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STATUTORY INSTRUMENTS

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**1985 No. 1419****INSURANCE****The Insurance Companies (Amendment) Regulations 1985**

*Made* - - - - - 9th September 1985  
*Laid before Parliament* 13th September 1985  
*Coming into Operation* 9th October 1985

The Secretary of State, in exercise of his powers under sections 2(5), 5(1)(a), 7(6), 9(1)(b) and (c) and (7), 15(6), 32(1), (2) and (3), 33(1), 35(1), 60, 61, 62, 72(1) and (2), 74(1) and (2), 75(2) and (5), 78(1), (2)(a) and (5), 90 and 97 of the Insurance Companies Act 1982(a) and of all other powers enabling him in that behalf, hereby makes the following Regulations:

1.— (1) These Regulations may be cited as the Insurance Companies (Amendment) Regulations 1985 and shall come into operation on 9th October 1985.

(2) The Insurance Companies Regulations 1981(b) (“the principal Regulations”) shall have effect subject to the amendments set out in these Regulations.

2.— (1) In Regulation 2(1) of the principal Regulations, there shall be inserted after the definition of “cede” and “cession” the following definition:

““deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;”.

(2) In the definition of “mathematical reserves” in the said Regulation 2(1) there shall be inserted after the word “due” and within the parentheses the words, “and liabilities arising from deposit back arrangements”.

3.— (1) In paragraph (1) of Regulation 5 of the principal Regulations, there shall be substituted for the words “paragraphs (3), (4) and (5)” the words “paragraphs (3), (4), (5) and (5A)”.

(2) In paragraph (2)(b) of the said Regulation 5, there shall be substituted for the words “after the deduction of reinsurance cessions at the end of the last preceding financial year” the words “at the end of the last preceding financial year after the deduction of reinsurance cessions”.

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(a) 1982 c.50.

(b) S.I. 1981/1654, amended by S.I. 1982/675, 1983/396.

(3) In paragraph (3)(a) of the said Regulation 5 there shall be substituted for the words “paragraphs (4) and (5)” the words “paragraphs (4), (5) and (5A)”, and the words “(or, in the case of risk premium business carried on by pure reinsurers, 0.1 per cent)” shall be omitted.

(4) In paragraph (4) of the said Regulation 5, there shall be substituted for the words “In the case of a contract that” the words “Where, in a case other than that of a pure reinsurer, a contract”; and all the words after “0.15 per cent” shall be omitted.

(5) After paragraph (5) of the said Regulation 5 there shall be inserted the following paragraph:

“(5A) In the case of pure reinsurers, the percentage to be taken for the purposes of paragraph (3)(a) above shall be 0.1 per cent.”

(6) There shall be substituted for paragraph (6) of the said Regulation 5 the following paragraph:

“(6) For the purposes of the second calculation, the capital at risk is—

(a) in any case in which an amount is payable in consequence of death other than a case falling within subparagraph (b) below, the amount payable on death, and

(b) in any case in which the benefit under the contract in question consists of the making, in consequence of death, of the payment of an annuity, payment of a sum by instalments or any other kind of periodic payments, the present value of that benefit,

less in either case the mathematical reserves in respect of the relevant contracts.”

(7) At the end of the said Regulation 5 there shall be inserted the following paragraph:

“(7) When the amount of the mathematical reserves referred to in paragraph (2)(a) above, or the amount of the capital at risk referred to in paragraph (3)(a) above, is to be calculated for the purposes of determining the required margin of solvency, the day as on which that amount is calculated shall be the same as that as on which the margin of solvency is determined; and the mathematical reserves referred to in paragraph (6) above shall also be calculated as on that day when the capital at risk in question is that referred to in paragraph (3)(a) above, but shall be calculated as at the end of the last preceding financial year when the capital at risk in question is that referred to in paragraph (3)(b) above.”

4.— (1) In paragraph (1) of Regulation 9 of the principal Regulations there shall be inserted after the word “solvency” the words “(being, in the case of long term business, the required margin of solvency arrived at in accordance with regulation 4(4) above)”.

(2) In paragraph (2) of the said Regulation 9 the words “in any case” shall be omitted; and at the end of that paragraph there shall be inserted the words, “whether the required margin of solvency is greater or less than that amount”.

5.— (1) In subparagraph (a) of paragraph (2) of Regulation 10 of the

principal Regulations there shall be substituted for the words “partly paid” the words “not fully paid”.

(2) At the end of the said paragraph (2) there shall be inserted the words, “and for the purposes of this paragraph a share shall not be regarded as fully paid if there are any amounts due but unpaid thereon.”

