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 STATUTORY INSTRUMENTS
 

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1981 No. 1654

## INSURANCE

**The Insurance Companies Regulations 1981**

<i>Made</i> - - - - -	19th November 1981
<i>Laid before Parliament</i> -	1st December 1981
<i>Coming into Operation—</i>	
<i>Except for regulations</i>	
<i>24 to 27 and 54 to 64</i>	1st January 1982
<i>Regulations 24 to 27</i> -	1st April 1982
<i>Regulations 54 to 64</i> -	1st October 1982

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The Secretary of State, in exercise of his powers under sections 26A(1), 26A(2), 26A(3), 26B(1), 26D(1), 52, 53, 54, 62(1) and (2), 64(1) and (2), 65(2) and (5), 68(1), (2)(a), (5) and (6), 78, 85(1) and 86 of the Insurance Companies Act 1974(a) and sections 2(5), 5(1)(a), 7(6), 9(1)(b) and (c) and (7) and 16 of the Insurance Companies Act 1981(b), hereby makes the following Regulations:—

## PART I

## PRELIMINARY

*Citation and commencement*

1. These Regulations may be cited as the Insurance Companies Regulations 1981 and shall come into operation—

- (a) except for regulations 24 to 27 and 54 to 64, on 1st January 1982,
- (b) as respects regulations 24 to 27, on 1st April 1982, and
- (c) as respects regulations 54 to 64, on 1st October 1982.

*Interpretation: general*

2.—(1) In these Regulations, unless the context otherwise requires—

“the 1974 Act” means the Insurance Companies Act 1974;

“the 1981 Act” means the Insurance Companies Act 1981;

“cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;

“external company” means an insurance company whose head office is not in a member State;

“guarantee fund” has the meaning given in regulation 9(1) below;

“holding company” has the meaning given by section 154 of the Companies Act 1948(c) or section 148 of the Companies Act (Northern Ireland) 1960(d);

“linked long term contract” means a contract of the kind described in section 68(1) of the 1974 Act;

“mathematical reserves” means the provision made by an insurer to cover liabilities (excluding liabilities which have fallen due) arising under or in connection with contracts for long term business;

“minimum guarantee fund” has the meaning given in regulation 9(2) below;

“mutual” means an insurance company which is—

- (a) a body corporate having no share capital (except a wholly owned subsidiary with no share capital but limited by guarantee), or
- (b) a registered society;

“pure reinsurer” means an insurance company whose authorisation to carry on business in the United Kingdom is restricted to reinsurance;

“Schedule” means Schedule to these Regulations;

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(a) 1974 c. 49; sections 26A, 26B and 26D were inserted by the Insurance Companies Act 1981 (c. 31), section 21; sections 52, 53 and 54 were amended by the Insurance Companies Act 1981, section 28; sections 65 and 68 were amended by the Insurance Companies Act 1981, Schedule 4, paragraphs 12 and 13; section 78 was amended by the Insurance Companies Act 1981, section 33(1); section 86 was amended by the Insurance Companies Act 1981, section 33(2).

(b) 1981 c. 31.

(c) 1948 c. 38.

(d) 1960 c. 22(N.I.).



“subsidiary” has the meaning given by section 154 of the Companies Act 1948 or section 148 of the Companies Act (Northern Ireland) 1960;

“United Kingdom company” means an insurance company whose head office is in the United Kingdom.

(2) For the purposes of these Regulations—

(a) a unit of account is the unit of account known as the ECU and defined in Council Regulation (EEC) No. 3180/78(a) (which changed the value of the unit of account used by the European Monetary Co-operation Fund), and

(b) the rate of conversion from the ECU to pounds sterling for each year beginning on 31st December shall, subject to a minimum of 41.66 pence per unit, be the rate published in the Official Journal of the Communities on the last day of the preceding October for which ECU conversion rates were so published for the currencies of all States that were then member States.

## PART II

### MARGINS OF SOLVENCY

#### *Interpretation: Part II*

3. In this Part of these Regulations—

“first calculation” and “second calculation” have the meaning given in regulation 5(1) to (3) below;

“implicit items” has the meaning given by regulation 10(4) below and “implicit item” shall be construed accordingly;

“required margin of solvency” means a margin of solvency required by section 26A of the 1974 Act;

“zillmerising” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

#### *Margins of solvency: determination*

4.—(1) Subject to paragraphs (2) to (5) below, the margin of solvency to be maintained by an insurance company to which Part II of the 1974 Act applies shall be determined—

(a) as regards long term business, in accordance with regulations 5 to 8 below, and

(b) as regards general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 1 and 2 respectively.

(2) Where an insurance company is required to maintain a United Kingdom margin of solvency or a Community margin of solvency—

(a) the United Kingdom margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the United Kingdom, and

(b) the Community margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the member States taken together.

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(a) OJ No. L379, 30.12.78, p.1.

(3) For a contract to which section 1(3) of the 1981 Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—

- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by this Part of these Regulations for that class, and
- (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 1 (excluding paragraphs 7, 8 and 9).

(4) Where an insurance company carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the company in order to arrive at the company's required margin of solvency for long term business.

(5) Where an insurance company carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—

- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately, and
- (b) assets other than those representing the fund or funds maintained by the company in respect of its long term business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the company's general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the company's long term business.

*Long term classes I and II*

5.—(1) For long term business of class I or II the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying the calculation described in paragraph (2) below ("the first calculation") and the calculation described in paragraphs (3), (4) and (5) below ("the second calculation").

(2) For the first calculation—

- (a) there shall be taken a sum equal to 4 per cent of the mathematical reserves for direct business and reinsurance acceptances without any deduction for reinsurance cessions,
- (b) the amount of the mathematical reserves after the deduction of reinsurance cessions at the end of the last preceding financial year shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction, and
- (c) the sum mentioned in sub-paragraph (a) above shall be multiplied—
  - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 85 per cent (or, in the case of a pure reinsurer, 50 per cent), by that greater percentage, and
  - (ii) in any other case, by 85 per cent (or, in the case of a pure reinsurer, 50 per cent).

(3) For the second calculation—

- (a) there shall be taken, subject to paragraphs (4) and (5) below, a sum equal to 0.3 per cent (or, in the case of risk premium business carried on by pure reinsurers, 0.1 per cent) of the capital at risk for contracts on which the capital at risk is not a negative figure,

- (b) the amount of the capital at risk at the end of the last preceding financial year for contracts on which the capital at risk is not a negative figure, after the deduction of reinsurance cessions, shall be expressed as a percentage of the amount of that capital at risk before any such deduction, and
- (c) the sum arrived at under sub-paragraph (a) above shall be multiplied—
  - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 50 per cent, by that greater percentage, and
  - (ii) in any other case, by 50 per cent.

(4) In the case of a contract that provides for benefits payable only on death within a specified period and is valid for a period of not more than three years from the date when the contract was first made, the percentage to be taken for the purposes of paragraph (3)(a) above shall be 0·1 per cent; and where the period of validity from that date is more than three years but not more than five years, the percentage to be so taken shall be 0·15 per cent (or, in the case of risk premium business carried on by pure reinsurers, 0·1 per cent).

(5) For the purposes of paragraph (4) above, the period of validity of the contract evidencing a group policy is the period from the date when the premium rates under the contract were last reviewed for which the premium rates are guaranteed.

(6) For the purposes of the second calculation, the capital at risk is the amount payable on death less the mathematical reserves in respect of the relevant contracts.

*Long term classes III and VII*

6.—(1) For long term business of class III or VII the required margin of solvency shall be determined in accordance with paragraphs (2) to (5) below.

(2) In so far as an insurance company bears an investment risk, the first calculation shall be applied.

(3) In so far as—

- (a) an insurance company bears no investment risk, and
- (b) the total expired and unexpired term of the relevant contract exceeds five years, and
- (c) the allocation to cover management expenses in the relevant contract has a fixed upper limit which is effective as a limit for a period exceeding five years,

the first calculation shall be applied, but as if regulation 5(2)(a) above contained a reference to 1 per cent instead of 4 per cent.

(4) If neither paragraph (2) nor paragraph (3) above applies, then, subject to paragraph (5) below, the required margin of solvency is zero.

(5) Where an insurance company covers a death risk, a sum arrived at by applying the second calculation (regulation 5(4) and (5) above being disregarded) shall be added to any required margin of solvency, including a required margin of solvency of zero, arrived at under paragraph (2), (3) or (4) above.

*Long term classes IV and VI*

7. For long term business of class IV or VI the required margin of solvency shall be determined by applying the first calculation.

*Long term class V*

8. For long term business of class V the required margin of solvency shall be equal to 1 per cent of the assets of the relevant tontine.

*Guarantee fund and minimum guarantee fund*

9.—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency shall constitute the amount (“the guarantee fund”) to be prescribed or determined for the purposes of section 26B of the 1974 Act.

(2) The guarantee fund shall not in any case be less than an amount (“the minimum guarantee fund”) arrived at in accordance with Schedule 3.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50 per cent of the guarantee fund, whichever is the greater.

*Valuation*

10.—(1) Where an insurance company has assets equal to or in excess of its liabilities, then, in addition to any other applicable valuation regulations, paragraphs (2) to (4) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) Where—

(a) a company has issued shares some or all of which are partly paid and the total paid-up value of all the shares is equal to or greater than one quarter of their nominal value or, in the case of shares issued at a premium, of the aggregate of their nominal value and the premium, or

(b) at least one quarter of the fund of a mutual is paid up,

an amount not greater than half the total value of the amounts unpaid may be taken into account as an asset.

(3) In the case of a mutual carrying on general business, any claim which the mutual has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed—

(a) 50 per cent of the difference between the maximum contributions and the contributions called in, or

(b) 50 per cent of the required margin of solvency.

(4) The items mentioned in regulations 11 to 13 below (which relate to future profits, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value except in pursuance of an order under section 57 of the 1974 Act; but in pursuance of such an order—

(a) any of the implicit items may be valued in accordance with the said regulations 11 to 13 as respects long term business, and

(b) the implicit item relating to hidden reserves may be valued in accordance with regulation 13 below as respects general business.

*Implicit items: future profits*

11.—(1) The implicit item relating to future profits may be valued at not more than 50 per cent of the full amount of future profits.

(2) For the purposes of paragraph (1) above, the full amount of future profits shall be obtained by multiplying the estimated annual profit by a factor which shall as nearly as may be represent the average number of years remaining to run on policies but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above, the estimated annual profit shall be taken to be one-fifth of the profits made in long term business over a period of five years ("the relevant period") ending on the last day of the most recent financial year for which a valuation under section 14 of the 1974 Act has been carried out, substantial items of an exceptional nature being excluded.

(4) For the purposes of paragraph (3) above—

(a) where a valuation under section 14 of the 1974 Act has been carried out annually in relation to the relevant period, the profits made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term fund since the last such valuation, and the profits so made for that period shall be taken to be the aggregate of those surpluses less any deficiencies in the long term fund during that period;

(b) where an insurance company has carried on long term business throughout the relevant period but valuations under section 14 of the 1974 Act have not been made annually in that period, the profits so made for that period shall be taken to be the aggregate of surpluses arising in the long term fund since the last valuation preceding the relevant period less any deficiencies in the long term fund since that last valuation, except that the surplus or deficiency arising in the period ending with the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;

(c) where an insurance company has not carried on long term business throughout the relevant period, the profits made in long term business for the relevant period shall be taken to be the aggregate of any surpluses arising in the long term fund during that part of the relevant period for which long term business was carried on less any deficiencies in the long term fund during that part of that period.

*Implicit items: zillmerising*

12.—(1) Where zillmerising is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium, then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

(a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the company concerned, and

(b) a figure for mathematical reserves (not less than those required by Part VI of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent of the aggregate of the difference between—

(a) the relevant capital sums for long term business activities, and

(b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(4) In paragraphs (2) and (3) above “relevant capital sums” means—

- (a) for whole life assurances, the sum assured,
- (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,
- (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater),
- (d) for capital redemption contracts, the sums payable at the end of the contract period, and
- (e) for linked long term contracts, notwithstanding sub-paragraphs (a) to (d) above, the total premiums payable or, if premiums are payable throughout life, the total premiums payable up to the age of seventy-five,

excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.

(5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.

(6) For the purposes of this regulation—

- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
- (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.

*Implicit items: hidden reserves*

**13.** The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves), may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

PART III

DEPOSITS

*Interpretation: Part III*

**14.** In this Part of these Regulations—

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

“deposit” means the deposit mentioned in section 9(1)(c) of the 1981 Act and “depositor” means an insurance company making (or intending to make) such a deposit;

“the minimum”, in relation to a deposit, means one-fourth of the minimum guarantee fund appropriate to the margin of solvency which the depositor is required to maintain under section 26A(2)(a) or (3)(a) of the 1974 Act;

“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(a).

*Making and amount of deposit*

**15.** Every deposit made pursuant to section 9(1)(c) of the 1981 Act shall (subject to section 9(2)(b) of that Act) be made with the Accountant General and shall be maintained by the depositor at a level equal to at least the minimum.

*Direction etc by the Secretary of State*

**16.—**(1) The Secretary of State, where he is satisfied that a deposit is required to be made with the Accountant General pursuant to regulation 15 above or under an agreement of the kind mentioned in section 9(2)(b) of the 1981 Act, 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 15 above.

*Permitted securities*

**17.—**(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 Part V of these Regulations.

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(a) S.I. 1965/1776; the relevant amending instrument is S.I. 1969/1894.

(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.

*Investment*

**18.**—(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.

*Disposal of surplus*

**19.**—(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).

(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 Part V of these 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 15 above to maintain the deposit at a level equal to at least the minimum.

*Cessation of business etc.*

**20.**—(1) Where the depositor has ceased to carry on in the United Kingdom the business in respect of which the deposit was made or has ceased to be an external company, then, except in a case where paragraph (2) below 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) In the event of the depositor becoming bankrupt, the amount of the deposit shall be paid to the trustee or assignees in bankruptcy; and if, in a case where the depositor is a corporation, the corporation is ordered to be wound up by or under the supervision of the court, the amount of the deposit shall be repaid to the corporation.



(3) 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.

(4) In paragraph (3) 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.

*Effect of direction etc.*

**21.—**(1) A direction given by the Secretary of State pursuant to this Part of 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 16(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 16(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.

*Application of rules under s.7 of the Administration of Justice Act 1965*

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

(2) Any reference in the 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 1981 Act and this Part of these Regulations.

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

## PART IV

BENEFITS IN KIND, MAIN AGENTS, MATCHING, LOCALISATION, AUTHORISATION  
AND CHANGE OF CONTROL*Benefits in kind*

23.—(1) For the purposes of sections 2(5) and 16 of the 1981 Act, there is hereby prescribed any contract of insurance which—

- (a) is a contract under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and
- (b) contains the terms specified in paragraph (2) below.

(2) The terms referred to in paragraph (1) above are—

- (a) that, subject to such restrictions as may be set out in the contract, the assistance shall normally be available on demand at least throughout the mainland of Great Britain;
- (b) that the assistance shall normally be provided by the insurer's servants or exceptionally by garages acting as the insurer's agents or appointed by the insurer;
- (c) that the assistance may take any one or more of the following forms—
  - (i) repairs to the relevant vehicle at the roadside;
  - (ii) removal of the relevant vehicle to another place;
  - (iii) conveyance of the relevant vehicle's occupants to another place;
  - (iv) delivery of parts, fuel, oil, water or keys to the relevant vehicle;
  - (v) reimbursement of the policy holder for all or part of any sums paid by him in respect of the assistance either because he failed to identify himself as the policy holder or because he was unable to get in touch with the insurer in order to claim the assistance.

(3) In this regulation—

“the assistance” means the benefits to be provided under a contract of the kind prescribed in paragraph (1) above;

“breakdown” means an event—

- (a) which causes the driver of the relevant vehicle involuntarily to bring the vehicle to a halt on a journey because of some malfunction of the vehicle or failure of it to function, and
- (b) after which the journey cannot reasonably be continued in the relevant vehicle;

“the insurer” means the insurance company providing the assistance;

“the policy holder” means the person entitled to the assistance;

“the relevant vehicle” means the vehicle (including a trailer or caravan) in respect of which the assistance is required.

*Main agents: exceptions*

24.—(1) An unlimited agent shall not be regarded as a main agent of an applicant for the purposes of section 7 of the 1981 Act if—

- (a) he was appointed before 1st April 1982, and
- (b) for the base period and for every subsequent year of account the value of the agent's business has been not more than 10 per cent of the value of the applicant's business.

