



Insurance Companies Act 1982

1982 CHAPTER 50

PART II

REGULATION OF INSURANCE COMPANIES

Powers of intervention

37 Grounds on which powers are exercisable

- (1) The powers conferred on the Secretary of State by sections 38 to 45 below shall be exercisable in relation to any insurance company to which this Part of this Act applies and shall be exercisable in accordance with the following provisions of this section.
- (2) The powers conferred by sections 38 and 41 to 45 below shall be exercisable on any of the following grounds—
 - (a) that the Secretary of State considers the exercise of the power to be desirable for protecting policy holders or potential policy holders of the company against the risk that the company may be unable to meet its liabilities or, in the case of long term business, to fulfil the reasonable expectations of policy holders or potential policy holders;
 - (b) that it appears to him—
 - (i) that the company has failed to satisfy an obligation to which it is or was subject by virtue of this Act or any enactment repealed by this Act or by the Insurance Companies Act 1974 ;
 - (ii) that a company of which it is a subsidiary has failed to satisfy an obligation to which it is or was subject by virtue of section 29(7) above or section 24(6) of the Insurance Companies Act 1974 or section 8(6) of the Insurance Companies Amendment Act 1973 ; or
 - (iii) that a subordinate company within the meaning of section 31 above of the company has failed to satisfy an obligation to which it is or was subject by virtue of that section or section 26 above or section 22 or 26 of the Insurance Companies Act 1974 or of section 6 or 10 of the said Act of 1973 ;

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- (c) that it appears to him that the company has furnished misleading or inaccurate information to the Secretary of State under or for the purposes of any provision of this Act or any enactment repealed by this Act or by the Insurance Companies Act 1974 ;
 - (d) that he is not satisfied that adequate arrangements are in force or will be made for the reinsurance of risks against which persons are insured by the company in the course of carrying on business, being risks of a class in the case of which he considers that such arrangements are required;
 - (e) that there exists a ground on which he would be prohibited, by section 7, 8 or 9 above, from issuing an authorisation with respect to the company if it were applied for;
 - (f) that it appears to him that there has been a substantial departure from any proposal or forecast submitted to him by the company in accordance with section 5 above;
 - (g) that the company has ceased to be authorised to effect contracts "of insurance, or contracts of a particular description, in a member State where it has its head office or has in accordance with section 9(2) above made a deposit.
- (3) The powers conferred on the Secretary of State by sections 39 and 40 below shall not be exercisable in relation to an insurance company except—
- (a) where the Secretary of State has given (and not revoked) a direction in respect of the company under section 11 above or section 11 of the Insurance Companies Act 1981 ; or
 - (b) on the ground that it appears to the Secretary of State that the company has failed to satisfy an obligation to which it is or was subject by virtue of section 33, 34 or 35 above or section 26B, 26C or 26D of the Insurance Companies Act 1974 ; or
 - (c) on the ground that a submission by the company to the Secretary of State of an account or statement specifies, as the amount of any liabilities of the company, an amount appearing to the Secretary of State to have been determined otherwise than in accordance with valuation regulations or, where no such regulations are applicable, generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance companies.
- (4) The power conferred on the Secretary of State by subsections (2) to (4) of section 44 below shall also be exercisable on the ground that he considers the exercise of that power to be desirable in the general interests of persons who are or may become policy holders of insurance companies to which this Part of this Act applies, and references in those subsections to a company include references to any body (whether incorporated or not) which appears to the Secretary of State to be an insurance company to which this Part of this Act applies.
- (5) Any power conferred on the Secretary of State by section 38, 41, 42, 44(1) or 45 below shall also be exercisable, whether or not any of the grounds specified in subsections (2) and (4) above exists, in relation to—
- (a) any body in respect of which the Secretary of State has issued an authorisation;
 - (b) any insurance company to which this Part of this Act applies in the case of which a person has become a controller within the meaning of section 7(4) (c) above,

if that power is exercised before the expiration of the period of five years beginning with the date on which the authorisation was issued or that person became such a

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controller, as the case may be; but no requirement imposed by virtue of this subsection shall continue in force after the expiration of the period of ten years beginning with that date.

- (6) The power conferred on the Secretary of State by section 45. below shall not be exercisable except in a case in which he considers that the purpose mentioned in that section cannot be appropriately achieved by the exercise of the powers conferred by sections 38 to 44 below or by the exercise of those powers alone.
- (7) The Secretary of State shall, when exercising any power conferred by sections 38 to 45 below, state the ground on which he is exercising it or, if he is exercising it by virtue of subsection (5) above, that he is so exercising it; but this subsection shall not apply where the Secretary of State has given notice under section 46. below of the proposed exercise of the power.
- (8) The grounds specified in subsections (2)(b) to (g) and (4) above are without prejudice to the ground specified in subsection (2)(a) above.