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**1977 No. 1553**

**INSURANCE**

**The Insurance Companies (Solvency: General Business)  
Regulations 1977**

<i>Made - - - -</i>	<i>20th September 1977</i>
<i>Laid before Parliament</i>	<i>29th September 1977</i>
<i>Coming into Operation</i>	<i>31st July 1978</i>

The Secretary of State, being a Minister designated<sup>(a)</sup> for the purposes of section 2(2) of the European Communities Act 1972<sup>(b)</sup> in relation to the authorisation of the carrying on of insurance business and the regulation of such business and its conduct and in relation to anything supplemental or incidental thereto, in exercise of the powers conferred by that section, hereby makes the following Regulations:—

*Citation and commencement*

**1.** These Regulations may be cited as the Insurance Companies (Solvency: General Business) Regulations 1977 and shall come into operation on 31st July 1978.

*Interpretation*

**2.**—(1) In these Regulations—

“the 1974 Act” means the Insurance Companies Act 1974<sup>(c)</sup>;

“the classification regulations” means the Insurance Companies (Classes of General Business) Regulations 1977<sup>(d)</sup>;

“Community company”, subject to the provisions of Schedule 1, means an insurance company whose head office is in a member State;

“the 1973 Directive” means Council Directive No. 73/239/EEC<sup>(e)</sup> on the taking-up and pursuit of the business of direct insurance other than life assurance, as amended by the 1976 Directive;

“the 1976 Directive” means Council Directive No. 76/580/EEC<sup>(f)</sup> which changed the meaning of the expression “unit of account” in the 1973 Directive;

“external company”, subject to the provisions of Schedule 1, means an insurance company whose head office is not in a member State;

“guarantee fund” means one-third of the margin of solvency required by regulation 4(1) below (as modified, in the case of an external company, by regulation 5 below);

“margin of solvency”, subject to any applicable valuation regulations, means the amount by which the value of assets exceeds the amount of

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<sup>(a)</sup> The European Communities (Designation) (No. 2) Order 1976, S.I. 1976/2141 (1976 III, p. 5931).

<sup>(b)</sup> 1972 c. 68.

<sup>(c)</sup> 1974 c. 49.

<sup>(d)</sup> S.I. 1977/1552 (1977 III, p.4544).

<sup>(e)</sup> O.J. No. L228, 16.8.73, p. 3.

<sup>(f)</sup> O.J. No. L189, 13.7.76, p. 13.

liabilities (there being taken into account in the computation of liabilities, subject to any such valuation regulations, all contingent and prospective liabilities but not liabilities in respect of share capital);

“minimum guarantee fund”, in relation to an insurance company, means the appropriate minimum guarantee fund determined in accordance with Schedule 2;

“Schedule” means Schedule to these Regulations.

(2) In these Regulations, a reference to a class (including a reference to a numbered class) is a reference to a class (or to a numbered class) within the meaning of the classification regulations.

(3) Except as provided by paragraphs (1) and (2) above, expressions used in these Regulations have the same meaning as in the 1974 Act.

(4) The Interpretation Act 1889(a) shall apply for the interpretation of these Regulations as it applies for the interpretation of an Act of Parliament.

#### *Application*

3. Subject to the provisions of Schedule 1, these Regulations shall apply in relation to all general business that is carried on by insurance companies to which Part II of the 1974 Act applies.

#### *Community companies*

4.—(1) Every Community company having its head office in the United Kingdom shall maintain in respect of its entire business a margin of solvency which shall not be less than the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 3 and 4 under the headings “First Method (Premium Basis)” and “Second Method (Claims Basis)” respectively.

(2) If a Community company having its head office in the United Kingdom fails to maintain the margin of solvency required by paragraph (1) above, the Secretary of State shall require the company to submit for his approval a plan for the restoration of a sound financial position.

(3) If a Community company having its head office in the United Kingdom fails to maintain a margin of solvency at least equal to the guarantee fund or the minimum guarantee fund, whichever is the greater, the Secretary of State shall require the company to submit for his approval a short-term financial scheme.

(4) A Community company having its head office in a member State other than the United Kingdom shall maintain assets of a value not less than the amount of its liabilities in respect of business carried on in the United Kingdom.

#### *External companies*

5.—(1) Regulation 4 above (except paragraph (4)) shall, subject to the modifications in paragraph (2) below, apply to an external company as it applies to a Community company having its head office in the United Kingdom.