6.— (1) In Regulation 11 of the principal Regulations there shall be substituted for paragraph (3) the following paragraph:

“(3) For the purposes of paragraph (2) above—

- (a) 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 18 of the Insurance Companies Act 1982 has been carried out, substantial items of an exceptional nature being excluded, and
- (b) the average number of years remaining to run on policies shall be calculated—
  - (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies, or
  - (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,appropriate allowance being made in either case for premature termination of contracts.”

(2) In paragraph (4) of the said Regulation 11 there shall be substituted for the words “paragraph (3)” the words “paragraph (3)(a)”.

7. In Regulation 12(4)(e) of the principal Regulations there shall be substituted for all the words after “above” the following words:

“the lesser of—

- (i) the amount for the time being payable on death, and
- (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such of the term of the contract as is appropriate for zillmerising or, if such premiums are payable beyond the age of seventy-five, until that age.”.

8. In the definition of “the minimum” in Regulation 14 of the principal Regulations there shall be substituted for the words “one-fourth” the words “one-half” and for the words “section 26A(2)(a) or (3)(a) of the 1974 Act” the words “section 32(2)(b) or (3)(b) of the Insurance Companies Act 1982”.

9. In Regulation 26(1)(c) of the principal Regulations there shall be substituted for the words “leading insurer has its head office” the words “head office, branch or agency is established through which the leading insurer participates in the operation”.

10.— (1) In subparagraph (f) of the definition of “approved financial institution” in Regulation 37(1) of the principal Regulations there shall be substituted for the words “Finance for Industry Limited” the words “Investors in Industry Group Public Limited Company”.

(2) There shall be substituted for the definition of “price earnings ratio” in the said Regulation 37(1) the following definition:

““price earnings ratio” means the price earnings ratio (net) estimated in respect of the Industrial Group index of the Financial Times Actuaries Share Indices jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;”.

11.— (1) In Regulation 41 of the principal Regulations there shall be inserted at the end of paragraph (1) the following words:

“Provided that in determining the amounts referred to in subparagraphs (a) and (b) above, no account shall be taken of any letter of credit.”

(2) There shall be substituted for paragraph (3) of the said Regulation 41 the following paragraph:

“(3) Any debt due or to become due to the company—

(a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date, or

(b) in respect of unpaid share capital of the company, or

(c) under a letter of credit,

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

12. In Regulation 44 of the principal Regulations there shall be substituted for paragraph (4) the following paragraph:

“(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P - L}{Y}$$

where—

(a) P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,

(b) L is the aggregate amount of any losses made by the company after

provision for taxation in any of the specified years in which there were no profits, and

(c) Y is the number of years specified,

no account being taken of any profit or loss brought forward from any year preceding the specified years.”

**13.** At the end of the definition of “long term liabilities” in Regulation 50 of the principal Regulations there shall be inserted the words “including liabilities arising from deposit back arrangements”.

**14.** In paragraph 1 of Schedule 3 to the principal Regulations the words “paragraphs 2 to 5 and” shall be omitted; and paragraphs 2 to 5 of the said Schedule are hereby revoked.

**15.—** (1) In paragraph 13 in each of Parts I, II, III and IV of Schedule 4 to the principal Regulations the words “technical reserves, including” shall be omitted.

(2) At the end of paragraph 14 in each of Parts I, II and III of the said Schedule 4 there shall be inserted the words “and the names of the principal reinsurers”.

(3) After paragraph 17 of Part I of the said Schedule 4 there shall be inserted the following paragraph:

“17A. The technical bases used to calculate the forecast and estimates specified in paragraph 17 above and the factors used to determine the level of the required margin of solvency assumed for the purposes of paragraph 17(c) above.”

(4) After paragraph 17 in each of Parts II and III of the said Schedule 4 there shall be inserted the following paragraph:

“17A. The technical bases used to calculate the forecast and estimates specified in paragraph 17 above.”

(5) After paragraph 19 of Part IV of the said Schedule 4 there shall be inserted the following paragraph:

“19A. The technical bases used to calculate the forecast and estimates specified in paragraph 19 above.”

**16.—** (1) At the end of paragraph 15 in each of Parts I, II and III of Schedule 5 to the principal Regulations there shall be inserted the words “and the names of the principal reinsurers”.

(2) In paragraph 24 of Part III of the said Schedule 5 there shall be substituted for the word “will” in the first place in which it appears the words “are expected to”.

**17.—** (1) After question 2 in Form A in Schedule 6 to the principal Regulations there shall be inserted the following question:

“2A. If the answer to question 2 is an address in the United Kingdom and he has at any time during the last five years been resident outside the United Kingdom, his last private address outside the United Kingdom.”