(2) In this regulation—

“the base period” means the financial year covered by the last set of annual accounts deposited by the applicant under section 18 of the 1974 Act before 1st April 1982;

“unlimited agent” means a person appointed by an applicant to be the applicant’s agent in respect of general business in the United Kingdom with authority to enter into contracts on behalf of the applicant without limit on the aggregate amount of premiums;

“the value of the agent’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom under contracts entered into by the agent on the applicant’s behalf;

“the value of the applicant’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom;

“year of account” means a financial year for which a set of annual accounts has been deposited by the applicant under section 18 of the 1974 Act.

#### *Matching*

25.—(1) Where the liabilities of an insurance company in any particular currency exceed 5 per cent of the company’s total liabilities, then, subject to paragraphs (2) and (3) below, the company shall hold sufficient assets expressed in or capable of being realised without exchange risk into that currency to cover at least 80 per cent of the company’s liabilities in that currency.

(2) In so far as the liabilities for property linked benefits are covered by assets which determine the benefits payable under a linked long term contract, paragraph (1) above shall not apply.

(3) In so far as the liabilities for property linked benefits are determined by reference to assets expressed in or capable of being realised without exchange risk into a currency other than the currency in which the insurer’s obligations to the policy holder are expressed, those liabilities shall for the purposes of paragraph (1) above be deemed to be liabilities in the first-mentioned currency.

(4) Where an insurance company carries on both long term and general business, the requirement of paragraph (1) above shall apply to the assets and liabilities of each kind of business separately.

(5) For the purposes of paragraphs (1) and (3) above, an asset is capable of being realised without exchange risk into a currency if it is reasonably capable of being realised into that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(6) In this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 38(2) below, means assets valued in accordance with Part V of these Regulations;

“liabilities” means provision by an insurer to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 27 below);

“property linked benefits” has the meaning given by regulation 37(1) below.

*Localisation*

26.—(1) Assets held pursuant to regulation 25 above shall be held—

- (a) if they cover liabilities in sterling, in the United Kingdom;
- (b) if they cover liabilities in any other currency, in the United Kingdom or in the country of that currency;
- (c) in the case of a relevant co-insurance operation and a relevant company, in the United Kingdom or in the member State where the leading insurer has its head office.

(2) For the purpose of applying paragraph (1) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;
- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
  - (i) there is a stock exchange (of the kind described in paragraph (a) or (b) of the definition of “listed” in regulation 37(1) below) where it is listed, or
  - (ii) there is a securities market (of the kind described in paragraph (c) of that definition) where it is dealt in;
- (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of that company is situated.

(3) In this regulation—

“assets” and “liabilities” have the same meaning as in regulation 25 above;

“leading insurer”, “relevant co-insurance operation” and “relevant company” have the same meaning as in regulation 53 below;

“listed” and “unlisted” have the meaning given in regulation 37(1) below.

*Exclusions from regulations 25 and 26*

27. Nothing in regulation 25 or 26 above shall apply to—

- (a) insurance business carried on outside the United Kingdom, or
- (b) insurance business of groups 3 and 4 (within the meaning of Part II of Schedule 2 to the 1981 Act), or
- (c) reinsurance business (unless it is facultative reinsurance written by an insurer who also carries on insurance business that is not reinsurance).

*Margin of solvency of external company: location of assets*

28. Without prejudice to regulation 26 above—

- (a) the assets representing a United Kingdom margin of solvency maintained by an external company under section 26A(2)(b) of the 1974 Act shall be kept—
  - (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater), within the United Kingdom, and
  - (ii) as to the remainder, within the United Kingdom and the other member States, and

- (b) the assets representing a Community margin of solvency maintained by an external company under section 26A(3)(b) of the 1974 Act shall be kept—
- (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater), within the member States where the company carries on business (or in any one or more of them), and
  - (ii) as to the remainder, within the United Kingdom and the other member States.

*Authorisation: submission of information*

**29.**—(1) The information to be submitted pursuant to section 5(1) of the 1981 Act shall be—

- (a) for long term business, the information specified in the appropriate Part of Schedule 4, and
- (b) for general business, the information specified in the appropriate Part of Schedule 5.

(2) In Schedules 4 and 5 (subject to the notes at the beginning of each Schedule)—

- (a) Part I is appropriate for United Kingdom companies in respect of direct business and reinsurance,
- (b) Part II is appropriate for non-UK Community companies in respect of—
  - (i) direct business, or
  - (ii) both direct business and reinsurance,
- (c) Part III is appropriate for external companies in respect of—
  - (i) direct business, or
  - (ii) both direct business and reinsurance, and
- (d) Part IV is appropriate for non-UK Community companies and external companies in respect of reinsurance only.

(3) For the purposes of this regulation—

“the Asset Valuation Regulations”, in Schedules 4 and 5, means Part V of these Regulations;

“the Change of Control Regulations”, in Schedules 4 and 5, means regulations 31 to 36 below;

“classes of insurance business”, in Schedules 4 and 5, means the classes of insurance business specified in Schedules 1 and 2 to the 1981 Act;

“the company”, in Schedules 4 and 5, means an insurance company and includes a body that seeks to become an insurance company after authorisation;

“direct business”, in paragraph (2) above and in Schedules 4 and 5, means insurance business that is not reinsurance;

“information”, in paragraph (1) above and in Schedules 4 and 5, includes proposal and financial forecast;

“non-UK Community company”, in paragraph (2) and in Schedules 4 and 5, means an insurance company whose head office is in a member State other than the United Kingdom.

*Authorisation: UK assets of external company*

**30.** For the purposes of section 9(1)(b) of the 1981 Act (which provides that the Secretary of State shall not issue an authorisation under section 3 of that

Act in respect of long term or general business to an applicant whose head office is not in a member State unless he is satisfied that the applicant has in the United Kingdom assets of such value as may be prescribed) there is hereby prescribed—

- (a) a value at least equal to the minimum guarantee fund appropriate to the United Kingdom margin of solvency required by section 26A(2)(b) of the 1974 Act, or
- (b) where in relation to an applicant seeking to carry on insurance business in the United Kingdom and one or more other member States the said section 9(1)(b) is (by virtue of section 9(2)(a) of the 1981 Act) to have effect as if the reference to the United Kingdom were a reference to the member States concerned taken together, a value at least equal to—
  - (i) the minimum guarantee fund appropriate to the Community margin of solvency required by section 26A(3)(b) of the 1974 Act, or
  - (ii) if the deposit is not made in the United Kingdom, half the minimum guarantee fund specified in paragraphs 1 to 8 of Schedule 3 as appropriate to the type of business to be carried on by the applicant.

*Particulars of proposed managing director, chief executive or principal UK executive*

**31.** A notice served on the Secretary of State pursuant to section 52(1)(a) of the 1974 Act shall contain—

- (a) where the person proposed to be appointed managing director, chief executive or principal United Kingdom executive is—
  - (i) an individual, the particulars in Form A in Schedule 6;
  - (ii) a body corporate, the particulars in Form C in Schedule 6; and
- (b) where a partnership is proposed to be appointed chief executive or principal United Kingdom executive—
  - (i) the particulars in Form A in Schedule 6 in respect of each partner who is an individual;
  - (ii) the particulars in Form C in Schedule 6 in respect of each partner which is a body corporate.

*Particulars of persons proposing to become controller*

**32.** A notice served on the Secretary of State pursuant to section 53(1)(a) of the 1974 Act shall contain, where the person proposing to become a controller (not being a person in respect of whom particulars have been supplied under regulation 31 above) is—

- (a) an individual, the particulars prescribed in Form B in Schedule 6;
- (b) a body corporate, the particulars prescribed in Form C in Schedule 6.

*Notification by person becoming or ceasing to be controller*

**33.** A person who notifies an insurance company of the fact that he has become or has ceased to be a controller of that company shall, pursuant to section 54(1) of the 1974 Act, at the same time notify the company in writing of the matters prescribed in Form D in Schedule 6.

*Notification by person becoming principal UK executive*

**34.** A person who becomes principal United Kingdom executive of an insurance company shall, pursuant to section 54(1) of the 1974 Act, notify the company in writing of the matters prescribed in Form D in Schedule 6.

*Notification by person becoming director or authorised UK representative*

35. A person who becomes a director of an insurance company or becomes its authorised United Kingdom representative shall, pursuant to section 54(1) of the 1974 Act, notify the company in writing—

- (a) where that person is an individual, of the matters prescribed in Form B in Schedule 6;
- (b) where that person is a body corporate, of the matters prescribed in Form C in Schedule 6.

*Notification by person becoming manager or employee within s.8(4)(c) of the 1981 Act*

36. A person who becomes a manager of an insurance company or becomes an employee of an insurance company within the meaning of section 8(4)(c) of the 1981 Act shall, pursuant to section 54(1) of the 1974 Act, notify the company in writing—

- (a) where that person is an individual, of the matters prescribed in Form B in Schedule 6;
- (b) where that person is a body corporate, of the matters prescribed in Form C in Schedule 6; and
- (c) where that person is a partnership—
  - (i) of the matters prescribed in Form B in Schedule 6 in respect of each partner who is an individual;
  - (ii) of the matters prescribed in Form C in Schedule 6 in respect of each partner which is a body corporate.

PART V  
VALUATION OF ASSETS

*Interpretation: Part V*

37.—(1) In this Part of these Regulations, unless the context otherwise requires—

“approved financial institution” means any of the following—

- (a) the Bank of England,
- (b) the National Savings Bank,
- (c) a trustee savings bank within the meaning of the Trustee Savings Banks Act 1976(a),
- (d) a recognised bank or a licensed deposit-taking institution within the meaning of the Banking Act 1979(b),
- (e) a person duly authorised by the Treasury to act for the purposes of the Exchange Control Act 1947(c) as an authorised dealer in relation to any foreign currency,
- (f) Finance for Industry Limited, the International Bank for Reconstruction and Development, the Inter-American Development Bank, the African Development Bank, the Asian Development Bank, the Caribbean Development Bank, the European Investment Bank, the Commission of the European Communities, and the European Coal and Steel Community,
- (g) the Post Office in the exercise of its powers to provide banking services, and

(a) 1976 c. 4.

(b) 1979 c. 37.

(c) 1947 c. 14.

(h) a building society;

“approved securities” means any of the following—

- (a) securities issued by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland, being securities registered in the United Kingdom, Treasury Bills, Tax Reserve Certificates or Certificates of Tax Deposit;
- (b) securities the repayment of the principal of which, or the payment of interest on which, is guaranteed by Her Majesty’s Government in the United Kingdom or the Government of Northern Ireland;
- (c) fixed interest securities issued in the United Kingdom by any public authority or nationalised industry or undertaking in the United Kingdom;
- (d) debentures issued by the Agricultural Mortgage Corporation Limited or the Scottish Agricultural Securities Corporation Limited;
- (e) loans to any authority to which this paragraph applies charged on all or any of the revenues of the authority or on a fund into which all or any of those revenues are payable, any fixed interest securities issued in the United Kingdom by any such authority for the purpose of borrowing money so charged, and deposits with any such authority by way of temporary loan made on the giving of a receipt for the loan by the treasurer or other similar officer of the authority and on the giving of an undertaking by the authority that, if requested to charge the loan as aforesaid, it will either comply with the request or repay the loan:

The authorities to which this paragraph applies are—

- (i) any local authority in the United Kingdom;
- (ii) any authority all the members of which are appointed or elected by one or more local authorities in the United Kingdom;
- (iii) any authority the majority of the members of which are appointed or elected by one or more local authorities in the United Kingdom, being an authority which by virtue of any enactment has power to issue a precept to a local authority in England and Wales, or a requisition to a local authority in Scotland, or to the expenses of which, by virtue of any enactment, a local authority in the United Kingdom is or can be required to contribute;
- (iv) the Receiver for the Metropolitan Police District or a combined police authority (within the meaning of the Police Act 1964(a));
- (v) any water authority established under the Water Act 1973(b) and any water authority as defined in section 148 of the Local Government (Scotland) Act 1973(c);
- (f) any loan to, or deposit with, an approved financial institution; and
- (g) any securities issued or guaranteed by, and any deposits of cash with, any government, public or local authority or nationalised industry or undertaking outside the United Kingdom;

“asset” includes part of an asset;

“associate” has the same meaning as in section 7(8) of the 1981 Act;

“building society” means a building society within the meaning of the Building Societies Act 1962(d) or the Building Societies Act (Northern Ireland) 1967(e);

(a) 1964 c. 48. (b) 1973 c. 37. (c) 1973 c. 65. (d) 1962 c. 37. (e) 1967 c. 31 (N.I.).



“company” includes any body corporate;

“computer equipment” means the electro-mechanical and electronic units which make up a computer configuration;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

“debenture option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any debenture at a specified price;

“debt” includes an obligation to pay a sum of money under a negotiable instrument;

“enactment” includes an enactment of the Parliament of Northern Ireland;

“equity share” means a share of equity share capital;

“equity share capital”, in relation to a company, means its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;

“fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;

“general business amount” has the meaning assigned to it in regulation 49(2) below;

“general business assets” and “general business liabilities” mean respectively assets and liabilities of an insurance company which are not long term business assets or long term business liabilities;

“general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;

“industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965(a) or the Industrial and Provident Societies Act (Northern Ireland) 1969(b);

“insurance liabilities” means, in relation to an insurance company, any debt due from or other liabilities of the company under any contract of insurance to which it is a party;

“intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurance company, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

“linked assets” means, in relation to an insurance company, long term business assets of the company which are, for the time being, identified in the records of the company as being assets by reference to the value of which property linked benefits are to be determined;

“listed” means, in relation to an investment—

(a) that there has been granted and not withdrawn a listing in respect of that investment on a stock exchange which is a recognised stock exchange within the meaning of the Companies Act 1948(c) or the Companies Act (Northern Ireland) 1960(d); or

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(a) 1965 c. 12.

(b) 1969 c. 24 (N.I.).

(c) 1948 c. 38.

(d) 1960 c. 22 (N.I.).

- (b) that there has been granted and not withdrawn such a listing on any stock exchange of repute outside the United Kingdom; or
- (c) that dealings in that investment are effected in a securities market of repute outside the United Kingdom being a market in which prices of all securities in which there are dealings are publicly listed and which are supervised by a public body;

and “unlisted” shall be construed accordingly;

“local authority” in relation to the United Kingdom means any of the following authorities—

- (a) in England and Wales, a local authority within the meaning of the Local Government Act 1972<sup>(a)</sup>, the Common Council of the City of London, the Greater London Council and the Council of the Isles of Scilly;
- (b) in Scotland, a local authority within the meaning of the Local Government (Scotland) Act 1973;
- (c) in Northern Ireland, any district council;

“long term business amount” has the meaning assigned to it in regulation 49(2) below;

“long term business assets” and “long term business liabilities” mean respectively assets of an insurance company which are, for the time being, identified as representing the long term fund or funds maintained by the company in respect of its long term business and liabilities of the company which are attributable to its long term business;

“middle market quotation” means—

- (a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from information which is published;

“price earnings ratio” means the Financial Times-Actuaries estimated price earnings ratio (net) relating to the Industrial Group;

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long-term insurance business, and
- (b) determined by reference to the value of property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means—

(a) a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—

(i) has knowledge of and experience in the valuation of that particular type of land in that particular area, or

(ii) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area, or

(b) a person who conforms with paragraph (a)(i) or (ii) above and immediately before 15th June 1981 was recognised as a qualified valuer by virtue of an approval by the Secretary of State under the Insurance Companies (Valuation of Assets) Regulations 1976(a) (and for these purposes an approval given under the Insurance Companies (Valuation of Assets) Regulations 1974(b) shall be deemed to have been given under the said Regulations of 1976);

“related company” means, in relation to an insurance company—

(a) a dependant of the insurance company, or

(b) a company of which the insurance company is a dependant, or

(c) a dependant of a company of which the insurance company is a dependant;

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“salvage right” means any right of an insurance company under a contract of insurance to take possession of and to dispose of property by virtue of the fact that the company has made a payment or has become liable to make a payment in respect of a loss thereof;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificates and Certificates of Tax Deposit;

“share” includes stock;

“share option” means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any share at a specified price;

“traded option” means a share or debenture option in respect of which permission to deal has been granted on the traded option market of a recognised stock exchange within the meaning of the Companies Act 1948 or the Companies Act (Northern Ireland) 1960 or a stock or options exchange of repute outside the United Kingdom;

“Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills.

(2) For the purposes of these Regulations, a company is a dependant of another company if—

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(a) S.I. 1976/87; the relevant amending instrument is S.I. 1981/725.

(b) S.I. 1974/2203, revoked by S.I. 1976/87.

- (a) that other company, either alone or with any associate or associates, is entitled to exercise, or control the exercise of one-third or more of the voting power at any general meeting of the first-mentioned company, or
- (b) the first-mentioned company is a dependant of any company which is that other company's dependant.