(2) The modifications referred to in paragraph (1) above are as follows, that is to say—

- (a) the margin of solvency mentioned in regulation 4(1) above shall be maintained (and the methods of calculation set out in Schedules 3 and 4 shall be applied) only in respect of business carried on in the United Kingdom, and

(b) regulation 4(3) above shall be taken to refer—

- (i) to a guarantee fund consisting of one-third of the margin of solvency required by the said regulation 4(1) as modified by subparagraph (a) above, and
- (ii) not to the whole but to one-half of the minimum guarantee fund.

(3) The obligations imposed on an external company by paragraphs (1) and (2) above are additional to any obligations imposed on an external company by the 1974 Act in respect of margins of solvency; but in the computation of any margin of solvency required by the 1974 Act an external company shall be given credit for any margin of solvency maintained by it in pursuance of those paragraphs.

*External companies: deposits*

6.—(1) The Secretary of State shall not issue an authorisation in respect of an external company unless a sum equal to at least one-fourth of the minimum guarantee fund has been, and remains, deposited with the Accountant General of the Supreme Court.

(2) An external company authorised under the 1974 Act before the commencement of these Regulations shall make a deposit in accordance with paragraph (1) above within six months after the commencement of these Regulations.

(3) The deposit made pursuant to paragraph (1) or (2) above—

- (a) shall be maintained at a level equal to at least one-fourth of the minimum guarantee fund, and
- (b) shall be regarded as forming part of the margin of solvency for the purposes of regulation 4(3) above (as modified by regulation 5(2)(b) above).

(4) For the purposes of section 4(2) and (3) of the Prevention of Fraud (Investments) Act 1958(a) and section 14 of the Administration of Justice Act 1965(b), a deposit made under this regulation shall be regarded as a deposit made under or by virtue of the said section 4; and the power to make regulations conferred by the said section 4(2) and (3) shall be extended accordingly and, without prejudice to the generality of the foregoing, shall include power to make regulations in respect of increases or decreases of the deposit resulting from changes in the conversion rate from units of account to pounds sterling.

*Unit of account*

7.—(1) A unit of account for the purposes of these Regulations shall, subject to paragraphs (2) to (4) below, be the European unit of account (“EUA”) in respect of which conversion rates are published in the Official Journal of the European Communities.

(2) As from 31st December of each year, the rate of conversion from EUA to pounds sterling applicable in the year beginning on that date shall, subject to paragraph (3) below, be the rate published in the said Official Journal on the last day of the preceding October on which EUA conversion rates were so published for the currencies of all the member States.

(3) Until the first exercise of the amending power, amounts in pounds sterling resulting from the conversion of EUA shall not be less than those that would result from conversion at the rate of 41.66 pence per unit.

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(a) 1958 c. 45.

(b) 1965 c. 2.

(4) In paragraph (3) above “the amending power” means the power conferred by Article 3 of the 1976 Directive to amend amounts expressed in EUA in the 1973 Directive.

*Modification of the 1974 Act*

8. The 1974 Act is hereby modified in the manner provided in Schedule 5.

20th September 1977.

*Stanley Clinton Davis,*  
Parliamentary Under Secretary of State,  
Department of Trade.

## SCHEDULE 1

## EXCLUDED COMPANIES

1. These Regulations shall not apply to an insurance company if—
  - (a) the only general business it carries on is reinsurance business, or
  - (b) it is a provident and mutual benefit institution, its benefits vary according to the resources available and the contributions of its members are set on a predetermined basis, or
  - (c) it is an unincorporated body with the purpose of providing mutual cover for its members without there being any payment of premiums or constitution of technical reserves, or
  - (d) it is a mutual association that fulfils all the conditions set out in paragraph 2 below, or
  - (e) it is a mutual association which in respect of all policies issued by it has concluded with a second mutual association an agreement that provides for the full reinsurance of those policies or for the second association to meet liabilities under those policies in place of the issuing association.
2. The conditions mentioned in paragraph 1(d) above in connection with a mutual association are as follows, that is to say—
  - (a) the association's articles of association (or their equivalent) shall contain provision for calling up additional contributions or reducing benefits;
  - (b) the association shall not carry on business of class 10, 11, 12 or 13 (unless the business is an ancillary risk within the meaning of regulation 4 of the classification regulations) or of class 14 or 15;
  - (c) the association's annual contribution income from general business other than reinsurance business shall not exceed one million units of account;
  - (d) at least half the association's annual contribution income from general business other than reinsurance business shall come from its members.
3. In the case described in paragraph 1(e) above, the business carried on by the second association shall be regarded for the purposes of these Regulations (including paragraphs 1(a) and 2(c) and (d) above) as direct insurance business and not as reinsurance business.
4. Where an insurance company is excluded from the application of these Regulations by the operation of any provision of paragraph 1 above, the company shall be regarded as authorised under the 1974 Act to carry on business only in the manner described in the relevant provision; and the 1974 Act shall have effect accordingly in relation to the company.
5. Every insurance company that considers itself to be excluded in the manner mentioned in paragraph 4 above shall inform the Secretary of State who, if he is satisfied that the company is so excluded, shall issue to the company a certificate specifying the exclusion.