(2) There shall be substituted for the second line of question 3 in the said Form A the following question:

“3A. Place of birth (including borough, town or city; if London, state borough).”

(3) There shall be substituted for question 13 in the said Form A the following questions:

“13. Of what bodies corporate or insurance companies is he now a director?

14. Of what other bodies corporate or insurance companies has he been a director at any time during the last ten years?”

(4) After question 2 in Form B in the said Schedule 6 there shall be inserted the following question:

“2A. If the answer to question 2 is an address in the United Kingdom and you have at any time during the last five years been resident outside the United Kingdom, your last private address outside the United Kingdom.”

(5) There shall be substituted for the second line of question 3 in the said Form B the following question:

“3A. Place of birth (including borough, town or city; if London, state borough).”

(6) There shall be substituted for question 13 in the said Form B the following questions:

“\*\*13. Of what bodies corporate or insurance companies are you now a director?

\*\*13A. Of what other bodies corporate or insurance companies have you been a director at any time during the last ten years?”

**18.—** (1) In paragraph 1 of Schedule 13 to the principal Regulations there shall be inserted after the word “Securities” the words, “(other than traded options)”; and there shall be substituted for the words “Part III” the words “paragraph 13”.

(2) There shall be inserted after the words “New Zealand” in paragraph 2 of the said Schedule 13 the word “Portugal”.

(3) There shall be inserted after paragraph 12 of the said Schedule 13 the following paragraph:

“12A. The Financial Times–Stock Exchange 100 Share Index.”

(4) There shall be inserted after the word “Norway” in subparagraph (a) of paragraph 13 of the said Schedule 13 the word “Portugal”.

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(5) At the end of the said Schedule 13 there shall be inserted the following paragraph:

“14. For the purposes of this Schedule the expression “traded option” does not include an option granted by the company to the securities of which the option relates, but otherwise means any traded option, whether within the meaning of regulation 37(1) above or not.”

*Michael Howard,*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry.

9th September 1985.

## EXPLANATORY NOTE

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

These Regulations make miscellaneous amendments to the Insurance Companies Regulations 1981. The changes of substance are as follows:—

- (a) provision is made so that deposit back arrangements are taken into account in valuing the long term liabilities of an insurance company but excluded from the definition of “mathematical reserves” (regs. 2 and 13);
- (b) the reduced margin of solvency for reinsurers of long-term business is no longer restricted to risk premium business only (reg. 3(1) to (5));
- (c) the definition of “capital at risk” is amended to take account of annuities and instalment payments (reg. 3(6));
- (d) the time at which mathematical reserves and capital at risk are to be calculated is clarified (reg. 3(7));
- (e) the relationship between required margin of solvency and minimum guarantee fund is clarified (reg. 4);
- (f) the valuation of unpaid share capital is clarified (reg. 5);
- (g) the calculation of future profits is amended to enable the average number of years remaining to run on policies to be weighted by reference to the actuarial value of their benefits (reg. 6);
- (h) the method of calculating the relevant capital sum for linked long-term contracts for the purposes of valuing implicit items relating to zillmerising is amended (reg. 7);
- (i) non-Community insurance companies carrying on both long-term and general business world-wide but only one type of business in the United Kingdom are no longer required to make deposits in respect of both (reg. 8);
- (k) assets held to cover the liabilities of a co-insurance operation may be held in the member state where the appropriate establishment of the leading insurer is and not necessarily where the head office is (reg. 9);
- (l) debts in respect of unpaid share capital and under letters of credit are to be left out of account in valuing the assets of an insurance company (reg. 11);
- (m) the calculation of the average amount of the profits of a company for the purpose of valuing unlisted securities is clarified (reg. 12);
- (n) the provisions for determining the minimum guarantee fund for small mutuals carrying on long-term business are revoked (in future, the matter will be dealt with by orders under section 68 of the Insurance Companies Act 1982) (reg. 14);
- (o) modifications are made in the information to be submitted by applicants for authorisation (regs. 15 and 16);
- (p) Forms A and B (information about individuals upon change of control) are amended (reg. 17);
- (q) traded options are expressly excluded from being permitted links for linked long-term insurance benefits (reg. 18(1) and (5));
- (r) land in Portugal, the Financial Times-Stock Exchange 100 Share



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Index and securities listed on any stock exchange in Portugal become permitted links for linked long-term insurance benefits (reg. 18(2), (3) and (4)).

Minor and drafting amendments are also made.

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