*Application: Part V*

**38.—**(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of insurance companies for the purposes of—

- (a) sections 24(6), 26, 26A, 26C, 26D, 30, 31 and 37 of the 1974 Act,
- (b) any investigation to which section 14 of the 1974 Act applies, and
- (c) any investigation made in pursuance of a requirement under section 34 of the 1974 Act.

(2) Where an insurance company has entered into any contracts providing for the payment of property linked benefits, this Part of these Regulations shall not apply with respect to the determination of the value of the linked assets by reference to the value of which those benefits are to be determined.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (6) below), an insurance company may, for the purposes of an investigation to which section 14 of the 1974 Act applies or an investigation made in pursuance of a requirement under section 34 of the 1974 Act, elect to assign to any of its assets the value given to the asset in question in the books or other records of the company.

(6) The conditions referred to in paragraph (5) above are—

- (a) that the election shall not enable the company to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
- (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 39 to 49 of these Regulations.

*Shares in and debts due or to become due from dependants*

**39.—**(1) The value of any share in a dependant of an insurance company shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 40 below, exceeds the amount of its liabilities as determined in the case of a dependant which is an insurance company, in accordance with the said regulation 40.

(3) The value of any debt due, or to become due, to an insurance company from a dependant (other than a debt to which regulation 41(2) or (3) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof) if the dependant were in liquidation and—

(a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 40 below, and

(b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with the said regulation 40.

(4) Any share in a dependant—

(a) in which there is no excess of assets over liabilities as is mentioned in paragraph (2) above, or

(b) in relation to which an insurance company cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of the said paragraph (2),

shall be left out of account for the purposes for which this Part of these Regulations applies.

(5) Where an insurance company is unable to determine the value of any debt due or to become due to the company from a dependant because it cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with paragraph (3) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

*Valuation of assets and liabilities of dependants for the purposes of regulation 39*

**40.—**(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 39 above.

(2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the 1974 Act applies—

(a) subject to paragraph (4) below and paragraph 3 of Schedule 7, the value of its assets shall be determined in accordance with this Part of these Regulations;

(b) subject to paragraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part VI of these Regulations;

(c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 units of account or 20 per cent of the general premium income;

- (d) where the dependant carries on long term business, its long term business liabilities shall from 15th March 1984 be deemed to include whichever is the greatest of the following three amounts—
- (i) an amount (“the first amount”) which is one-sixth of the margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 5 to 8 above;
  - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of sub-paragraph (e) below;
  - (iii) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 3, 200,000 units of account;
- (e) for the purposes of sub-paragraph (d)(ii) above the implicit figure is—
- (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 57 of the 1974 Act of the kind mentioned in regulation 10(4) above and the application of regulations 10(4), 11; 12 and 13 above, and
  - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 57 of the 1974 Act of the kind mentioned in regulation 10(4) above and by applying regulations 10(4), 11 and 12 above accordingly;
- (f) in any case where the dependant is required to establish a long term business fund or funds under section 23 of the 1974 Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
- (a) the value of its assets shall be determined in accordance with this Part of these Regulations, subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 7;
  - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and
  - (c) any equipment leased by the dependant exclusively to any person other than its subsidiary or holding company or a subsidiary of its holding company shall be valued as a debt for the purposes of this Part of these Regulations.
- (4) Where—
- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
  - (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
  - (c) the insurance company has no assets of the same description of the relevant class, or has assets of the same description of the relevant class

and their value is less than the permitted limit applicable to the insurance company in relation to those assets,  
then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in sub-paragraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 7.

(5) In this regulation and Schedule 7—

“assets of a relevant description” means assets of a description specified in Part I of Schedule 8 or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;

“the insurance company” means the company the value of whose shares in or debt due or to become due from the dependant is being determined in accordance with regulation 39 above;

“permitted limit” means, in relation to assets of a relevant description—

(a) in the case of the insurance company, or a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in accordance with regulation 49 below (as applied in the case of a dependant pursuant to paragraph (2) above); and

(b) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 8, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the insurance company or any other related company of the insurance company;

and references to assets held by any company being of the same description as assets held by a dependant mean—

(i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 8, any interest of that other company in that land,

(ii) in relation to assets of the dependant of a description specified in paragraph 2 of Schedule 8, any debt due or to become due to that other company which is secured on the land on which the debt due or to become due to the dependant is secured, and

(iii) in relation to assets of the dependant of a description specified in paragraphs 3 to 13 of Schedule 8, assets of that other company which, if held by the dependant, would be assets of that description.

(6) Save as otherwise provided in paragraph 3(5) of Schedule 7, references in this regulation and in Schedule 7 to assets of the insurance company being of a relevant class mean—

(a) where this regulation and Schedule 7 are being applied for the purpose of determining the value of a long term business asset of the insurance company, assets of the insurance company which are long term business assets, and

(b) in any other case, assets of the insurance company which are general business assets.

(7) Where the insurance company cannot reasonably ascertain in accordance with the provisions of this regulation—

- (a) the value of any asset of the dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of the dependant,

that asset shall be left out of account in determining the value of the assets of the dependant under this regulation.

#### *Debts and other rights*

**41.—**(1) The value of any debt due, or to become due, to an insurance company, other than a debt to which regulation 39(3) above, paragraph (2), (3) or (4) of this regulation or regulation 46 or 48 below applies, shall be—

- (a) in the case of any such debt which is due, or will become due, within twelve months of the relevant date (including any debt which would become due within that period if the company were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of any security being held in respect thereof); and
- (b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt together with the benefit of any security held in respect thereof.

(2) The value of any debt due, or to become due, to the company which is secured on a policy of insurance issued by the company and which (together with any other debt secured on that policy) does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.

(3) Any debt due, or to become due, to the company from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date shall be left out of account for the purposes for which this Part of these Regulations applies.

(4) The value of any debt due to, or other rights of, the company under any contract of reinsurance to which the company is a party (other than a debt to which regulation 39(3) above applies) shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.

(5) The value of any salvage right of the company shall be the amount which can reasonably be expected to be recovered by virtue of the exercise of that right.

#### *Land*

**42.** The value of any land of an insurance company (other than land held by the company as security for a debt or to which regulation 47 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the company and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

#### *Equipment*

**43.—**(1) The value of any computer equipment of an insurance company—

- (a) in the financial year of the company in which it is purchased, shall be not greater than three-quarters of the cost thereof to the company;
- (b) in the first financial year thereafter, shall be not greater than one-half of that cost;



(c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and

(d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of an insurance company, shall be, in the financial year of the company in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

*Unlisted securities*

44.—(1) This regulation does not apply to the valuation of shares in a dependant of an insurance company.

(2) The value of any unlisted security which is dealt in on a recognised stock exchange within the meaning of the Companies Act 1948 or the Companies Act (Northern Ireland) 1960 or on a stock exchange of repute outside the United Kingdom shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall be not greater than—

(a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount attributable to that share of the average amount of the profits of the company for the last three financial years; and

(b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be determined as follows—

(a) there shall be ascertained the aggregate amount of the profits of the company in each of the specified years;

(b) there shall be deducted therefrom—

(i) any loss made by the company in any of the specified years in which there were no profits, and

(ii) any profits brought forward into any of the specified years from any previous year (whether being a specified year or not); and

(c) the amount ascertained in accordance with sub-paragraphs (a) and (b) above shall be divided by the number of years specified.

(5) In this regulation, the proportionate amount attributable to any share of the average amount or the amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

- (a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and
- (b) in the case of a company which has been carrying on business for less than four but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.

(7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—

- (a) no amount is attributable thereto in accordance with paragraph (3) above;
- (b) the company in which the share is held has been carrying on business for less than one financial year; or
- (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above.

(8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

#### *Unit trusts*

**45.** The value of any holding of units, or other beneficial interest, under a unit trust scheme authorised for the purposes of the Prevention of Fraud (Investments) Act 1958(a) or the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(b) shall be the price at which the managers under the unit trust scheme would purchase the holding of units or other beneficial interest if required to do so.

#### *Listed investments*

**46.—**(1) The value of any listed debenture which is not a debenture issued by a dependant of the insurance company, and of any listed share which is not a share in such a dependant nor a share in any body specified in regulation 48(2)(a) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of—

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(a) 1958 c. 45.

(b) 1940 c. 9 (N.I.).

- (i) the middle market quotation on the day before the day the suspension came into force, and
- (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

*Life interests, reversionary interests etc.*

47. The value of any asset consisting of an interest in property which—
- (a) is determinable upon the death of any person or upon the happening of some other future event or at some future time or is a remainder, reversionary interest, right of fee subject to a life interest or other future interest, whether vested or contingent, and
  - (b) is not a lease or reversionary interest expectant upon the determination of a lease,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

*Other assets*

- 48.—(1) The value of any approved securities shall be—
- (a) in the case of listed securities, the middle market quotation;
  - (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
  - (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.
- (2) The value of—
- (a) shares in any building society or industrial and provident society, and
  - (b) share options and debenture options, not being traded options,

shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

- (3) The value of traded options shall be the middle market quotation.

*Assets to be taken into account only to a specified extent*

49.—(1) Assets of an insurance company of any of the descriptions specified in Schedule 8 shall be taken into account only to the extent that the value of those assets does not exceed—

- (a) for a company carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 8, an amount equal to the percentage of the general business amount specified in Schedule 8 for assets of that description;
- (b) for a company carrying on only long term business, for all assets of a description specified in Part I of Schedule 8, an amount equal to the percentage of the long term business amount specified in Schedule 8 for assets of that description;

- (c) for a company carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 8, an amount equal to the percentage of the long term business amount specified in Schedule 8 for assets of that description;
- (d) for a company carrying on general business, whether or not also carrying on long term business, in the case of general business assets of the description specified in Part II of Schedule 8, an amount equal to the percentage specified in Schedule 8 of the net premium income of the company in respect of general business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date;
- (e) for a company carrying on only long term business, for all assets of the description specified in Part II of Schedule 8, an amount equal to the percentage so specified of the net premium income of the company in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date; and
- (f) for a company carrying on general business and long term business, in the case of long term business assets of the description specified in Part II of Schedule 8, an amount equal to the percentage so specified of the net premium income of the company in respect of long term business (other than premium income in respect of treaty reinsurance accepted) for the twelve months preceding the relevant date.

(2) In this regulation—

“general business amount” means the aggregate of the company’s general business liabilities and in the case of a company which carries on general business an amount equal to whichever is the greater of 400,000 units of account or 20 per cent of the general premium income less the amount of the deduction specified in paragraph (3) below;

“long term business amount” means the aggregate of the company’s long term business liabilities and (from 15th March 1984) whichever is the greater of—

- (a) one-sixth of the margin of solvency which the company—
  - (i) if its head office is in the United Kingdom, is required to maintain, or
  - (ii) if its head office is elsewhere, would be required to maintain if its head office were in the United Kingdom, and
- (b) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 3, 200,000 units of account,

less the amount of the deduction specified in paragraph (3) below;

“the net premium income” of a company for any specified period means the gross amounts first recorded in the company’s books during that period as paid or due to the company by way of premiums, less any rebates, refunds and commission so recorded during that period as allowed or paid on those gross amounts or on any such gross amounts so recorded in any previous period.

(3) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (2) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the company to related companies, other than insurance liabilities, and
  - (b) the value of the debts due or to become due to and other rights of the company under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the company) which are general business or, as the case may be, long term business assets of the company, and
  - (c) in the case of the long term business amount, the amount of any liabilities of the company in respect of property linked benefits.
- (4) Where—
- (a) an asset (or a group of assets) of a company carrying on only long term business is attributed by the company partly to its long term business assets and partly to its other assets, and
  - (b) by virtue of paragraph (1)(b) above there is a reduction in the extent to which that asset or group of assets is to be taken into account,
- the reduction shall be in the same proportion as the attribution.
- (5) For the purposes of this regulation, the amount of the liabilities of an insurance company shall be determined in accordance with Part VI of these Regulations.
- (6) This regulation shall not apply to any approved securities or to any interest accrued thereon.

## PART VI

### DETERMINATION OF LIABILITIES

#### *Interpretation: Part VI*

**50.** In this Part of these Regulations—

“long term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long term business;

“the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

#### *Application: Part VI*

**51.** This Part of these Regulations applies with respect to the determination of the amount of liabilities of insurance companies for the purposes of—

- (a) sections 24(6), 26, 26A, 26C, 26D, 30, 31 and 37 of the 1974 Act,
- (b) section 22 of the 1981 Act,
- (c) any investigation to which section 14 of the 1974 Act applies, and
- (d) any investigation made in pursuance of a requirement under section 34 of the 1974 Act.

#### *Long term and general business*

**52.—**(1) Subject to this Part of these Regulations, the amount of liabilities of an insurance company in respect of long term and general business shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance companies.

(2) In determining under paragraph (1) above the amount of liabilities of an insurance company, all contingent and prospective liabilities shall be taken into account but not liabilities in respect of share capital.

*Relevant co-insurance operations: general business*

53.—(1) Where a relevant company determines the amount of a liability in order to make provision for outstanding claims arising under a relevant co-insurance operation, then, if the leading insurer has informed the company of the amount of the provision made by the leading insurer for such claims, the amount determined by the company—

- (a) shall be at least as great as the amount of the provision made by the leading insurer, or
- (b) in a case where it is not the practice in the United Kingdom to make such provision separately, shall be sufficient, when all liabilities are taken into account, to include provision at least as great as that made by the leading insurer for such claims,

due regard being had in either case to the proportion of the risk covered by the company and by the leading insurer respectively.

(2) In paragraph (1) above—

“leading insurer”, in relation to a relevant co-insurance operation, means an insurer who—

- (a) is recognised as the leading insurer by the other insurers involved in the operation, and
- (b) determines the terms and conditions of insurance for the operation;

“relevant co-insurance operation” has the meaning given by Schedule 9;

“relevant company”, in relation to a relevant co-insurance operation, means an insurer carrying on insurance business in the United Kingdom who is concerned in the operation but is not the leading insurer or a member of Lloyd’s.

*Long term liabilities*

54. The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles and shall make proper provision for all liabilities on prudent assumptions in regard to the relevant factors; and that amount shall in the aggregate not in any case be less than the amount calculated in accordance with regulations 55 to 64 below (which shall apply only to long term liabilities).

*Nature and term of assets*

55. The determination of the amount of long term liabilities shall take into account the nature and term of the assets representing the long term fund and the value placed upon them and shall include appropriate provision against the effects of possible future changes in the value of the assets on their adequacy to meet the liabilities.

*Avoidance of future valuation strain*

56. The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from

resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

*Valuation of future premiums*

**57.—**(1) Where further specified premiums are payable by the policy holder under a contract (not being a linked long term contract) under which benefits (other than benefits arising from a distribution of profits) are determined from the outset in relation to the total premiums payable thereunder, then, subject to regulation 58 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such level premiums as, if payable for the same period as the actual premiums under the contract and calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;
- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such premiums as would be determined on the principles set out in sub-paragraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policy holder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policy holder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1) above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

(3) Where under a contract (not being a linked long term contract)—

- (a) each premium paid increases the benefits (other than benefits arising from a distribution of profits) provided under the contract, or
- (b) the amount of a premium payable in future is not determinable until it comes to be paid,

future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the company resulting from the payment of future premiums might exceed the amount of the premiums.

*Acquisition expenses*

**58.—**(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 57 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3·5 per cent (or the defined percentage, if it is lower than 3·5 per cent) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs for which, after allowing for the effects of taxation, allowance is made in the premiums.

(3) The increase permitted by paragraph (1) above shall be subject to the limitation that the amount of a future premium valued shall not in any event be greater than the amount of the premium actually payable by the policy holder.

(4) For the purposes of this regulation—

(a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 12(4) above, and

(b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

#### *Rates of interest*

59.—(1) In determining the rates of interest to be used in calculating the present value of future payments by or to an insurance company, regard shall be had to the yields on the existing assets attributed to the long term business and, to the extent appropriate, to the yield which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (6) below, reduced by 7.5 per cent of that yield.