## SCHEDULE 2

## MINIMUM GUARANTEE FUND

1. The minimum guarantee fund for a company shall be the amount shown in the table below as applicable to the class for which the company is authorised (or the highest such amount if the company is authorised for more than one class).

<i>Class</i>	<i>Amount</i>
Class 10, 11, 12, 13, 14 or 15	400,000 units of account
Class 1, 2, 3, 4, 5, 6, 7, 8 or 16	300,000 units of account
Class 9 or 17	200,000 units of account

2. If a company is authorised for part of a class, it shall for the purposes of paragraph 1 above be regarded as authorised for the whole of that class.

## SCHEDULE 3

## FIRST METHOD (PREMIUM BASIS)

## 1. In this Schedule—

“gross premiums”, in relation to an insurance company and a financial year—

(a) means premiums after deduction of discounts, refunds and rebates of premium but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the company, and

(b) includes premiums receivable by the company under reinsurance contracts accepted by the company;

“receivable”, in relation to an insurance company, a financial year and a premium, means recorded in the company's books as due to the company in respect of—

(a) a contract commencing in that year, or

(b) a contract not accounted for in an annual revenue account of the company prior to that year, even though the contract commenced in an earlier financial year,

whether or not the company has received the premium;

“recoverable”, in relation to an insurance company and a financial year, means recorded in the company's books as due in that year, whether or not the company has received any payment.

2. The gross premiums receivable in respect of the company's entire general business for the last preceding financial year shall be aggregated.

3. From the aggregate arrived at under paragraph 2 above there shall be deducted—

(a) any taxes included in the premiums mentioned in paragraph 2 above, and

(b) any levies that are related to premiums and are recorded in the company's books as payable in the last preceding financial year in respect of general business.

4. The amount arrived at under paragraph 3 above shall be multiplied by twelve and divided by the number of months in the financial year.

5. If the amount arrived at under paragraph 4 above is more than 10 million units of account, it shall be divided into two portions, the former consisting of 10 million units of account and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 18% and 16% of the two portions respectively; and where there has been no such division, there shall be calculated 18% of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of “6%” for “18%” and “5½%” for “16%”, but only if all the necessary conditions are satisfied.

8. For the purposes of paragraph 7 above, the necessary conditions are as follows, that is to say—

(a) the gross premiums receivable shall be calculated on the basis of sickness tables appropriate to insurance business;

(b) the reserves shall include provision for increasing age;

(c) an additional premium shall be collected in order to set up a safety margin of an appropriate amount;

- (d) it shall not be possible for the insurer to cancel the contract after the end of the third year of insurance;
- (e) the contract shall provide for the possibility of increasing premiums or reducing payments during its currency.

9. Where paragraph 7 above applies to a company whose general business consists partly of health insurance based on actuarial principles and partly of other business, the procedure provided in paragraphs 2 to 7 above shall operate separately for each part of the general business, so as to produce a sum under paragraph 7 above for the health insurance and a sum under paragraph 6 above for the other business.

10.—(1) If the provision for claims outstanding at the end of the last preceding financial year exceeds the provision for claims outstanding at the beginning of that year, the amount of the excess shall be added to the amount of claims paid in the last preceding financial year.

(2) If the provision for claims outstanding at the beginning of the last preceding financial year exceeds the provision for claims outstanding at the end of that year, the amount of the excess shall be deducted from the amount of claims paid in the last preceding financial year.

11.—(1) For the purposes of paragraph 10 above, the amount of claims paid, in relation to an insurance company and a financial year, is the amount that is recorded in the company's books as at the end of the financial year as paid by it (whether or not payment has been effected in that year) in full or partial settlement of—

- (a) the claims described in subparagraph (2) below, and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the company) including claims relating to business accounted for over a longer period than a financial year.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal, medical, surveying or engineering costs) which are incurred by the company, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in subparagraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts recoverable by the company in respect of the claims mentioned in that subparagraph or other claims, including amounts recoverable by way of salvage, amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the company.

