

1978 No. 917

INSURANCE

The Insurance Companies (Deposits) Regulations 1978

<i>Made</i> - - - - -	30th June 1978
<i>Laid before Parliament</i>	10th July 1978
<i>Coming into Operation</i>	31st July 1978

The Secretary of State, in exercise of the powers conferred by section 4(2) and (3) of the Prevention of Fraud (Investments) Act 1958(a) as amended by section 17(1) of, and Schedule 1 to, the Administration of Justice Act 1965(b), and of the powers conferred by section 14(3) of the Administration of Justice Act 1965, the said powers now being exercisable by him (c) and extended (d), and of all other powers enabling him in that behalf, hereby makes the following Regulations:—

1. These Regulations may be cited as the Insurance Companies (Deposits) Regulations 1978 and shall come into operation on 31st July 1978.

2.—(1) In these Regulations—

“the Accountant General” means the Accountant General of the Supreme Court;

“deposit” means the deposit required by regulation 6 of the solvency regulations to be made and maintained with the Accountant General by an insurance company, and “depositor” means an insurance company making and maintaining (or intending to make and maintain) such a deposit;

“the minimum”, in relation to a deposit, means one-fourth of the depositor’s minimum guarantee fund as defined in the solvency regulations;

“permitted securities” means securities in which cash under the control of or subject to the order of the Supreme Court may be invested pursuant to Order 22, rule 13, of the Rules of the Supreme Court 1965(e) as amended(f);

“the solvency regulations” means the Insurance Companies (Solvency: General Business) Regulations 1977(g);

“the valuation regulations” means the Insurance Companies (Valuation of Assets) Regulations 1976(h) as amended(i).

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

(a) 1958 c. 45.
 (c) S.I. 1970/1537.
 (e) S.I. 1965/1776.
 (g) S.I. 1977/1553.
 (i) S.I. 1976/2039.

(b) 1965 c. 2.
 (d) S.I. 1977/1553.
 (f) S.I. 1969/1894.
 (h) S.I. 1976/87.
 (j) 1889 c. 63.

3.—(1) The Secretary of State, where he is satisfied that the solvency regulations require a deposit to be made and maintained by a depositor, may (and on the application of the depositor shall)—

- (a) certify the fact of the requirement,
- (b) specify the minimum in pounds sterling, and
- (c) direct the Accountant General to receive the deposit.

(2) Where the minimum changes, the Secretary of State may (and on the application of the depositor shall)—

- (a) certify the fact of the change,
- (b) specify the changed minimum in pounds sterling, and
- (c) direct the Accountant General to receive any additional sum required to ensure that the deposit is maintained in accordance with regulation 6 of the solvency regulations.

4.—(1) Subject to paragraph (2) below, any payment to be made by the depositor to the Accountant General in respect of the deposit may be partly or wholly effected by the lodgment of permitted securities instead of cash.

(2) Paragraph (1) above shall not apply unless the depositor gives to the Accountant General—

- (a) a valuation of the securities as on a day not more than two days before that on which the Accountant General receives the request for such a lodgment to be effected, and
- (b) a report by a duly authorised person stating that in his opinion the valuation has been made in accordance with the valuation regulations.

(3) In paragraph (2) above “duly authorised person” means a member of the Stock Exchange or a person qualified by virtue of section 161(1)(a) or (b) of the Companies Act 1948^(a) to be auditor of a company.

5.—(1) Subject to paragraph (2) below, the Accountant General may on the application of a depositor—

- (a) invest in permitted securities (to be specified by the applicant) any cash which constitutes or forms part of the deposit or will do so on the maturity of any security, or
- (b) realise any securities (to be specified by the applicant) constituting or forming part of the deposit and either reinvest the net proceeds in permitted securities (to be specified by the applicant) or retain the net proceeds as cash.

(2) No application may be made under paragraph (1) above unless at least twenty-eight days have elapsed since any previous application under that paragraph.

6.—(1) Subject to paragraphs (2) and (3) below, the Secretary of State on the application of a depositor may direct the Accountant General—

- (a) to transfer to the depositor any of the securities constituting or forming part of the deposit, or
- (b) to realise any of the securities constituting or forming part of the deposit and to pay the net proceeds to the depositor, or
- (c) to pay to the depositor any cash which constitutes or forms part of the deposit (or will do so on the maturity of any security).

^(a) 1948 c. 38.

(2) The Secretary of State shall not give a direction under paragraph (1) above unless it appears to him that the remaining cash and securities constituting the deposit after the dealing specified in the direction has been carried out will, if valued in accordance with the valuation regulations as on the day before the direction is given, be equal in value to at least the minimum.

(3) Nothing in paragraph (1) or (2) above shall relieve the depositor of the obligation imposed on him by regulation 6(3)(a) of the solvency regulations to maintain the deposit at a level equal to at least the minimum.

7.—(1) Where the depositor has ceased to carry on in the United Kingdom the business in respect of which the deposit was made then, except in a case where section 4(2)(a) or (b) of the Prevention of Fraud (Investments) Act 1958 applies, the depositor or any other person who is entitled to give a good discharge for the funds representing the deposit may apply to the Secretary of State for those funds to be released to the depositor or to that other person, as the case may be.

(2) The Secretary of State, on receipt of an application under paragraph (1) above accompanied by the appropriate declaration, may in relation to any cash or securities constituting the deposit or part of the deposit direct the Accountant General that—

- (a) the cash shall be paid to the applicant, or
- (b) the securities shall be realised and the net proceeds shall be paid to the applicant, or
- (c) the securities shall be transferred to the applicant.

(3) In paragraph (2) above “the appropriate declaration” means a statutory declaration by the applicant—

- (a) declaring that the applicant knows of no other person who has made or is entitled to make any claim to or on the relevant funds, and
- (b) if the applicant is not the depositor—
 - (i) declaring that the applicant is entitled to give a good discharge for the relevant funds, and
 - (ii) stating the circumstances in which the applicant is so entitled.

8.—(1) A direction given by the Secretary of State pursuant to these Regulations shall be sufficient authority for the Accountant General to comply with it; and it shall be the duty of the Accountant General to act accordingly.

(2) A direction given under regulation 3(1) or (2) above shall be construed as authorising the Accountant General to receive any amount necessary to ensure the maintenance of the deposit at a level equal to at least the minimum or the changed minimum, as the case may be.

(3) The Secretary of State (without prejudice to his power to give a direction under regulation 3(1) or (2) above) may give a direction authorising the Accountant General to receive an amount which, either alone or when aggregated with sums already deposited, is less than the minimum or the changed minimum, as the case may be.

9.—(1) The court funds rules (except in so far as they may be inconsistent with these Regulations) shall apply for the purposes of these Regulations, subject to the modification in paragraph (2) below.

(2) Any reference in the court funds rules to cash, securities or funds lodged in court shall be taken to include any cash or securities deposited with the

Accountant General pursuant to the solvency regulations and these Regulations.

(3) In paragraphs (1) and (2) above "the court funds rules" means any rules for the time being in force under section 7 of the Administration of Justice Act 1965.

30th June 1978.

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

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations contain provisions respecting deposits to be made by certain overseas companies carrying on insurance business or applying for authorisation to do so. These deposits are required by regulation 6 of the Insurance Companies (Solvency: General Business) Regulations 1977 ("the solvency regulations"). The solvency regulations themselves implement certain provisions of EEC Council Directive No. 73/239/EEC (O.J. No. L228, 16.8.73, p.3).

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