(3) For the purpose of calculating the yield on an asset—

(a) the asset shall be valued in accordance with Part V of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 14 of the 1974 Act applies or any investigation made in pursuance of a requirement under section 34 of the 1974 Act, and

(b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 49 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 37(1) above) the yield on an asset, subject to paragraph (6) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 37(1) above) the yield on an asset, subject to paragraph (6) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of twelve months following the valuation date on the assumption that the asset will be held throughout that period and that the factors which affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—



- (a) any known changes in the rental income from property or in dividends on equity shares,
  - (b) any forecast changes in dividends which have been publicly announced by the valuation date,
  - (c) the effect of any alterations in capital structure, and
  - (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.
- (6) In calculating the yield on an asset under this regulation—
- (a) if the asset does not consist of equity shares or land—
    - (i) an adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due, and
    - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
  - (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the total yield from those assets, taken together, that is needed to compensate for the risk that the aggregate income from those assets taking one year with another might not be maintained, so however that the yield assumed on an asset shall not be greater than that on British Government 2½ per cent Consolidated Stock on the valuation date.
- (7) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield assumed on any investment to be made more than three years after the valuation date shall not exceed 7.2 per cent per annum before any adjustment to take account of the effect of taxation.
- (8) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—
- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part V of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 14 of the 1974 Act applies or any investigation made in pursuance of a requirement under section 34 of the 1974 Act, and
  - (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 37(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.
- (9) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts and in such cases the limit under paragraph (8) above shall be applied on the basis of the overall yield on the assets apportioned to the contracts in question.

*Rates of mortality and disability*

**60.** The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of appropriate rates of mortality and disability that take into account—

- (a) relevant published tables of rates of mortality and disability, and
- (b) the rates of mortality and disability experienced in connection with any similar contracts issued by the company in the past.

*Expenses*

**61.—**(1) Provision shall be made for meeting the expenses likely to be incurred in future in fulfilling the existing contracts, taking account of the effect of taxation as appropriate, but credit may be taken to the extent appropriate for the fractions of future premiums left out of account pursuant to regulation 57(1) above.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the company's actual expenses in the last twelve months before the valuation date and the contingency that the company may cease to transact new business.

*Options*

**62.—**(1) Provision shall be made to cover any increase in liabilities caused by policy holders exercising options under their contracts.

(2) Where a contract includes an option whereby the policy holder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

*Contracts not to be treated as assets*

**63.** No contract for long term business shall be treated as an asset.

*No credit for profits from voluntary discontinuance*

**64.** Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

## PART VII

## ADVERTISEMENTS, INTERMEDIARIES, NOTICES OF LONG TERM POLICIES, LINKED CONTRACTS AND REVOCATIONS

*Contents of advertisements*

**65.—**(1) This regulation applies to any insurance advertisement which—

- (a) invites any person to enter into or to offer to enter into, or which contains information calculated to lead directly or indirectly to any person entering into or offering to enter into, any contract of insurance (other than a contract of reinsurance) with an insurer named in the advertisement the effecting of which by him would constitute the carrying on by him of ordinary long-term insurance business, and
- (b) is issued at a time when the insurer named in the advertisement is not authorised to carry on that kind of business in the United Kingdom by or under section 3 or 4 of the 1981 Act,

but does not apply to any insurance advertisement if the insurer named in the advertisement is permitted to carry on ordinary long-term insurance business in the United Kingdom otherwise than by virtue of an authorisation to do so by or under the said section 3 or 4.

(2) An insurance advertisement to which this regulation applies shall include the words “An insurance company which does not and is not authorised to carry on in any part of the United Kingdom business of the class to which this advertisement relates” and those words shall appear prominently—

- (a) immediately after or alongside the statement of the name of the insurer, or
- (b) if the name of the insurer is stated more than once in the advertisement, immediately after or alongside the most prominent of the statements of that name and for this purpose if two or more statements of the name are equally prominent that which appears first in the advertisement shall be treated as the most prominent.

(3) An insurance advertisement to which this regulation applies shall, if it states the name of any United Kingdom agent of the insurer named in the advertisement and that United Kingdom agent is not independent of the named insurer, contain a statement naming the insurer and stating that the United Kingdom agent is a person who is not independent of the insurer and that statement shall appear prominently—

- (a) immediately after or alongside the statement of the name of the United Kingdom agent, or
- (b) if the name of the United Kingdom agent is stated more than once in the advertisement, immediately after or alongside the most prominent of the statements of that name and for this purpose if two or more statements of the name are equally prominent that which appears first in the advertisement shall be treated as the most prominent.

(4) For the purposes of paragraph (3) above—

- (a) a person shall be deemed to be a United Kingdom agent of an insurer if he is a person who carries on any business in the United Kingdom in the course of which he performs functions for or on behalf of the insurer;
- (b) a United Kingdom agent of an insurer shall be regarded as not independent of that insurer at a particular time if at that time—
  - (i) the United Kingdom agent or any partner, director, controller or manager of the United Kingdom agent is a partner, director, controller or manager of the insurer,
  - (ii) the insurer or any partner, director, controller or manager of the insurer is a partner, director, controller or manager of the United Kingdom agent,
  - (iii) the United Kingdom agent is a body corporate and the insurer has any interest in any shares or debentures of the United Kingdom agent, or
  - (iv) the insurer is a body corporate and the United Kingdom agent has any interest in any of the shares or debentures of the insurer,

and for this purpose a person shall be deemed to be interested in shares or debentures of a body corporate if he is interested in them according to the rules set out in section 28 of the Companies Act 1967<sup>(a)</sup> with the addition, in subsection (9) of that section, of a reference to a scheme

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(a) 1967 c. 81.

made under section 20 of the Charities Act (Northern Ireland) 1964<sup>(a)</sup> and to an authorised unit trust scheme within the meaning of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940<sup>(b)</sup>.

*Contents of advertisements: statement of capital*

66. Any insurance advertisement which contains the name of an insurance company to which Part II of the 1974 Act applies, being a company incorporated with a share capital, and which states the amount of the authorised capital of the company shall also state the amount of that capital which has been subscribed and the amount thereof which has been paid up at the time the advertisement is issued.

*Intermediaries: connected persons*

67.—(1) For the purposes of regulation 68 below a person is connected with an insurance company if—

- (a) that person, or any partner, director, controller or manager of that person, is a partner, director, controller or manager of the insurance company or of any controller thereof;
- (b) the insurance company, or any partner, director, controller or manager of the insurance company, is a partner, director, controller or manager of that person or of any controller thereof;
- (c) that person or any controller thereof has a significant interest in shares of the insurance company or of any controller thereof;
- (d) the insurance company or any controller thereof has a significant interest in shares of that person or of any controller thereof;
- (e) that person, under any contract, not being a contract of employment, or under any other arrangement (whether legally enforceable or not) with the insurance company or with any associated company, undertakes not to perform any services relating to any class of insurance business (or any category thereof) for any insurance company other than the insurance company and, where the undertaking also relates to any associated company, the associated company:

Provided that an individual who gives an undertaking of the kind referred to above to any registered society shall not, by virtue of such undertaking, be a person connected with the society or with any company which is, within the meaning of section 150 of the Companies Act 1948<sup>(c)</sup> or section 144 of the Companies Act (Northern Ireland) 1960<sup>(d)</sup>, a wholly owned subsidiary of the society.

(2) For the purposes of paragraph (1)(c) and (d) above, a person shall be treated as having an interest in shares of a company if, by virtue of section 28 (other than subsection (3)(b)) of the Companies Act 1967, he would be so treated for the purposes of section 27 of that Act; and the interest shall be treated as significant if it is such that notification of it would be required under section 33 of that Act.

(3) A person who issues an invitation of the kind mentioned in regulation 68(1) below in respect of a contract of insurance which will be underwritten at Lloyd's shall, in respect of that contract of insurance, be connected with the insurance company to which that contract relates if that person or any partner, director, controller or manager of that person will take a share in the contract as a member of Lloyd's.

(a) 1964 c. 33 (N.I.).

(b) 1940 c. 9 (N.I.).

(c) 1948 c. 38.

(d) 1960 c. 22 (N.I.).

(4) In this regulation—

“associated company”, in relation to a body corporate, means a subsidiary or holding company or subsidiary of the holding company of that body;

“controller”, in relation to a body corporate which is not an insurance company, means a person who is or would be, if he were a company, a holding company of that body;

“manager”, in relation to a body corporate which is not an insurance company, means a person who directly or indirectly takes part in or is concerned in the management of the affairs of that body.

*Invitation by connected person*

68.—(1) Subject to regulation 69 below, any person who invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company shall, if he is connected with that company at the time the invitation is issued, provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating the circumstances of his connection with that company.

(2) Subject to regulation 69 below, any person who, in the course of carrying on any business or profession invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company which is not an authorised insurer shall provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating that the insurance company to which the invitation relates is not an authorised insurer in respect of the contract in question.

(3) An intermediary shall provide the information required under paragraph (1) or (2) above in the following manner—

(a) where the invitation is issued in writing and is sent or delivered, by sending or (as the case may be) by delivering with the invitation a written statement containing that information;

(b) where the invitation is issued orally, by supplying that person with the information orally, and—

(i) if the person is present when the invitation is issued, by delivering to him immediately thereafter a written statement containing that information; or

(ii) if the person is not so present, by sending by post or causing to be delivered to him as soon as reasonably practicable, at the address supplied by him for the purpose or at his last known address, a written statement containing that information.

(4) The requirement of the written statement referred to in paragraph (3) above shall be deemed to have been complied with where the invitation issued by the intermediary under paragraph (1) above is issued on stationery having printed upon it, in prominent positions, on the side on which the invitation is contained, the name of the intermediary, the name of the insurance company and a clear statement of the relationship between them and which contains in the body of the invitation a clear indication of the name of the insurance company to which the invitation relates, expressed in the same style as in the printed statement:

Provided that where the intermediary is a Lloyd's broker or a member of Lloyd's and it is clearly indicated in the invitation that the contract will be underwritten at Lloyd's there may be inserted, in place of the statement of relationship referred to above, the expression "Lloyd's Brokers" or (as the case may be) "Mr. \_\_\_\_\_ is a member of Lloyd's" without a reference to the name of the underwriters concerned.

(5) In this regulation—

"contract of insurance" does not include a contract of reinsurance or a contract of insurance the effecting and carrying out of which constitutes the carrying on of industrial assurance business or insurance business of groups 3 and 4 as specified in Part II of Schedule 2 to the 1981 Act;

"intermediary" means a person to whom the requirements of paragraph (1) or (2) above apply in respect of an invitation issued by him.

*Cases excepted from regulation 68*

69.—(1) Regulation 68 above shall not apply to—

- (a) an invitation for the renewal or amendment of the terms of any contract of insurance effected before 11th October 1976;
- (b) an invitation for the renewal or amendment of the terms of a contract of insurance effected as a result of an invitation issued by an intermediary in accordance with regulation 68 above where there has been no significant change in the circumstances relevant to the information provided when the contract was first effected;
- (c) an amendment of an invitation issued by an intermediary in accordance with regulation 68 above where there has been no significant change in the circumstances relevant to the information provided when the invitation was first issued;
- (d) an invitation for the effecting of a contract of insurance in respect of general business where—
  - (i) the contract relates to business of group 2 or 5 as specified in Part II of Schedule 2 to the 1981 Act and the initial premium to be paid in respect of that contract exceeds £5,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into other contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £5,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation in question is made; or
  - (ii) the contract relates to any other class of insurance business and the initial premium to be paid exceeds £1,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £1,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation is made;
- (e) an invitation for the effecting of a contract of insurance with such persons as are mentioned in section 2(2)(b) or (c) of the 1981 Act.

(2) Regulation 68(1) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company, or the share in the aggregate to be taken by two or more companies, with which the intermediary is connected, does not exceed one-quarter of the total.

(3) Regulation 68(2) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company which is not an authorised insurer, or the share in the aggregate to be taken by two or more companies which are not authorised insurers, does not exceed one-quarter of the total.

(4) In this regulation “contract of insurance” and “intermediary” have the same meaning as in regulation 68 above.

*Notice of long-term contract*

70.—(1) Subject to the following provisions of this regulation—

- (a) a statutory notice in relation to an ordinary long-term contract which is not a linked long-term contract shall have the contents and be in the form set out in Schedule 10;
- (b) a statutory notice in relation to an ordinary long-term contract which is a linked long-term contract shall have the contents and be in the form set out in Schedule 11;
- (c) the notice of cancellation annexed to a statutory notice shall be a tear-off slip and shall have the contents and be in the form set out in Schedule 12.

(2) A statutory notice shall be printed on a single sheet of paper, and—

- (a) if the notice is so printed that its text is continued on the back of the paper, the symbol and word “/over” shall be printed below that part of the text which appears on the front of the paper; and
- (b) if the notice is so printed that its text appears entirely on one side of the paper, the notice of cancellation annexed thereto shall be so printed that not more than the last two lines of the text of that notice appears on the other side of the paper.

(3) The lettering of statutory notices and notices of cancellation shall be easily legible and of a colour which is readily distinguishable from the colour of the paper; and capital letters and figures shall be used in all the places in which they are shown in the form as set out in each Schedule.

(4) Except as provided in paragraph (5) below, no capital letter or figure in a statutory notice or a notice of cancellation shall be less than 2 millimetres high with lower case letters in proportion.

(5) The provisions of paragraph (4) above shall not apply to the lettering of the following items in a statutory notice which shall be smaller than all other lettering—

- (a) the statement in brackets appearing beneath the words “STATUTORY NOTICE RELATING TO LONG-TERM INSURANCE CONTRACT”, and
- (b) the two foot-notes.

(6) In statutory notices the lettering of the words “IMPORTANT—YOU SHOULD READ THIS CAREFULLY” shall be set out in larger printing than all other lettering and in bolder printing than all other lettering except that of main headings and subheadings.

(7) In statutory notices and notices of cancellation the lettering of all main headings and sub-headings shall be set out in bolder printing than all other lettering except (in the case of a statutory notice) that of the words “IMPOR- TANT – YOU SHOULD READ THIS CAREFULLY”.

(8) In statutory notices and notices of cancellation there shall be substituted for words contained within square brackets in the appropriate Schedule and for the square brackets containing them the information or wording which, as indicated by those words, should be inserted there.

(9) Statutory notices and notices of cancellation shall be printed in roman or upright sanserif lettering, but the information or wording referred to in para- graph (8) above may be inserted in manuscript or otherwise after a notice has been printed.

(10) For the purposes of this regulation and Schedules 10, 11 and 12—

“notice of cancellation” means a notice of the kind mentioned in section 65(2)(b) of the 1974 Act;

“ordinary long-term contract” means (subject to regulation 71(b) below) a contract for ordinary long-term insurance business;

“statutory notice” means a notice of the kind mentioned in section 65(2) of the 1974 Act;

and in paragraphs 4 and 5 of the form set out in Schedule 10 and in paragraphs 5 and 6 of the form set out in Schedule 11, the reference to a name shall be deemed to include a reference to the description or title of the person concerned.

*Exemptions from regulation 70*

71. Regulation 70 above shall not apply to—

- (a) contracts which, by virtue of section 4(2) of the Policyholders Protec- tion Act 1975(a), would not be regarded as United Kingdom contracts for the purposes of that Act;
- (b) contracts for long term business of class IV in Schedule 1 to the 1981 Act;
- (c) contracts for which the proposer is not an individual;
- (d) contracts which form part of a retirement benefits scheme approved by the Board of Inland Revenue under section 19 or 20 of the Finance Act 1970(b) as amended by section 21 of the Finance Act 1971(c);
- (e) contracts approved by the Board of Inland Revenue of the kind described in sections 226(13) and 226A(1) of the Income and Corpora- tion Taxes Act 1970(d) as amended by Schedule 2 to the Finance Act 1971;
- (f) contracts for which the proposer or, if there is more than one proposer, at least one of the proposers is neither a person on whose life the contract is made nor the spouse of such a person;
- (g) contracts of term assurance, other than convertible term assurance, effected for periods of seven years or less;
- (h) contracts into which the proposer is required to enter in order to obtain credit under a personal credit agreement of the kind mentioned in section 8(1) of the Consumer Credit Act 1974(e);
- (i) contracts under which the benefits payable are secured by payment of a single premium.

(a) 1975 c. 75.

(b) 1970 c. 24.

(c) 1971 c. 68.

(d) 1970 c. 10.

(e) 1974 c. 39.



*Linked contracts*

72.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than—

- (a) property of any of the descriptions specified in Part I of Schedule 13, or
- (b) property which was property of any of the descriptions specified in paragraphs 1 to 7 of Part I of Schedule 13 when it first became a property by reference to which benefits under that contract, or under any contract of a similar description to that contract, were to be determined, and which ceased to conform with that description not more than fifteen months previously.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 13.

(3) This regulation applies to ordinary long-term contracts which—

- (a) are entered into by insurance companies to which Part II of the 1974 Act applies or by members of Lloyd's or have been entered into by any such insurance company or other person at any time before 1st July 1975 and are still in force;
- (b) are contracts under which the benefits payable to the policy holder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified); and
- (c) are not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.

