

SCHEDULE

THE INSURANCE BROKERS REGISTRATION COUNCIL (INDEMNITY INSURANCE AND GRANTS SCHEME) RULES 1987

PART III

THE GRANTS SCHEME

6. There shall be a scheme to be known as “the Grants Scheme” which shall be maintained and administered by the Council for the purpose of making grants or other payments (“a grant”) to relieve or mitigate losses suffered by persons as hereinafter defined in consequence of negligence or fraud or other dishonesty on the part of practising insurance brokers or enrolled bodies corporate, or of employees of theirs, in connection with their businesses or the failure on the part of practising insurance brokers or enrolled bodies corporate to account for money received by them in connection with their businesses,

PROVIDED THAT no grant or application for a grant shall be made under the Grants Scheme in respect of losses resulting from any negligence arising, or fraud or other dishonesty committed, or failure to account for money occurring, before 1st December 1980.

7.—(1) The persons who shall be entitled to apply to the Council for a grant under the Grants scheme (“the applicant”) shall be individuals or partnerships or other unincorporated bodies of persons all the members of which are individuals, who are or have been insured under a United Kingdom policy of insurance but excluding a policy of reinsurance or reinsurance and who have suffered loss in consequence of the negligence or fraud or other dishonesty on the part of practising insurance brokers or enrolled bodies corporate, or of employees of theirs, in connection with such United Kingdom policy of insurance or through failure on the part of practising insurance brokers or enrolled bodies corporate to account for money received by them in connection with such United Kingdom policy of insurance.

(2) References to persons who are or have been insured under a United Kingdom policy of insurance shall include persons who had sought advice or given instructions in contemplation of becoming an insured under a United Kingdom policy of insurance.

(3) A policy of insurance is a United Kingdom policy for the purposes of these Rules at any time when the performance by the insurance company of any of its obligations under the contract evidenced by the policy would constitute the carrying on by the insurance company of insurance business of any class in the United Kingdom.

(4) For the purposes of this rule and rule 8 of these Rules the expressions “insured” and “insurance” shall include “assured” and “assurance”.

8. Subject to the provisions of rule 6 and notwithstanding the provisions of rule 7 of these Rules the Council shall in their absolute discretion be entitled to make a grant or grants under the Grants Scheme to such other person or persons who are or have been insured under a United Kingdom policy of insurance but excluding a policy of reinsurance or reinsurance as would not otherwise be entitled to apply to the Council for a Grant within the provisions of rule 7 of these Rules as the Council may decide in all the circumstances.

9.—(1) The Council may from time to time, subject to the provisions of these Rules, be entitled to impose a levy (“a levy”) upon all practising insurance brokers and enrolled bodies corporate who are or were on the register or list on a day to be specified by the Council (“the levy date”).

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(2) All levies received by the Council under the provisions of these Rules shall be paid into a fund to be maintained and administered by the Council on trust for the purposes provided in these Rules, such fund to be known as “the Grants Fund”.

(3) All grants to be made by the Council shall be made out of the Grants Fund.

(4) The Council shall so far as reasonably practicable ensure that the amount retained from time to time in the Grants Fund shall not exceed:–

- (i) one sixth of the total maximum levy which could be raised from time to time; or
- (ii) such higher sum as the Council may in all the circumstances reasonably consider to be necessary to be available from time to time for the purposes of the Grants Scheme.

10.—(1) A levy to be imposed by the Council in accordance with the provisions of rule 9 of these Rules shall be based:

- (i) (a) in the case of an enrolled body corporate upon the aggregate number of individuals engaged in the business of, or employed by, the enrolled body corporate in the United Kingdom; or
- (b) in the case of each business of a practising insurance broker who is a sole proprietor, upon the aggregate of the practising insurance broker and the number of individuals engaged in the business of, or employed by, the practising insurance broker in the United Kingdom; or
- (c) in the case of each business which is being carried on by a practising insurance broker or an enrolled body corporate in partnership, upon the aggregate of the number of practising insurance brokers and enrolled bodies corporate carrying on business in partnership and the number of individuals engaged in the business of, or employed by, such partnership in the United Kingdom so that only one levy shall be payable in respect of each business by all practising insurance brokers and enrolled bodies corporate carrying on such business in partnership,
 PROVIDED THAT the liability of each such practising insurance broker or enrolled body corporate to pay a levy shall be a joint and several liability to the Council; AND
- (ii) upon the latest information supplied to the Council by the practising insurance broker or the enrolled body corporate under the provisions of rule 13(5) of these Rules.

