose the nature of his interest at a meeting of the Board and the disclosure shall be recorded in the minutes of the meeting; and the member or the alternate member in question shall not take part in any deliberation or decision of the Board with respect to that matter.
- (2) Sub-paragraph (1) above shall not apply in relation to any interest of a member or alternate member arising from any connection with an insurance company where the only connection of the company in question with the matter under consideration arises from the fact that it has agreed or may agree to take a transfer of all or any

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part of the insurance business of a company in liquidation or of a company which is a company in financial difficulties within the meaning of section 16 above.

- (3) A notice given by a member or alternate member at a meeting of the Board to the effect that he is a member or a policyholder of a specified insurance company and is to be regarded as interested in any matter affecting that company which falls to be considered by the Board after the date of the notice shall, for the purposes of subparagraph (1) above, be a sufficient disclosure of his interest in any such matter.
- (4) A member or alternate member need not attend in person at a meeting of the Board in order to make a disclosure which he is required to make under this paragraph if he takes reasonable steps to secure that the disclosure is made by a notice which is taken into consideration and read at such a meeting.
- 10        The validity of any proceedings of the Board shall not be affected by any vacancy among the members or by any defect in the appointment of a member or of an alternate member or by any failure to comply with the requirements of paragraph 9 above.

#### *Performance of functions*

- 11        The Board may authorise any member or alternate member or any other person who is either an employee or an agent of theirs to perform on their behalf such of their functions (including the function conferred on them by this paragraph) as are specified in the authorisation.

#### *Instruments and contracts*

- 12        The fixing of the common seal of the Board shall be authenticated by the signature of the chairman of the Board or some other person authorised by the Board to act for that purpose.
- 13        A document purporting to be duly executed under the seal of the Board shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.

#### *Accounts, audit and annual report*

- 14        (1) It shall be the duty of the Board—
- (a) to keep proper accounts and proper records in relation to the accounts; and
  - (b) to prepare in respect of the period beginning with the date on which this Act is passed and ending with 31st March 1976 and in respect of each subsequent financial year a statement of accounts, in such form as the Secretary of State may direct, showing the state of affairs and income and expenditure of the Board.

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- (2) A statement of accounts prepared in accordance with sub-paragraph (1)(b) above shall be audited by auditors appointed by the Board.
- [<sup>F1</sup>(3) A person shall not be appointed as auditor by the Board under sub-paragraph (2) above unless he is eligible for appointment as a company auditor under section 25 of the Companies Act 1989.]
- (4) It shall be the duty of the Board, as soon as possible after the end of the period mentioned in sub-paragraph (1)(b) above and each subsequent financial year, to prepare, in such manner as the Secretary of State may direct, a report on the performance of their functions during that period or (as the case may be) during that year.
- (5) It shall be the duty of the Board to publish the statement of accounts prepared in accordance with sub-paragraph (1)(b) above and the report prepared in accordance with sub-paragraph (4) above in respect of the period mentioned in sub-paragraph (1) (b) above and any subsequent financial year at such time and in such manner as the Secretary of State may direct.

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**Textual Amendments**

**F1** Sch. 1 para. 14(3) substituted (1.10.1991) by S.I. 1991/1997, reg. 2, Sch. para.27 (with reg. 4).

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