(4) The contracts referred to in paragraph 3(c) above to which this regulation does not apply are—

- (a) contracts entered into before 2nd June 1975 providing for benefits which would, if they had become due for payment on that date, have been wholly or partly determined either—
  - (i) by reference to the value of, or the income from or fluctuations in the value of, property of any description other than a description specified in Part I of Schedule 13, or
  - (ii) by reference to fluctuations in an index of the value of property other than an index specified in Part II of Schedule 13;
- (b) contracts entered into after 2nd June 1975 but before 1st September 1976, which are contracts of a similar description to any contract falling within sub-paragraph (a) above;
- (c) contracts with any policy holder who is a person not ordinarily resident in the United Kingdom;
- (d) contracts the effecting of which by the insurer constitutes the carrying on of industrial assurance business;
- (e) contracts entered into by an insurance company to which Part II of the 1974 Act applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 25(4) of the 1974 Act;

- (f) contracts under or relating to a retirement benefits scheme (whether evidenced by deed, agreement or series of agreements or other arrangement) not being a scheme whereby—
- (i) the benefit is assured by means of one or more contracts;
  - (ii) each contract provides in respect of each member of the scheme separate assurance, the proceeds of which are to go to that member at least to the extent that they are not greater than the benefits to which he is entitled at normal pension age;
  - (iii) the premium payable under each contract in respect of each member is payable at least annually; and
  - (iv) the amount of the premium (expressed as an annual rate) remains unchanged except in consequence of the declaration of a bonus or a change in the premium rate of the insurer.

(5) In this regulation—

“ordinary long-term contract” means a contract for ordinary long-term insurance business;

“retirement benefits scheme” means a scheme for the provision to a member of the scheme or to his wife or widow, children, dependants or personal representatives of any pension, annuity, lump sum, gratuity or other like benefit given or to be given on retirement or on death, or in anticipation of retirement, or, in connection with past service, after retirement or death, except that it does not include any benefit which is to be afforded solely by reason of the disablement by accident of a member occurring during his service or of his death by accident so occurring and for no other reason.

(6) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—

- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract; and
- (b) the insurance company or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.

*Revocations*

73. The regulations mentioned in Schedule 14 are hereby revoked.

19th November 1981.

*Reginald Eyre,*  
Parliamentary Under-Secretary of State,  
Department of Trade.

## Regulation 4

## SCHEDULE 1

## GENERAL BUSINESS SOLVENCY MARGIN: FIRST METHOD OF CALCULATION (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;

“recoverable”, 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 per cent and 16 per cent of the two portions respectively; and where there has been no such division, there shall be calculated 18 per cent 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 per cent” for “18 per cent” and “ $5\frac{1}{3}$  per cent” for “16 per cent”, 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 sub-paragraph (2) below, and

(b) the expenses described in sub-paragraph (3) below,

less any recoverable amounts within the meaning of sub-paragraph (4) below.

(2) The claims mentioned in sub-paragraph (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 sub-paragraph (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 sub-paragraph (1) above.

(4) Recoverable amounts for the purposes of sub-paragraph (1) above are amounts recoverable by the company in respect of the claims mentioned in that sub-paragraph 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 sub-paragraph (2) below, and

(b) the expenses described in sub-paragraph (3) below,

less any recoverable amounts within the meaning of sub-paragraph (4) below.

(2) The claims mentioned in sub-paragraph (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 sub-paragraph (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 sub-paragraph (1) above.

(4) Recoverable amounts for the purposes of sub-paragraph (1) above are amounts estimated by the company to be recoverable by it in respect of the claims mentioned in that sub-paragraph, 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 above 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 per cent but not greater than 100 per cent, by the percentage so arrived at,
- (b) where the percentage so arrived at is greater than 100 per cent, by 100 per cent, and
- (c) in any other case, by 50 per cent.

## SCHEDULE 2

## Regulation 4

## GENERAL BUSINESS SOLVENCY MARGIN: SECOND METHOD OF CALCULATION (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 1) in that period were in respect of all or any of the following, namely, storm (as included in general business class 8), hail (as included in general business class 9) and frost (as included in general business 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 1 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 1 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 per cent and 23 per cent of the two portions respectively; and where there has been no such division, there shall be calculated 26 per cent 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 " $8\frac{2}{3}$  per cent" for "26 per cent" and " $7\frac{2}{3}$  per cent" for "23 per cent", 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 1.

9. In a case of the kind mentioned in paragraph 9 of Schedule 1, 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 1.

## Regulation 9(2)

## SCHEDULE 3

## MINIMUM GUARANTEE FUND

*Long term business*

1. Subject to paragraphs 2 to 5 and paragraph 9 below, the minimum guarantee fund for long term business shall be—

- (a) in the case of a pure reinsurer which—
  - (i) is the wholly-owned subsidiary of an insurance company carrying on long term business, and
  - (ii) carries on only such reinsurance business as is ceded to it by that company, 200,000 units of account,
- (b) in the case of a mutual, 600,000 units of account, and
- (c) in any other case, 800,000 units of account.

2. A mutual, if—

- (a) its articles of association (or their equivalent) contain provision for calling up additional contributions or reducing benefits or claiming assistance from other persons who have undertaken to provide it, and
- (b) for three consecutive financial years its annual contribution income from long term business does not exceed 500,000 units of account,

shall, subject to paragraphs 3 to 5 below, be exempt from the requirement to maintain a minimum guarantee fund.

3. Where a mutual has been exempt under paragraph 2 above and its annual contribution income subsequently exceeds 500,000 units of account for three consecutive financial years, then, subject to paragraphs 4 and 5 below, it shall maintain a minimum guarantee fund consisting of the amount in column 2 of the table below that corresponds to its contribution income in the last preceding financial year as shown in column 1 of the table.

CONTRIBUTION INCOME (in units of account)	MINIMUM GUARANTEE FUND (in units of account)
500,001 – 1,000,000	100,000
1,000,001 – 1,500,000	200,000
1,500,001 – 2,000,000	300,000
2,000,001 – 2,500,000	400,000
2,500,001 – 3,000,000	500,000
3,000,001 – 3,500,000	600,000

4. Where a mutual to which paragraph 3 above applies has under that paragraph reached the full minimum guarantee fund of 600,000 units of account, the mutual shall thereafter maintain that minimum guarantee fund notwithstanding any later fall in its annual contribution income.

5. Where a mutual to which paragraph 3 above applies seeks to be authorised under section 3 of the 1981 Act to carry on long term business of a kind additional to that which it is already authorised to carry on, it shall, if it obtains authorisation for the additional business, maintain the full minimum guarantee fund of 600,000 units of account for the whole of its business (that is to say, not only for the additional business carried on but also for the business previously carried on).

*General business*

6. Subject to paragraphs 7, 8 and 9 below, the minimum guarantee fund for general business shall be the amount shown in the table below as applicable to the general business class for which the relevant company is authorised (or the highest such amount if the company is authorised for more than one class).

GENERAL BUSINESS CLASS	AMOUNT
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

7. A company authorised for part of a class shall, for the purposes of paragraph 6 above, be regarded as authorised for the whole of the class.

8. In the case of a mutual, the minimum guarantee fund required by paragraphs 6 and 7 above shall be reduced by 25 per cent.

*Long term and general business*

9. In relation to a United Kingdom or Community margin of solvency maintained under section 26A(2)(b) or (3)(b) of the 1974 Act, the minimum guarantee fund for long term business or general business shall be one-half of the amount arrived at by applying the foregoing provisions of this Schedule.



## Regulation 29

## SCHEDULE 4

## INFORMATION TO BE SUBMITTED: LONG TERM BUSINESS

## NOTES:

\*This information is not required from applicants already authorised to carry on insurance business in the United Kingdom.

†This information is required only in respect of the classes of insurance business for which new authorisation is being sought.

## PART I

## UNITED KINGDOM COMPANIES (DIRECT BUSINESS AND REINSURANCE)

*The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* Brief summary of the objects of the company.
3. A statement showing the amount by which the assets are expected to exceed liabilities at the date of authorisation (after application of valuation regulations) and how calculated.
- 4.\* Date on which the company's financial year will end.
- 5.\* Name and address of the auditors of the company.
- 6.\* Names and addresses of the company's principal bankers.
7. Names of the persons who will be directors, controllers or managers of the company. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company.

*Authorisations to be continued*

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations*

- 10.† The sources of business (for example, insurance brokers, agents, own employees or direct selling), and the approximate percentage expected from each source.
- 11.† The nature of the commitments which the company proposes to take on and the general and special policy or treaty conditions which it proposes to use.
- 12.† A statement showing for each of the first three financial years following authorisation for each type of contract or treaty, on both optimistic and pessimistic bases and broken down between the United Kingdom, other member States and elsewhere—
  - (a) the number of contracts or treaties expected to be issued,
  - (b) the total premium income both gross and net of reinsurance, and
  - (c) the total sums assured or amounts of annuity per annum.
- 13.† The technical bases that the actuary who will be appointed for the purposes of section 15 of the 1974 Act proposes to employ for each class of business, including the bases needed for calculating premium rates and technical reserves, including mathematical reserves.

14.† The guiding principles as to reinsurance including the company's maximum retention per risk or event after all reinsurance ceded.

15.\* The assets which represent or will represent the minimum guarantee fund being assets admissible under and valued in accordance with the Asset Valuation Regulations.

16.† The estimated costs of installing the administrative services and organisation for securing business, and the financial resources intended to cover those costs.

*Projections*

17. For each of the first three financial years following authorisation—
- (a) a forecast balance sheet (on both optimistic and pessimistic bases),
  - (b) a plan (on both optimistic and pessimistic bases) setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions, and
  - (c) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.

*Other information, agreements, treaties and certificates required*

18. A statement showing the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

19.† Copies or drafts of reinsurance treaties.

20.† Copies or drafts of any standard agreements with brokers or agents.

21.† Copies or drafts of any agreements with persons (other than employees of the company) who will manage the business of the company.

22.† A certificate by the actuary who will be appointed for the purposes of section 15 of the 1974 Act that—

- (a) he considers the premium rates to be suitable,
- (b) he considers the financing of the company to be sufficient to cover both technical reserves and the required margin of solvency during the first three financial years following authorisation, and
- (c) he agrees with the information provided under paragraphs 11, 14 and 17 above.

PART II

NON-UK COMMUNITY COMPANIES (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

*The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* Copies of the memorandum and articles of association of the company (or their equivalent).
- 3.\* Name and address of the auditors of the company in the United Kingdom.
- 4.\* Names and addresses of the company's principal bankers in the United Kingdom.
5. Names of the directors and managers of the company.
6. Names of the persons who will be the principal United Kingdom executive, the authorised United Kingdom representative or an employee within section 8(4)(c) of the 1981 Act. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.

7. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company in the United Kingdom.

*Statement from head office supervisor*

8. A statement from the supervisory authority of the member State in which the company has its head office stating the classes of insurance business which the company is authorised to carry on in that member State, specifying the risks covered there, declaring that the company has the required margin of solvency or minimum guarantee fund and specifying the financial resources from which the costs referred to in paragraph 16 below will be met.

*Authorisations to be continued*

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

10.† The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each source.

11.† The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

12.† A statement in respect of the United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases—

- (a) the number of contracts or treaties expected to be issued,
- (b) the total premium income both gross and net of reinsurance ceded, and
- (c) the total sums assured or amounts of annuity per annum.

13.† The technical bases that the actuary who will be appointed for the purposes of section 15 of the 1974 Act proposes to employ for each class of business in the United Kingdom, including the bases needed for calculating premium rates and technical reserves, including mathematical reserves.

14.† The guiding principles as to reinsurance of business written in the United Kingdom including the maximum retention per risk or event after all reinsurance ceded.

15. A statement showing the current margin of solvency of the company, the margin of solvency required and how both have been calculated.

16.† The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

*Projections for the United Kingdom*

17. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases—

- (a) a forecast balance sheet for the proposed agency or branch, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions of the proposed agency or branch.

*Accounts, agreements, treaties and certificates required*

18.\* Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

19. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which will be represented by each type of investment.

20.† Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

21.† Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

22.† Copies or drafts of any agreement which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

23.† A certificate by the actuary who will be appointed for the purposes of section 15 of the 1974 Act indicating the sums he considers it will be necessary to transfer from the company's head office in each of the first three years after authorisation to provide adequate technical reserves in the United Kingdom and stating that—

- (a) he considers the premium rates which will be used in the United Kingdom are suitable, and
- (b) he agrees with the information provided under paragraphs 11, 14 and 17 above.

## PART III

## EXTERNAL COMPANIES (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

*The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* Brief summary of the objects of the company.
3. A statement of the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated.
4. The assets which represent or will represent the minimum guarantee fund in the United Kingdom being assets admissible under and valued in accordance with the Asset Valuation Regulations.
- 5.\* Name and address of the auditors of the company in the United Kingdom.
- 6.\* Names and addresses of the company's principal bankers in the United Kingdom.
7. Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive, or its authorised United Kingdom representative. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent or loss adjuster for the company in the United Kingdom or a reinsurer of the company.

*Authorisations to be continued*

9. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

10.† The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.

11.† The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

12.† A statement in respect of United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases—

- (a) the number of contracts or treaties expected to be issued,
- (b) the total premium income both gross and net of reinsurance ceded, and
- (c) the total sums assured or amounts of annuity per annum.

13.† The technical bases that the actuary who will be appointed for the purposes of section 15 of the 1974 Act proposes to employ for each class of business carried on in the United Kingdom including the bases needed for calculating premium rates and technical reserves, including mathematical reserves.

14.† The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded.

15. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.

16.† The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom, and the financial resources intended to cover those costs.

*Projections for the United Kingdom*

17. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases—

- (a) a forecast balance sheet for the proposed agency or branch, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions of the proposed agency or branch.

*Other information, accounts, agreements, treaties and certificates required*

18.\* Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

19. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which would be represented by each type of investment.

20. For each of the first three financial years following authorisation, the estimated world-wide premium income of the company both gross and net of reinsurance ceded and broken down between the United Kingdom, other member States and elsewhere.

21. A brief description of the risks the company will underwrite outside the United Kingdom.
22. A brief summary of the reinsurance arrangements for the business of the company outside the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.
23. Estimated capital expenditure in respect of operations outside the United Kingdom during each of the first three financial years following authorisation.
- 24.† Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.
- 25.† Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.
- 26.† Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.
- 27.† A certificate by the actuary who will be appointed for the purposes of section 15 of the 1974 Act stating that the premium rates which will be used in the United Kingdom are suitable and that he agrees with the information provided under paragraphs 11, 14 and 17 above.
28. A certificate by the actuary of the company stating that he considers the finances of the company are sufficient—
  - (a) to meet the required technical reserves for its total business on both optimistic and pessimistic bases in the first three financial years following authorisation, and
  - (b) to provide the required margin of solvency.

#### PART IV

##### NON-UK COMMUNITY COMPANIES AND EXTERNAL COMPANIES (REINSURANCE ONLY)

###### *The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* A brief summary of the objects of the company.
3. A statement showing the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated and particulars of any limitations.
- 4.\* Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.
5. A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.
- 6.\* Name and address of the auditors of the company in the United Kingdom.
- 7.\* Names and addresses of the company's principal bankers in the United Kingdom.
8. Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.

9. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as the company's insurance broker, agent or loss adjuster in the United Kingdom or a retrocessionaire of the company.

*Authorisations to be continued*

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

11.† The sources of business in the United Kingdom (for example, insurance brokers or direct selling) and the approximate percentage expected from each source.

12.† The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special contracts or treaties which it proposes to use.

13.† The technical bases which the actuary who will be appointed for the purposes of section 15 of the 1974 Act proposes to employ for each class of business carried on in the United Kingdom, including the bases needed for calculating premium rates and technical reserves, including mathematical reserves.

14.† A statement in respect of the United Kingdom business showing for each of the first three financial years following authorisation and for each type of contract or treaty, on both optimistic and pessimistic bases —

- (a) the number of contracts or treaties expected to be issued,
- (b) the total premium income both gross and net of reinsurance, and
- (c) total sums assured or amounts of annuity per annum.

15.† The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

16.† The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

*Other information, agreements, treaties and certificates required*

17. A brief description of the risks underwritten by the company outside the United Kingdom.

18. A brief summary of the retrocession arrangements for the business written outside the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

19. For each of the first three financial years following authorisation, on both optimistic and pessimistic bases —

- (a) a forecast balance sheet, and
- (b) a plan setting out detailed estimates of income and expenditure in respect of business accepted and reinsurance cessions broken down between the United Kingdom, other member States and elsewhere.

20. A statement of the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

21.† Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

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**22.†** Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

**23.†** Copies or drafts of any standard agreements which the company will have with reinsurance brokers or agents in the United Kingdom.

**24.†** A certificate by the actuary who will be appointed for the purposes of section 15 of the 1974 Act stating that the premium rates which will be used in the United Kingdom are suitable and that he agrees with the information provided under paragraphs 12, 15 and 19 above.