12.—(1) For the purposes of paragraph 10 above, the provision for claims outstanding, in relation to an insurance company and a financial year, is (subject to any applicable valuation regulations) the amount set aside by the company as at the beginning or end of the financial year as being an amount likely to be sufficient to meet—

- (a) the claims described in subparagraph (2) below, and
- (b) the expenses described in subparagraph (3) below,

less any recoverable amounts within the meaning of subparagraph (4) below.

(2) The claims mentioned in subparagraph (1) above are claims under contracts of insurance (and under contracts of reinsurance accepted by the company) in respect of incidents occurring—

- (a) in the case of an amount set aside as at the beginning of the financial year, before the beginning of that year, and
- (b) in the case of an amount set aside as at the end of a financial year, before the end of that year,

being claims which have not been treated as claims paid and including claims relating to business accounted for over a longer period than a financial year, claims the amounts of which have not been determined and claims arising out of incidents that have not been notified to the company.

(3) The expenses mentioned in subparagraph (1) above are expenses (such as, for example, legal, medical, surveying or engineering costs) which are likely to be incurred by the company, whether through the employment of its own staff or otherwise, and are directly attributable to the settlement of individual claims, whether or not the individual claims in question are those mentioned in subparagraph (1) above.

(4) Recoverable amounts for the purposes of subparagraph (1) above are amounts estimated by the company to be recoverable by it in respect of the claims mentioned in that subparagraph, including amounts recoverable by way of salvage, amounts recoverable from third parties and amounts recoverable from other insurers but excluding amounts recoverable in respect of reinsurance ceded by the company.

13. From the amount determined under paragraph 10(1) or (2) above there shall be deducted the total sum recoverable in respect of that amount under reinsurance contracts ceded.

14. The amount determined under paragraph 13 above shall be expressed as a percentage of the amount determined under paragraph 10(1) or (2) above.

15. The sum arrived at under paragraph 6 or 7 or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied—

- (a) where the percentage arrived at under paragraph 14 above is greater than 50%, by that greater percentage, and
- (b) in any other case, by 50%.

#### SCHEDULE 4

##### SECOND METHOD (CLAIMS BASIS)

1. In this Schedule “reference period”, in relation to an insurance company, means either—

- (a) the three last preceding financial years, or
- (b) the seven last preceding financial years if more than one-half of the gross premiums receivable (as defined in Schedule 3) in that period were in respect of all or any of the following, namely, storm (as included in class 8), hail (as included in class 9) and frost (as included in class 9).

2. If a company has not been in existence long enough to acquire a reference period, this Schedule shall be deemed to give a lower result than that given by Schedule 3 and shall otherwise not apply to the company.

3.—(1) If the provision for claims outstanding at the end of the reference period exceeds the provision for claims outstanding at the beginning of the reference period, the amount of the excess shall be added to the amount of claims paid in the reference period.

(2) If the provision for claims outstanding at the beginning of the reference period exceeds the provision for claims outstanding at the end of the reference period, the amount of the excess shall be deducted from the amount of claims paid in the reference period.

(3) For the purposes of this paragraph, the expressions “amount of claims paid” and “provision for claims outstanding” have, in relation to a reference period, the same meaning as they have in paragraph 10 of Schedule 3 in relation to a financial year.



4. The aggregate obtained under paragraph 3(1) or (2) above shall be divided by the number of months in the reference period and multiplied by twelve.

5. If the amount arrived at under paragraph 4 above is more than 7 million units of account, it shall be divided into two portions, the former consisting of 7 million units of account and the latter comprising the excess.

6. Where there has been a division into two portions pursuant to paragraph 5 above, there shall be calculated and added together 26% and 23% of the two portions respectively; and where there has been no such division, there shall be calculated 26% of the amount arrived at under paragraph 4 above.

7. In the case of general business consisting of health insurance based on actuarial principles, paragraph 6 above shall apply with the substitution of "8 $\frac{3}{4}$ %" for "26%" and "7 $\frac{3}{4}$ %" for "23%", but only if all the necessary conditions are satisfied.

8. The necessary conditions for the purposes of paragraph 7 above are the same as those set out in paragraph 8 of Schedule 3.

9. In a case of the kind mentioned in paragraph 9 of Schedule 3, that paragraph shall apply (with the necessary modifications) so as to produce separate sums under paragraphs 6 and 7 above.

10. The sum arrived at under paragraph 6 or 7 above or the aggregate of the sums arrived at under those paragraphs, as the case may be, shall be multiplied by the same percentage as is applicable for the purposes of paragraph 15 of Schedule 3.