**25.** A certificate by the actuary of the company stating that he considers the finances of the company are sufficient —

- (a) to meet the required technical reserves for its total business on both optimistic and pessimistic bases in the first three financial years following authorisation, and
- (b) to provide the required margin of solvency.



## Regulation 29

## SCHEDULE 5

## INFORMATION TO BE SUBMITTED: GENERAL BUSINESS

## NOTES:

\*This information is not required from applicants already authorised to carry on insurance business in the United Kingdom.

†This information is required only in respect of the classes of insurance business for which new authorisation is being sought.

‡Premiums, contributions and claims should be shown under the accounting classes specified in paragraph 5 of Schedule 2 to the Insurance Companies (Accounts and Statements) Regulations 1980(a).

## PART I

## UNITED KINGDOM COMPANIES (DIRECT BUSINESS AND REINSURANCE)

*The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* Brief summary of the objects of the company.
3. A statement showing the amount by which assets are expected to exceed liabilities at the date of authorisation (after application of valuation regulations) and how calculated.
- 4.\* Date on which the company's financial year will end.
- 5.\* Name and address of the auditors of the company.
- 6.\* Names and addresses of the company's principal bankers.
7. Names of the persons who will be directors, controllers or managers of the company. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.
8. Names of main agents in the United Kingdom.
9. Particulars of any association which exists or which is proposed to exist between the directors and controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company.

*Authorisations to be continued*

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations*

- 11.† The sources of business (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.
- 12.† The nature of the commitments which the company proposes to take on and the general and special policy or treaty conditions which it proposes to use.
- 13.† The tariffs which the company proposes to apply for each category of business.

14.† Notwithstanding paragraph 12 or 13 above —

- (a) the particulars mentioned in paragraphs 12 and 13 above may be omitted in relation to general business class 4, 5, 6, 7 or 12, and
- (b) the particulars mentioned in paragraph 13 above may be omitted in relation to general business class 14 or 15.

15.† The guiding principles as to reinsurance including the company's maximum retention per risk or event after all reinsurance ceded.

16.\* The assets which represent or will represent the minimum guarantee fund being assets admissible under and valued in accordance with the Asset Valuation Regulations.

17.† The estimated costs of installing the administrative services and organisation for securing business, and the financial resources intended to cover those costs.

*Projections*

18. For each of the first three financial years following authorisation —

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
- (b)‡ estimates relating to premiums or contributions both gross and net of reinsurance and broken down between the United Kingdom, other member States and elsewhere and to claims (after all reinsurance recoveries),
- (c) a forecast balance sheet, and
- (d) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.

*Other information, agreements and treaties required*

19. A statement showing the types of the investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

20.† Copies or drafts of reinsurance treaties.

21.† Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the company.

22.† Copies or drafts of any standard agreements which the company will have with brokers or agents.

23.† Copies or drafts of agreements which the company will have with main agents.

PART II

NON-UK COMMUNITY COMPANIES (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

*The company*

1.\* Date of incorporation, place of incorporation and registered number.

2.\* Copies of the memorandum and articles of association of the company (or their equivalent).

3.\* Name and address of the auditors of the company in the United Kingdom.

4.\* Names and addresses of the company's principal bankers in the United Kingdom.

5. Names of the directors and managers of the company.

6. Names of the persons who will be the principal United Kingdom executive, the authorised United Kingdom representative or an employee within section 8(4)(c) of the 1981 Act. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.

7. Names of main agents in the United Kingdom.

8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, loss adjuster or reinsurer for the company in the United Kingdom.

*Statement from head office supervisor*

9. A statement from the supervisory authority in the member State in which the company has its head office stating the classes of insurance business which the company is authorised to carry on in the member State, specifying the risks covered there, declaring that the company has the required solvency margin or minimum guarantee fund and specifying the financial resources from which the costs referred to in paragraph 17 below will be met.

*Authorisations to be continued*

10. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

11.† The sources of business in the United Kingdom (for example, insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.

12.† The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

13.† The tariffs which the company proposes to apply for each category of business.

14.† Notwithstanding paragraph 12 or 13 above —

- (a) the particulars mentioned in paragraphs 12 and 13 above may be omitted in relation to general business class 4, 5, 6, 7 or 12, and
- (b) the particulars mentioned in paragraph 13 above may be omitted in relation to general business class 14 or 15.

15.† The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded.

16. A statement showing the current margin of solvency of the company, the margin of solvency required and how both have been calculated.

17.† The estimated cost of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

*Projections for the United Kingdom*

18. For each of the first three financial years following authorisation, in relation to the business to be carried on in the United Kingdom —

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,

- (b)‡ estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries),
- (c) a forecast balance sheet for the proposed agency or branch, and
- (d) the source and nature of the assets which will be used to cover any deficit shown in the forecast balance sheet.

*Other information, accounts, agreements and treaties required*

19.\* Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

20. A statement showing the types of investments which are expected to represent the insurance funds in the United Kingdom and the estimated proportion which will be represented by each type of investment.

21.† Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

22.† Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

23.† Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

24.† Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.

### PART III

#### EXTERNAL COMPANIES (DIRECT BUSINESS OR BOTH DIRECT BUSINESS AND REINSURANCE)

*The company*

- 1.\* Date of incorporation, place of incorporation and registered number.
- 2.\* Brief summary of the objects of the company.
3. A statement of the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated.
4. The assets which represent or will represent the minimum guarantee fund in the United Kingdom being assets admissible under and valued in accordance with the Asset Valuation Regulations.
- 5.\* Name and address of the auditors of the company in the United Kingdom.
- 6.\* Names and addresses of the company's principal bankers in the United Kingdom.
7. Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.
8. Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent, or loss adjuster for the company in the United Kingdom or a reinsurer of the company.

**9.** Names of main agents in the United Kingdom.

*Authorisations to be continued*

**10.** Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

**11.†** The sources of business in the United Kingdom (for example insurance brokers, agents, own employees or direct selling) and the approximate percentage expected from each source.

**12.†** The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special policy or treaty conditions which it proposes to use.

**13.†** The tariffs which the company proposes to apply for each category of business in the United Kingdom.

**14.†** Notwithstanding paragraph 12 or 13 above—

- (a) the particulars mentioned in paragraphs 12 and 13 above may be omitted in relation to general business class 4, 5, 6, 7 or 12, and
- (b) the particulars mentioned in paragraph 13 above may be omitted in relation to general business class 14 or 15.

**15.†** The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded.

*Projections for the United Kingdom*

**16.** For each of the first three financial years following authorisation, in relation to the business to be carried on in the United Kingdom—

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
- (b)‡ estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries), and
- (c) a forecast balance sheet for the proposed agency or branch.

*Other information, accounts, agreements and treaties required*

**17.‡** Estimates of world-wide premium income both gross and net of reinsurance ceded in each of the first three financial years following authorisation and broken down between the United Kingdom, other member States and elsewhere.

**18.** Brief description of the risks the company will underwrite outside the United Kingdom.

**19.** Brief summary of the reinsurance arrangements for the business of the company written outside the United Kingdom including the company's maximum retention per risk or event after all reinsurance ceded and the names of the principal reinsurers.

**20.** Estimated capital expenditure in respect of operations outside the United Kingdom during each of the first three financial years after authorisation.

**21.** A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.

**22.†** The estimated costs of installing the administrative services and organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

**23.\*** Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

**24.** A statement showing the types of the investments which will represent the insurance funds in the United Kingdom and the estimated proportion which will be represented by each type of investment.

**25.†** Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

**26.†** Copies or drafts of any standard agreements which the company will have with brokers or agents in the United Kingdom.

**27.†** Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

**28.†** Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.

#### PART IV

##### NON-UK COMMUNITY COMPANIES AND EXTERNAL COMPANIES (REINSURANCE ONLY)

###### *The company*

**1.\*** Date of incorporation, place of incorporation and registered number.

**2.\*** A brief summary of the objects of the company.

**3.** A statement showing the classes of insurance business which the company is authorised to carry on in the country in which its head office is situated and particulars of any limitation.

**4.\*** Balance sheets and profit and loss accounts of the company for each of the last three financial years or, if the company has not been in business for three financial years, for each of the financial years for which it has been in business.

**5.** A statement showing the current margin of solvency of the company (after application of valuation regulations), the margin of solvency required and how both have been calculated.

**6.\*** Name and address of the auditors of the company in the United Kingdom.

**7.\*** Names and addresses of the company's principal bankers in the United Kingdom.

**8.** Names of the persons who will be directors, controllers or managers of the company, its principal United Kingdom executive or its authorised United Kingdom representative. The appropriate form prescribed in the Change of Control Regulations shall be completed for each person listed.

**9.** Names of main agents in the United Kingdom.

**10.** Particulars of any association which exists or which is proposed to exist between the directors or controllers of the company and any person who acts or will act as an insurance broker, agent or loss adjuster for the company in the United Kingdom or a retrocessionaire of the company.

*Authorisations to be continued*

11. Particulars of classes of insurance business for which the company is already authorised in the United Kingdom and which it wishes to be included in the new authorisation.

*Scheme of operations for the United Kingdom*

12.† The sources of business in the United Kingdom (for example, insurance brokers or direct selling) and the approximate percentage expected from each source.

13.† The nature of the commitments which the company proposes to take on in the United Kingdom and the general and special contracts or treaties which it proposes to use.

14.† The guiding principles as to reinsurance of business written in the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

15.†‡ Estimates of the premium income (both gross and net of reinsurance) in the United Kingdom in each of the first three financial years following authorisation.

16. The estimated costs of installing the administrative services and the organisation for securing business in the United Kingdom and the financial resources intended to cover those costs.

*Other information, agreements and treaties required*

17. Brief description of risks underwritten by the company outside the United Kingdom.

18. Brief summary of the retrocession arrangements for the business of the company written outside the United Kingdom including the company's maximum retention per risk or event after all retrocessions and the names of the principal retrocessionaires.

19. For each of the first three financial years following authorisation—

- (a) estimates relating to expenses of management (other than costs of installation) and in particular to current general expenses and commissions,
- (b)‡ estimates relating to premiums or contributions (both gross and net of retrocessions) and broken down between the United Kingdom, other member States and elsewhere,
- (c)‡ estimates relating to claims (after all reinsurance recoveries),
- (d) a forecast balance sheet, and
- (e) estimates relating to the financial resources intended to cover underwriting liabilities and the margin of solvency.

20. A statement showing the types of investments which are expected to represent the insurance funds and the estimated proportion which will be represented by each type of investment.

21.† Copies or drafts of any separate reinsurance treaties covering business written in the United Kingdom.

22.† Copies or drafts of any standard agreements which the company will have with reinsurance brokers or agents in the United Kingdom.

23.† Copies or drafts of any agreements which the company will have with persons (other than employees of the company) who will manage the business of the proposed branch.

24.† Copies or drafts of any agreements which the company will have with main agents in the United Kingdom.





10. Has he at any time failed to satisfy any debt adjudged due and payable by him as a judgment-debtor under an order of a court in the United Kingdom or elsewhere? If so, give full particulars.

11. Has he, in connection with the formation or management of any body corporate or insurance company, been adjudged by a court in the United Kingdom or elsewhere civilly liable for any fraud, misfeasance or other misconduct by him towards such a body or company or towards any members thereof? If so, give full particulars.

12. Has any body corporate or insurance company with which he was associated as a director or a controller in the last ten years, in the United Kingdom or elsewhere, been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst he was associated with it or within one year after he ceased to be associated with it? If so, give full particulars.

(Note: In relation to a body corporate which is not an insurance company "controller" is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 154 of the Companies Act 1948(a) or section 148 of the Companies Act (Northern Ireland) 1960(b).)

13. Of what bodies corporate or insurance companies—

(a) is he now a director;

(b) has he been a director at any time during the last ten years?

I, ‡ .....certify that I have supplied the above information and to the best of my knowledge and belief the information is true and complete. ø

Date ..... Signed .....

I certify that ‡ .....has supplied the above information and signed the above certificate in my presence.

Date ..... Signed .....  
(Director†/Secretary†  
of the insurance company)

\*Insert name of insurance company.

‡Insert name of individual to whom particulars relate.

//Insert name of partnership.

†Delete as necessary.

ø Note: The notice by the insurance company must contain, pursuant to section 52(2) of the 1974 Act, a statement signed by the person proposed to be appointed that the notice is served with his knowledge and consent. The statement may be included at the end of the certificate (to be signed by the person proposed to be appointed) by the addition of the words "and I certify that this notice is served with my knowledge and consent".

FORM B

INSURANCE COMPANIES ACT 1974: SECTIONS 53 AND 54

Particulars of proposed Controller, newly appointed Director or Manager, partner in a partnership which is newly appointed Manager, newly appointed authorised United Kingdom representative, newly appointed employee within s. 8(4)(c) of the 1981 Act or a partner in a partnership which is a newly appointed employee within s. 8(4)(c) of the 1981 Act.

1. Surname Forename(s)
.....

Any previous name(s) by which you have been known
.....

2. Private address.

3. Date of birth.
Place of birth (including borough, town or city).

4. Nationality, including a statement as to whether it was acquired by birth or naturalisation.

5. Qualifications and experience, including those relating to insurance and allied matters.

6. Present occupation or employment and occupations and employment during the last ten years, including the name of the employer, the nature of the business, the position held and relevant dates.

7. Have you at any time been convicted of any offence (other than an offence committed when you were of or under the age of 17 years unless the same was committed within the last ten years) by any court, whether civil or military, in the United Kingdom or elsewhere? If so, give full particulars of the court by which you were convicted, the offence and the penalty imposed and the date of the conviction.

(Note: By virtue of Article 3(a)(iii) of the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975(a), spent convictions are to be disclosed.)

8. Have you in the last ten years, in the United Kingdom or elsewhere, been censured, disciplined or publicly criticised by any professional body to which you belong or belonged or been dismissed from any office or employment or refused entry to any profession or occupation? If so, give full particulars.

\*\*9. Have you in the last ten years been adjudicated bankrupt by a court in the United Kingdom or elsewhere? If so, give full particulars.

10. Have you at any time failed to satisfy any debt adjudged due and payable by you as a judgment-debtor under an order of a court in the United Kingdom or elsewhere? If so, give full particulars.

11. Have you, in connection with the formation or management of any body corporate or insurance company, been adjudged by a court in the United Kingdom or elsewhere civilly liable for any fraud, misfeasance or other misconduct by you towards such a body or company or towards any members thereof? If so, give full particulars.

**\*\*12.** Has any body corporate or insurance company with which you were associated as a director or controller in the last ten years, in the United Kingdom or elsewhere, been compulsorily wound up or made any compromise or arrangement with its creditors or ceased trading in circumstances where its creditors did not receive or have not yet received full settlement of their claims, either whilst you were associated with it or within one year after you ceased to be associated with it? If so, give full particulars.

*(Note: In relation to a body corporate which is not an insurance company "controller" is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 154 of the Companies Act 1948(a) or section 148 of the Companies Act (Northern Ireland) 1960(b).)*

**\*\*13.** Of what bodies corporate or insurance companies —

- (a) are you now a director;
- (b) have you been a director at any time during the last ten years?

**†14.** Give particulars of the circumstances (by reference to section 7(4)(c) of the 1981 Act) by virtue of which you will become a controller of \* .....

I certify that the above information is complete and correct to the best of my knowledge and belief and that

- †(a) I propose to become a controller of \* .....
- †(b) I became a director/manager/authorised United Kingdom representative/an employee within the meaning of section 8(4)(c) of the 1981 Act †of\* .....on .....(date)
- †(c) I am a partner of// .....which became a manager†/an employee† within the meaning of section 8(4)(c) of the 1981 Act† of\* .....on.....(date)

Date ..... Signed .....

‡ To be answered by proposed controllers, by managers and by employees within s.8(4)(c) of the 1981 Act.

\*\* To be answered by proposed controllers, by directors and by authorised United Kingdom representatives.

† Delete as necessary.

\* Insert name of insurance company.

// Insert name of partnership.

FORM C

INSURANCE COMPANIES ACT 1974: SECTIONS 52, 53 AND 54

Particulars of body corporate proposing to become Managing Director, Chief Executive or Controller or which is a newly appointed Director or Manager or is a partner in a partnership which is a proposed Chief Executive or a newly appointed Manager and particulars of a proposed principal United Kingdom executive, a newly appointed authorised United Kingdom representative, a newly appointed employee within s. 8(4)(c) of the 1981 Act, a partner in a partnership which it is proposed should become a principal United Kingdom executive and a partner in a partnership newly appointed as an employee within s. 8(4)(c) of the 1981 Act.

- 1. Name and address of body corporate and address of registered office (where different).
2. Address of principal place of business established in the United Kingdom.
3. Date and place of incorporation.
4. Registered number.
5. Full name of every director and every controller.

(Note: In relation to a body corporate which is not an insurance company "controller" is to be construed as a reference to a person who would, if he were a company, be a holding company of that body in accordance with section 154 of the Companies Act 1948(a) or section 148 of the Companies Act (Northern Ireland) 1960(b).)

- 6. Name and address of main bank.
7. Accounts for last three completed financial years and particulars of any reports, resolutions and other circulars issued to shareholders during the last four years.

†8. In the case of an oversea company within the meaning of section 406 of the Companies Act 1948 or section 355 of the Companies Act (Northern Ireland) 1960—

- (a) Name(s) and address(es) of any person(s) resident in the United Kingdom authorised to accept on behalf of the company service of process and any notices.
(b) Date of registration under Part X of the Companies Act 1948 or under Part X of the Companies Act (Northern Ireland) 1960.

†9. Particulars of circumstances (by reference to section 7(4)(c) of the 1981 Act) by virtue of which the above-named body will become a controller (other than managing director or chief executive) of \*

- †10. The above-named body —
†(i) proposes to become a controller†/principal United Kingdom executive† of \*
†(ii) became a director†/manager†/authorised United Kingdom representative†/an employee within the meaning of section 8(4)(c) of the 1981 Act†of\*
†(iii) is a partner of// which became a manager†/an employee† within the meaning of section 8(4)(c) of the 1981 Act†of \*

I certify that the above information is complete and correct to the best of my knowledge and belief. ø

(a) 1948 c. 38.

(b) 1960 c. 22 (N.I.).

Date ..... Signed .....  
 (Director/Secretary†  
 of body corporate).

†I certify that the above particulars have been supplied by the above-named body and that the \* .....proposes to appoint —

†(a) the above-named body as managing director†/chief executive†/principal United Kingdom executive†;

†(b) // .....of which the above-named body is a partner as chief executive†/principal United Kingdom executive†

Date ..... Signed .....  
 (Director/Secretary†  
 of the insurance company).

† Delete as necessary.

\* Insert name of insurance company.

// Insert name of partnership.

ØNote: In the case of the proposed appointment of a body corporate as managing director or chief executive (or the proposed appointment as chief executive of a partnership of which the body corporate is a partner) the notice by the insurance company must contain, pursuant to section 52(2) of the 1974 Act, a statement signed on behalf of the body corporate that the notice is served with its knowledge and consent. The statement may be included at the end of the certificate (to be signed on behalf of the body corporate) by the addition of the words “and I certify that this notice is served with the knowledge and consent of the above-named body corporate”.

FORM D

INSURANCE COMPANIES ACT 1974: SECTION 54

*Particulars of persons becoming or ceasing to be Managing Director, Chief Executive, or Controller and persons becoming principal United Kingdom executive*

1. Name of person.\*

2. Name of insurance company of which person has become/ceased to be † controller † / managing director † / chief executive † or has become principal United Kingdom executive †.

3. Date on which person became/ceased to be † controller † / managing director † / chief executive † or became principal United Kingdom executive †.

//4. Circumstances by virtue of which person became controller, e.g. appointment as managing director or chief executive or, in any other case, full particulars of circumstances (by reference to section 7(4) of the 1981 Act) which rendered the person a controller.

//5. Confirmation that section 53(1) of the 1974 Act has been complied with and that no notice of objection has been served, under section 53(2) of the 1974 Act, on the person becoming controller.

//6. Reason for ceasing to be controller † / managing director † / chief executive. †

Date ..... Signed .....  
// (Director/Secretary †)

\* Insert name of individual or body corporate.  
† Delete as necessary.  
// Delete if inapplicable.

## Regulation 40

## SCHEDULE 7

## VALUE OF DEPENDANTS

## PART I

## THE SUPPLEMENTARY AMOUNT

1. Subject to paragraph 2(1) below, the supplementary amount in relation to assets of a relevant description held by a dependant of the insurance company shall be determined in accordance with the following formula—

$$A = \frac{B}{C} \times D$$

in which—

A is the supplementary amount;

B is the amount by which the value of assets of that description held by the dependant, excluding any long term business assets of the dependant if it is an insurance company, exceeds the permitted limit applicable to the dependant in relation to those assets;

C is the aggregate of the amount specified in B above and of the amounts by which the value of assets of the same description held by other relevant dependants, excluding any long term business assets of a dependant which is an insurance company, exceeds respectively the permitted limits applicable to such other relevant dependants in relation to those assets;

D is—

(a) where the insurance company holds no assets of the same description of the relevant class, the amount of the permitted limit that would be applicable to the insurance company in relation to such assets were it to hold them; and

(b) where the insurance company holds assets of the same description of the relevant class, the amount by which the permitted limit applicable to the insurance company in relation to those assets exceeds the value of those assets.

2.—(1) Where for the purpose of determining any supplementary amount in accordance with paragraph 1 above the insurance company cannot reasonably ascertain—

(a) the value of any asset of a relevant dependant, or

(b) the amount of the permitted limit applicable in relation to any asset of a relevant dependant,

the asset in question shall be left out of account for that purpose.

(2) In this Part of this Schedule—

“relevant dependant” means—

(a) where this Schedule is being applied in relation to the determination of the value of a share in, or debt due or to become due from, a dependant of the insurance company which is a long term business asset of the insurance company, any dependant of the insurance company—

(i) a share in which, or in any company of which it is a dependant, is a long term business asset of the insurance company, or

(ii) from which a debt is due, or will become due, to the insurance company which is a long term business asset of that company; and

(b) in any other case, any dependant of the insurance company—

(i) a share in which, or in any company of which it is a dependant, is a general business asset of the insurance company, or

(ii) from which a debt is due, or will become due, to the insurance company which is a general business asset of that company.

## PART II

## FURTHER PROVISIONS AND MODIFICATIONS OF THE REGULATIONS APPLICABLE WITH RESPECT TO THE DETERMINATION OF THE VALUE OF DEPENDANTS

3.—(1) This paragraph applies where, for the purpose of ascertaining the value of the assets of the subject company under regulation 40 above, any determination falls to be made in accordance with the said regulation 40 of the value of the assets of a dependant of the insurance company, a share in which, or a debt due or to become due from which, is an asset of the subject company; and references herein to a determination of the value of assets of a dependant to which this paragraph applies are references to any such determination.

(2) Regulation 40(4) shall not apply with respect to a determination of the value of assets of a dependant to which this paragraph applies.

(3) Where, in the case of a determination of the value of assets of a dependant to which this paragraph applies—

- (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
- (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
- (c) any controller of the dependant has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to that controller in relation to those assets;

then, for the purposes of such determination, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in sub-paragraph (a) above an amount equal to the supplementary amount or, if there is more than one such controller, to the aggregate of the supplementary amounts, determined with respect to any such controller in accordance with Part I of this Schedule, subject, where the controller is not the insurance company, to the modifications specified in sub-paragraph (5) below.

(4) In this paragraph, “a controller” means, in relation to a dependant—

- (a) the insurance company,
- (b) the subject company, if it is an insurance company, and
- (c) a dependant of the insurance company which is an insurance company and of which the subject company is a dependant.

(5) Where sub-paragraph (3) above is being applied in relation to a controller, other than the insurance company—

- (a) Part I of this Schedule, as applied in accordance with the said sub-paragraph (3), shall have effect as if, for the reference to the insurance company, there were substituted references to the controller, and
- (b) the references to assets being of a relevant class in the said sub-paragraph (3) and in Part I of this Schedule, as so applied, shall be construed as referring to long term business assets of the controller, if the said sub-paragraph (3) is being applied in connection with the determination of the value of a long term business asset of the controller, and to general business assets of the controller, in any other case.

4. The modifications of these Regulations applicable (in addition to that specified in paragraph 3(2) above) with respect to the determination of the value of the assets of the subject company where it is not an insurance company are as follows—

- (a) these Regulations shall apply to the subject company as if it were an insurance company and its assets were being valued for the purpose specified in regulation 38(1);
- (b) regulation 38(2) shall not apply; and
- (c) regulation 49 shall not apply.



5. In this Schedule, "subject company" means the dependant of the insurance company the value of whose assets is being determined in accordance with regulation 40(2) or (3) (as the case may be).

## SCHEDULE 8

## Regulation 49

## ASSETS TO BE TAKEN INTO ACCOUNT ONLY TO A SPECIFIED EXTENT

## PART I

Descriptions of Asset	Percentage of general business or long term business amount
1. A piece of land (not being land held as a security for a debt) or a number of pieces of such land to which in the most recent proper valuation of such pieces of land an aggregate value is ascribed which is greater than the aggregate of the value of each of such pieces of land valued separately	5%
2. A debt (other than a listed debenture) due or to become due to the insurance company from any person (not being an individual nor a dependant of the insurance company) which is fully secured on land or a number of such debts all of which are secured on the same land	5%
3. Debts (other than listed debentures, debts to which regulation 41(2), (3) or (4) above applies, and debts of the descriptions specified in paragraph 2 above or paragraph 14 below) which are due or will become due to the insurance company within twelve months of the relevant date (including debts which would become due within that period if the company were to exercise any right to which it is entitled to require payment or repayment of the same) from—	
(a) any one company and any of its connected companies (not being a dependant of the insurance company)	2½%
(b) any one unincorporated body of persons not being moneys due from the Crown or any public body	2½%
4. Debts (other than listed debentures, debts to which regulation 41(2), (3) or (4) above applies and debts of the descriptions specified in paragraph 2 or 3 above or paragraph 14 below) which will become due to the insurance company from—	
(a) any one company and any of its connected companies (not being a dependant of the insurance company)	1%
(b) any one unincorporated body of persons not being moneys due from the Crown or any public body	1%
5. Listed equity shares in any one company and any of its connected companies (not being a dependant of the insurance company)	2½%
6. Listed shares (including listed equity shares but only to the extent that such shares may be taken into account in accordance with paragraph 5 above) and listed debentures in any one company and any of its connected companies (not being a dependant of the insurance company)	5%
7. Unlisted shares in any one company and any of its connected companies (not being a dependant of the insurance company)	1%

Descriptions of Asset	Percentage of general business or long term business amount
8. Debenture options and share options (including traded options) in any one company and any of its connected companies (not being a dependant of the insurance company)	1/10%
9. Options of the description specified in paragraph 8 above and debts and shares of the descriptions specified in paragraphs 3, 4, 5, 6 and 7 above due or to become due from or held in any one company and any of its connected companies to the extent that such debts and shares and options may be taken into account in accordance with the provisions of those paragraphs	7½%
10. Debts due or to become due to the insurance company from an individual (other than debts of the descriptions specified in regulation 41(2) above or paragraph 3(b) or 4(b) above or paragraphs 11 and 14 below)	¼%
11. Debts due or to become due to the insurance company from an individual (other than an individual who is connected with the insurance company as mentioned in section 26(5) of the 1974 Act), being debts which are fully secured on any dwelling or any land appurtenant thereto owned or to be purchased by the individual and used or to be used by him for his own residence	1%
12. Computer equipment	5%
13. Office machinery (other than computer equipment), furniture, motor vehicles and other equipment	2½%

## PART II

Description of Asset	Percentage of general business or long term business net premium income
14. Amounts recorded in the insurance company's books as due in respect of premiums (other than premiums in respect of treaty reinsurance accepted) which either— (a) have not been paid, or (b) have been received by an intermediary on behalf of the company, but have not been paid to the company by the intermediary, less any rebates, refunds and commission recorded in the company's books as allowable or payable in respect of any such amounts	30%

## PART III

15. In this Schedule, a company is a connected company of another company if it is—
- (a) a subsidiary of that other company, or
  - (b) the holding company of that other company, or
  - (c) a subsidiary of the holding company of that other company.

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**16.** In this Schedule, a debt is fully secured on land if the amount that would be realised on the sale of that land at a price equal to the most recent proper valuation of that land would (after deducting the reasonable expenses of sale) be sufficient to enable that debt (and any other obligation secured on that land which has priority to or ranks equally with that debt) to be discharged in full.

## Regulation 53

## SCHEDULE 9

## RELEVANT CO-INSURANCE OPERATIONS

1. An insurance operation is a relevant co-insurance operation for the purposes of regulation 53 above if—

- (a) it is not a reinsurance acceptance, and
- (b) it relates to any of the classes specified in paragraph 2 below, and
- (c) it satisfies all the conditions specified in paragraph 3 below.

2. The classes referred to in paragraph 1(b) above are—

- class 4 (railway rolling stock),
- class 5 (aircraft),
- class 6 (ships),
- class 7 (goods in transit),
- class 8 (fire and natural forces),
- class 9 (damage to property),
- class 11 (aircraft liability),
- class 12 (liability for ships),
- class 13 (general liability), excluding risks which concern damage arising from nuclear sources or from medicinal products, and
- class 16 (miscellaneous financial loss),

as specified in Part I of Schedule 2 to the 1981 Act.

3. The conditions referred to in paragraph 1(c) above are—

- (a) that the risk is covered by a single contract at an overall premium and for the same period by two or more insurers, each for his own part;
- (b) that the risk is situated (within the meaning of paragraph 4 below) within a member State;
- (c) that at least one of the insurers participating in the operation does so through a head office, agency or branch established in a member State other than that in which the leading insurer's head office (or if the leading insurer is participating through an agency or branch, that agency or branch) is established.

4. For the purposes of paragraph 3(b) above, a risk is situated in a member State—

- (a) in the case of insurance relating to immovable property, if the property is situated in a member State,
- (b) in the case of insurance relating to a registered vessel, aircraft or vehicle (including railway rolling stock), if the vessel, aircraft or vehicle is registered in a member State, and
- (c) in any other case, if the policy holder is incorporated or has his habitual residence in a member State.

## SCHEDULE 10

## Regulation 70

## STATUTORY NOTICE (NON-LINKED CONTRACTS)

Form 1

**IMPORTANT—YOU SHOULD READ THIS CAREFULLY****STATUTORY NOTICE\* RELATING TO LONG-TERM INSURANCE CONTRACT**

(This notice does not form part of the contract to which it relates. The terms and conditions of the contract will be set out in the policy document.)

**YOUR RIGHT TO CHANGE YOUR MIND**

**1** You have proposed entering into a long-term insurance contract with [name of the insurer with whom the contract is being entered into]. In entering into this contract you are undertaking to pay premiums in return for which you, or other persons chosen by you, will become entitled to receive benefits, payable in circumstances set out in the policy. It is, therefore, important for you to be sure that the contract meets your needs. The law<sup>†</sup> gives you 10 days from the day on which you receive this notice (or in some cases longer—see paragraph 5) to consider the matter again and, if you so wish, to withdraw from the transaction. Some of the points you should consider in deciding whether the contract meets your needs are set out in paragraphs 2 and 3.

**POINTS YOU SHOULD CONSIDER****2 Premiums and benefits**

- (a) How much are you undertaking to pay by way of premiums, at what intervals, and over what period?
- (b) What benefits is the insurer promising to pay when you die (or when your wife or husband dies)?
- (c) Is the insurer promising to pay benefits at any time before you die? If so, what are they? In what circumstances will they be paid?
- (d) Are the benefits limited to the amounts specified in the contract or does the contract provide for entitlement to additional benefits in the form of a share in future profits of the insurer?

**3 Stopping the payment of premiums** In case you later wish to discontinue payment of premiums, you should consider what the entitlement to benefits would be in those circumstances. Possibilities are:—

- (i) **Paid-up Policy** In some cases—normally savings-type policies—the insurer may agree to convert your policy into a “paid-up” policy, provided that a certain number of years’ premiums have been paid. This means that, although you would pay no more premiums, the policy would remain in force but the benefits would be reduced. Some policies give a right to conversion to a “paid-up” policy, but unless your policy does so it will be for the insurer to decide whether or not he agrees to convert it and, if so, on what terms. Some policies cannot in any circumstances be converted in this way.
- (ii) **Surrender** As an alternative to a “paid-up” policy you might prefer to ask for a cash sum in return for surrendering the policy. This cash sum is known as the “surrender value”. Unless it is guaranteed in the policy it will be for the insurer to decide whether such a sum is payable, and how much it will be. The surrender value may well be less than the total of premiums paid by you up to the date of surrender, particularly in the early years in which the policy is in force, when no sum may be payable at all. Some policies do not in any circumstances have a surrender value.

**4 Further information** If you need further information about the contract you should get in touch as soon as possible either with the person who arranged the insurance for you or with [name, address, telephone number of appropriate contact]. If you are not satisfied with the information you get within 10 days of receiving this notice you may wish to exercise your right to withdraw from the transaction.