## SCHEDULE 5

### MODIFICATIONS OF THE 1974 ACT

1. Section 4 shall cease to apply to a Community company having its head office in a member State other than the United Kingdom.

2. For the purposes of section 4(1) in its application to a Community company having its head office in the United Kingdom, the Secretary of State shall not be required to be satisfied as to the matters specified in section 4(1)(a) and (b) but shall be required to be satisfied that the company possesses a margin of solvency at least equal to the minimum guarantee fund.

3. In the case of a Community company having its head office in a member State other than the United Kingdom, sections 13 and 16 shall apply only to business carried on in the United Kingdom.

4. In the case of an external company, sections 13 and 16 may, without prejudice to their application to the company's entire business, be applied separately to business carried on in the United Kingdom.

5. The power to make regulations for the purposes of sections 13 and 16 shall include power to make regulations for the purposes of those sections as modified by paragraphs 3 and 4 above.

6. In section 28(1)(b)(i), the reference to an obligation shall include a reference—

- (a) to the obligation imposed by regulation 4(3) above to maintain a margin of solvency at least equal to the guarantee fund or the minimum guarantee fund, whichever is the greater,
- (b) to the obligation imposed by regulation 4(3) above as modified by regulation 5 above to maintain a margin of solvency at least equal to the guarantee fund or one-half of the minimum guarantee fund, whichever is the greater,
- (c) to the obligation imposed by regulation 4(4) above, and
- (d) to any obligation imposed on an external company by regulation 6 above.

7. Where the Secretary of State requires the submission of a plan or scheme under regulation 4 above or under that regulation as modified by regulation 5 above, failure to submit in pursuance of the requirement any plan or scheme (or failure to submit in pursuance of the requirement a plan or scheme that satisfies the Secretary of State) shall be regarded as a failure within the meaning of section 28(1)(b)(i).

8. Section 44 shall cease to apply to a Community company having its head office in a member State other than the United Kingdom.

9. In the application of section 44 to a Community company having its head office in the United Kingdom—

- (a) subsection (1)(a) shall cease to have effect,
- (b) subsection (1)(b) shall cease to be restricted to the time after the first financial year, and
- (c) in the said subsection (1)(b), the reference to the relevant amount shall be taken as a reference to the guarantee fund or the minimum guarantee fund, whichever is the greater.

10. The power conferred by section 57 shall be extended so as to be exercisable in all or any of the following ways, that is to say—

- (a) in the case of a mutual association (or an association of a similar type) the power may be exercised to reduce the minimum guarantee fund by a quarter for the purposes of any applicable provision of these Regulations;
- (b) in the case of a company that has submitted a plan under regulation 4(2) above, the power may be exercised to direct that the margin of solvency required by regulation 4(1) above need not be maintained in relation to a period ending not later than 30th July 1980;
- (c) in the case of a Community company having its head office in the United Kingdom whose annual income from premiums and contributions is less than an amount consisting of six times the minimum guarantee fund, the power may be exercised to direct that, in relation to the period before the end of the financial year in respect of which the income from premiums and contributions reaches that amount, regulation 4(3) above and paragraph 9(c) above shall apply as if they mentioned only the guarantee fund.

11. The power to make valuation regulations conferred by section 78 shall include power to make regulations with respect to the determination of the value of assets and the amount of liabilities for the purposes of these Regulations.

## EXPLANATORY NOTE

*(This Note is not part of the Regulations.)*

These Regulations give effect to solvency requirements contained in the 1973 Directive. The Directive divides companies into two classes, Community companies (i.e. companies whose head office is in a member State of the European Communities) and external companies (i.e. companies whose head office is not in a member State). In the case of a Community company, the main responsibility for supervising solvency is placed on the member State where the company's head office is situated. In accordance with the Directive, these Regulations require a Community company whose head office is in the United Kingdom to maintain a margin of solvency and a guarantee fund. A Community company having its head office outside the United Kingdom is required to maintain assets at least equal to its United Kingdom liabilities. External companies will have to maintain a margin of solvency and a guarantee fund in relation to business in the United Kingdom, and part of the guarantee fund must take the form of a deposit. This obligation on external companies is additional to the existing requirement under the 1974 Act that they should maintain a margin of solvency on their entire business. The Regulations make consequential modifications in the 1974 Act. The requirements of the 1974 Act will continue to apply to those companies (described in Schedule 1) to which the Directive does not apply.

SI 1977/1553  
ISBN 0-11-071553-5



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