**RIGHT TO WITHDRAW FROM THE TRANSACTION**

5 If you wish to go ahead with the transaction you should do nothing with the attached cancellation notice. But if you wish to withdraw and to have back any money you have paid to the insurer or his agent in connection with the contract, you should send notice of cancellation (either on the form attached to this document or otherwise in writing to the same effect) to [insert either the name and address of the person to whom a notice of cancellation may be sent or, if that person is the same as that named in the preceding paragraph, the words "the person whose name and address are given in the preceding paragraph"], and you must post it before the end of—

- the tenth day after the day on which you received this notice; or
- the earliest day on which you know both that the contract has been entered into and that the first premium has been paid,

whichever is the later.

---

This notice relates to insurance contract reference [contract reference number or code]. Please quote this reference in any correspondence.

\* The notice is issued in compliance with the requirements of regulations made under section 65 of the Insurance Companies Act 1974.

† Section 66 of the Insurance Companies Act 1974.

## SCHEDULE 11

Regulation 70

## STATUTORY NOTICE (LINKED CONTRACTS)

Form 2

**IMPORTANT—YOU SHOULD READ THIS CAREFULLY****STATUTORY NOTICE\* RELATING TO LONG-TERM INSURANCE CONTRACT**

(This notice does not form part of the contract to which it relates. The terms and conditions of the contract will be set out in the policy document.)

**YOUR RIGHT TO CHANGE YOUR MIND**

**1** You have proposed entering into a long-term insurance contract with [name of the insurer with whom the contract is being entered into]. In entering into this contract you are undertaking to pay premiums in return for which you, or other persons chosen by you, will become entitled to receive benefits, payable in circumstances set out in the policy. It is, therefore, important for you to be sure that the contract meets your needs. The law<sup>†</sup> gives you 10 days from the day on which you receive this notice (or in some cases longer—see paragraph 6) to consider the matter again and, if you so wish, to withdraw from the transaction. Some of the points you should consider in deciding whether the contract meets your needs are set out in paragraphs 2 to 4.

**POINTS YOU SHOULD CONSIDER****2 Premiums and fixed benefits**

- (a) How much are you undertaking to pay by way of premiums, at what intervals, and over what period?
- (b) Is the insurer promising to pay any benefits of fixed amount when you die (or when your wife or husband dies)? If so, what are they?
- (c) Is the insurer promising to pay benefits of fixed amount at any time before you die? If so, what are they? In what circumstances will they be paid?

**3 Variable (“linked”) benefits** The contract is a linked life assurance contract. Briefly, this means that some or all of the benefits the insurer promises to pay are not fixed sums of money. The value of these benefits will depend, for example, on the value of certain assets—or on the level of an index of asset values—when the time comes for the insurer to pay them; and the amount to be paid will be calculated according to a formula laid down in the policy. As the value of most assets can go up or down, so the amount of benefits at the time they are paid may be more or may be less than if the calculation were made now. You should also remember that, although the benefits may be related to the value of particular assets, those assets do not belong to you: the premiums you pay are for entitlement to the benefits under the contract. Here, then, are some other points you should consider:—

- (a) How much of the premiums will go towards providing linked benefits?
- (b) In what circumstances is the insurer promising to pay linked benefits?
- (c) To what asset values or indices will the benefits be linked? How will the benefits be calculated? How far will the benefits be affected by the income the insurer receives from the linked assets or by his tax liability in respect of them?
- (d) If the benefits are to be calculated wholly or partly on the basis of units in an investment fund owned or managed by the insurer—what is the name of the fund? in what types of asset may the fund be invested? how far may the insurer’s management or other expenses be met from the fund? is there any provision allowing the insurer to postpone payment of the benefits?

**4 Stopping the payment of premiums** In case you later wish to discontinue payment of premiums, you should consider what the entitlement to benefits would be in those circumstances. Possibilities are:—



- (i) **Paid-up Policy** The insurer may agree to convert your policy into a “paid-up” policy. This means that, although you would pay no more premiums, the policy would remain in force but the benefits would be reduced. Some policies give a right to conversion to a “paid-up” policy, but unless your policy does so it will be for the insurer to decide whether or not he agrees to convert it and, if so, on what terms.
- (ii) **Surrender** As an alternative to a “paid-up” policy you might prefer to ask for a cash sum in return for surrendering the policy. This cash sum is known as the “surrender value”. It may well be less than the total of premiums paid by you up to the date of surrender, particularly in the early years in which the policy is in force; indeed, some policies have no surrender values in the first 2 years or so.

**5 Further information** If you need further information about the contract you should get in touch as soon as possible either with the person who arranged the insurance for you or with [name, address, telephone number of appropriate contact]. If you are not satisfied with the information you get within 10 days of receiving this notice, you may wish to exercise your right to withdraw from the transaction.

#### **RIGHT TO WITHDRAW FROM THE TRANSACTION**

**6** If you wish to go ahead with the transaction you should do nothing with the attached cancellation notice. But if you wish to withdraw and to have back any money you have paid to the insurer or his agent in connection with the contract, you should send notice of cancellation (either on the form attached to this document or otherwise in writing to the same effect) to [insert either the name and address of the person to whom a notice of cancellation may be sent or, if that person is the same as that named in the preceding paragraph, the words “the person whose name and address are given in the preceding paragraph”], and you must post it before the end of—

- the tenth day after the day on which you received this notice; or
- the earliest day on which you know both that the contract has been entered into and that the first premium has been paid,

whichever is the later.

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This notice relates to insurance contract reference [contract reference number or code]. Please quote this reference in any correspondence.

\* The notice is issued in compliance with the requirements of regulations made under section 65 of the Insurance Companies Act 1974.

† Section 66 of the Insurance Companies Act 1974.

SCHEDULE 12

Regulation 70

NOTICE OF CANCELLATION

**NOTICE OF CANCELLATION**

(To be returned only if you wish to cancel the contract)

To [name of insurer ]

I hereby give notice that I have decided not to proceed with this insurance contract; and I require the return of any money paid to you or your agent in connection with it.

*Signed* .....

*Date* .....

[Name and address of the person to whom the Statutory Notice is being sent ]

This notice relates to insurance contract reference [contract reference number or code].

## Regulation 72

## SCHEDULE 13

## PERMITTED LINKS

## PART I

## DESCRIPTIONS OF PROPERTY BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

1. Securities listed on any recognised stock exchange specified in Part III of this Schedule.

2. Land (including any interest in land) in Australia, Belgium, Canada, the Channel Islands, Denmark, the Federal Republic of Germany, France, Gibraltar, Hong Kong, the Republic of Ireland, Italy, the Isle of Man, Luxembourg, the Netherlands, New Zealand, the Republic of South Africa, Singapore, Spain, the United Kingdom and the United States of America.

3. Loans—

(a) which are fully secured by mortgage or charge on land (or any interest in land) which—

(i) is situated in any of the countries specified in paragraph 2 above, and

(ii) in the case of a loan made to a person other than a body corporate, is not used wholly or mainly for domestic purposes, and

(b) of which the rate of interest and the due dates for the payment of interest and the repayment of principal can be fully ascertained from the terms of any agreement relating to the loan.

4. Units in an authorised unit trust scheme within the meaning of the Prevention of Fraud (Investments) Act 1958(a) or the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(b).

5. Shares in or deposits with a building society designated under the Building Societies Act 1962(c), or the Building Societies Act (Northern Ireland) 1967(d).

6. Loans to or deposits with Her Majesty's Government in the United Kingdom or any public or local authority or nationalised industry or undertaking in the United Kingdom.

7. Loans to, deposits with (including certificates of deposits issued by), amounts standing to the credit of any account with and bills of exchange accepted by any of the following—

(a) the Bank of England;

(b) the National Savings Bank;

(c) the National Giro;

(d) a trustee savings bank within the meaning of the Trustee Savings Banks Act 1976(e);

(e) a banking or discount company within the meaning of the Protection of Depositors Act 1963(f) or the Protection of Depositors Act (Northern Ireland) 1964(g).

8. Amounts held in the currency of any country or on deposit or otherwise on account with a bank or other financial institution in any country—

(a) for the purpose of acquiring property of any of the descriptions specified in paragraphs 1 and 2 above situated in that country, or which are reasonably required to meet any expenditure incurred or to be incurred in respect of any such property, or, for a period not exceeding 90 days, as the proceeds of sale of or the income from any such property; or

(a) 1958 c. 45.

(b) 1940 c. 9 (N.I.).

(c) 1962 c. 37.

(d) 1967 c. 31 (N.I.).

(e) 1976 c. 4.

(f) 1963 c. 16.

(g) 1964 c. 22 (N.I.).

(b) for the purpose of making a loan of the description specified in paragraph 3 above to any person in that country or, for a period not exceeding 90 days, as payment of interest or repayment of principal received in respect of any such loan.

9. Income due or to become due in respect of property of any of the descriptions specified in the foregoing paragraphs of this Schedule.

10. Cash in sterling.

#### PART II

##### INDICES BY REFERENCE TO WHICH BENEFITS MAY BE DETERMINED

11. The Financial Times Industrial Ordinary Stock Index.

12. The Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries.

#### PART III

13. In this Schedule "recognised stock exchange" means any of the following—

(a) any stock exchange in any of the countries specified below which is a stock exchange within the meaning of the law of that country relating to stock exchanges—

Austria; Belgium; Republic of Ireland; Italy; Japan; Luxembourg; Netherlands; Norway; and Spain;

(b) the Stock Exchange; the Copenhagen Stock Exchange; the Helsinki Stock Exchange; and the Johannesburg Stock Exchange;

(c) any stock exchange in Australia which is a member of the Australian Associated Stock Exchanges, being a prescribed stock exchange within the meaning of Australian law relating to stock exchanges;

(d) any stock exchange prescribed for the purposes of the Canadian Income Tax Act;

(e) any stock exchange approved under the laws relating to stock exchanges in the Federal Republic of Germany;

(f) any stock exchange set up in France in accordance with the French legislation;

(g) any stock exchange in Hong Kong which is recognised under the laws of Hong Kong;

(h) any exchange registered with the Securities and Exchange Commission of the United States as a national securities exchange.

## REVOCATIONS

Number	Title
S.I. 1974/901	The Insurance Companies (Contents of Advertisements) Regulations 1974.
S.I. 1974/1052	The Insurance Companies (Contents of Advertisements) (Amendment) Regulations 1974.
S.I. 1975/929	The Insurance Companies (Linked Properties and Indices) Regulations 1975.
S.I. 1976/87	The Insurance Companies (Valuation of Assets) Regulations 1976.
S.I. 1976/521	The Insurance Companies (Intermediaries) Regulations 1976.
S.I. 1976/2039	The Insurance Companies (Valuation of Assets) (Amendment) Regulations 1976.
S.I. 1978/722	The Insurance Companies (Changes of Director, Controller or Manager) Regulations 1978.
S.I. 1978/1304	The Insurance Companies (Notice of Long-term Policy) Regulations 1978.
S.I. 1980/5	The Insurance Companies (Valuation of Assets) (Amendment) Regulations 1980.
S.I. 1981/710	The Co-Insurance (Determination of Certain Liabilities) Regulations 1981.
S.I. 1981/725	The Insurance Companies (Valuation of Assets) (Amendment) Regulations 1981.

## EXPLANATORY NOTE

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

The Insurance Companies Act 1981 ("the 1981 Act") has amended the law relating to insurance companies, and in particular has amended the Insurance Companies Act 1974 ("the 1974 Act"). These Regulations are made primarily in connection with the amendments made by the 1981 Act. In addition, these Regulations take in and consolidate with amendments all other regulations made under the 1974 Act and the 1981 Act except those dealing with accounts and statements and with Lloyd's.

Parts II and III and regulations 25 to 30 implement provisions of Council Directives 79/267/EEC (O.J. No. L63, 13.3.79, p.1) and 73/239/EEC (O.J. No. L228, 16.8.73, p.3) relating to life and non-life insurance. Council Regulation (EEC) No. 3180/78 (O.J. No. L379, 30.12.78, p. 1), which replaced the European unit of account (EUA) with the European currency unit (ECU), is reflected in regulation 2(2).

Part II deals with the margins of solvency to be maintained by insurance companies. The margin of solvency of an insurance company is the excess of the value of its assets over the amount of its liabilities. The value and amount in question are to be determined in accordance with regulations made under section 78 of the 1974 Act, referred to as "valuation regulations". In Part II, regulations 4 to 8 are made under section 26A of the 1974 Act, which provides for the amount of the margin to be prescribed by or determined in accordance with regulations. The margin for the various classes of long term business (principally life assurance and annuities) is to be determined in accordance with the detailed rules in regulations 5 to 8. The margin for general business (non-life business) is the higher of the results given by the methods of calculation set out in Schedules 1 and 2 respectively. Regulation 9, which is made under section 26B of the 1974 Act, sets out the minimum level of the margin of solvency. If the margin falls below that minimum level, the Secretary of State may request the company concerned to submit a short-term financial scheme to restore the position (section 26B(1) of the 1974 Act). Regulations 10 to 13 are valuation regulations made under section 78 of the 1974 Act. By virtue of regulation 10(1), these particular valuation regulations are not available for valuing the assets which actually cover the company's liabilities; but once the liabilities are covered, they are available for valuing the amount by which the liabilities are exceeded. With that limitation, regulation 10(2) allows half the amount of unpaid capital to be valued so long as a quarter of the capital is paid up (with analogous provisions for a mutual) and regulation 10(3) allows a mutual carrying on general business to value uncalled contributions, subject to the restrictions in sub-paragraphs (a) and (b). With the same limitation, regulations 10(4), 11, 12 and 13 make provision for what are known as the implicit items in the margin of solvency for long term business.

Part III regulates the making of deposits by external companies (companies whose head office is not in a member State) and is made under section 9(1)(c) and (7) of the 1981 Act.

In Part IV, regulation 23 (which is made under section 2(5) of the 1981 Act) prescribes contracts exclusively or primarily for benefits in kind the effecting and carrying out of which is not subject to authorisation. Regulation 24, which is made under section 7(6) of the 1981 Act, prescribes the agents who are exempted from the need to be scrutinised for "fitness". Regulations 25 to 27, which are made under section 26D of the 1974 Act, regulate matching (the extent to which an insurance company must hold its assets in a currency appropriate to its liabilities) and localisation (the extent to which an insurance

company must hold its assets in specific places). Regulation 28, which is also made under section 26D of the 1974 Act, covers a specific requirement of the above mentioned directives 79/267 and 73/239 as to the localisation of the assets representing a United Kingdom margin of solvency or a Community margin of solvency. Regulation 29 is made under section 5(1) of the 1981 Act and covers the information to be submitted by an applicant for authorisation. Regulation 30 is made under section 9(1)(b) of the 1981 Act and prescribes the assets which an applicant for authorisation must have in the United Kingdom if the applicant is a company whose head office is not in a member State. Regulations 31 to 36 are made under sections 52, 53 and 54 of the 1974 Act. They specify the matters which have to be notified on a change of director, controller or manager.

Parts V and VI are valuation regulations made under section 78 of the 1974 Act. Part V reproduces with amendments the law previously in force. The principal changes are as follows. Building societies are included in the definition of "approved financial institution" in regulation 37(1). The definition of "fixed interest securities" is amended so as to exclude cases where the capital changes while the rate of interest remains fixed. Regulation 40(2) is amended in respect of the valuation of dependent life companies so as to increase their liabilities by an amount approximating to the life solvency margin. Regulation 46(2) is amended so as to allow listed debentures or shares which are suspended at the valuation date to be included in a valuation within certain limits. Regulation 49 is amended so as to bring the definition of "long term business amount" more closely into line with the definition of "general business amount". Regulation 49 is also amended so as to apply admissibility limits (limits on the extent to which assets may be taken into account in a valuation) to all assets of a proprietary life company. Previously these limits applied only to assets in the life fund.

Part VI is for the most part new. Regulation 52 lays down the general principles for the determination of liabilities. These general principles will apply except in so far as they are superseded by specific provisions of the Regulations. Regulation 53 continues a provision previously in force in relation to co-insurance operations in general business. It implements a Community obligation in Article 4(1) of Council Directive 78/473/EEC on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance (O.J. No. L151, 7.6.78, p.25) whereby participants in co-insurance operations are to be required to make provision for outstanding claims at least as great as is made by the leading insurer. Regulation 53 is limited to relevant co-insurance operations, as defined. Regulations 54 to 64 relate only to the determination of long term business liabilities.

In Part VII, regulations 65 and 66 are made under section 62 of the 1974 Act. Regulations 67 to 69 are made under section 64 of the 1974 Act. Regulations 70 and 71 are made under section 65 of the 1974 Act. Regulation 72 is made under section 68 of the 1974 Act. Part VII consolidates the existing law without changes of substance.

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