(2) For the purposes of this rule individuals who are engaged in the business of, or employed by, the practising insurance broker or enrolled body corporate for less than twenty hours per week shall be regarded as engaged or employed part-time, so that two individual so engaged or employed shall make up one full-time individual and so that any part numbers shall be ignored.

11.—(1) The Council shall not be entitled to levy in respect of each calendar year commencing on 1st January an amount in respect of each practising insurance broker or enrolled body corporate which will exceed the highest amount in respect of each business (“the maximum levy”) calculated at any time during such calendar year upon the latest information supplied as follows:–

Number of persons ascertained in accordance with rule 10	Calculation of the maximum levy
1 -50 inclusive	£25 per person, subject to a minimum of £100
51 -200 inclusive	The aggregate of: (a) £25 per person for the first 50 persons (£1,250); and (b) £20 per person for the remainder
201 -1000 inclusive	The aggregate of:

Number of persons ascertained in accordance with rule 10	Calculation of the maximum levy
1001 -2000 inclusive	(a) £25 per person for the first 50 persons (£1,250); (b) £20 per person for the next 150 persons (£3,000); and (c) £15 per person for the remainder The aggregate of: (a) £25 per person for the first 50 persons (£1,250); (b) £20 per person for the next 150 persons (£3,000); (c) £15 per person for the next 800 persons (£12,000); and (d) £10 per person for the remainder
Over 2000	The aggregate of: (a) £25 per person for the first 50 persons (£1,250); (b) £20 per person for the next 150 persons (£3,000); (c) £15 per person for the next 800 persons (£12,000); (d) £10 per person for the next 1000 persons (£10,000); and (e) £5 per person for the remainder.

(2) When the Council have resolved to impose a levy under rule 9 of these Rules they shall calculate the maximum amount which could be levied on all practising insurance brokers and enrolled bodies corporate who are subject to a levy and on the register or list on the levy date (“the total maximum levy”) such amount being calculated in accordance with paragraph (1) of this rule. The Council shall then levy on each practising insurance broker or enrolled body corporate who is subject to a levy an amount which is to be calculated in respect of each business in accordance with the following fraction:

$$\frac{\text{the total actual levy}}{\text{the total maximum levy}} \times \text{the maximum levy}$$

where

“the total actual levy” means the aggregate amount to be levied on all practising insurance brokers and enrolled bodies corporate who are subject to a levy.

(3) Without prejudice to the provisions of these Rules relating to the calculation of the maximum levy, the total actual levy and the total maximum levy the Council may resolve in respect of any levy that a minimum amount shall be payable in relation thereto in respect of each practising insurance broker or enrolled body corporate such minimum sum not to exceed £100.

- (i) **12.** (1) (i) Enrolled bodies corporate which are related companies for the purposes of these Rules may agree and if so notify the Council in writing from time to time of such agreement that for the purposes of rules 10 and 11 of these Rules the levy shall be based upon the aggregate number of individuals engaged in the business of, or employed by, all such related companies in the United Kingdom but so that the liability of each such related company to pay the levy so calculated shall be a joint and several liability to the Council.

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- (ii) In the events referred to in paragraph (1)(i) of this rule one statement shall be completed and submitted to the Council under the provisions of rule 13(5) of these Rules in respect of all the related companies who have agreed and notified their agreement to the Council under the provisions of paragraph (1)(i) of this rule provided that the obligation to complete and submit such a statement shall be a joint and several obligation on each of the related companies.
- (iii) The provisions of paragraph (1)(i) and (ii) of this rule shall not apply in respect of businesses carried on in partnership.
 - (i) (2) (i) A practising insurance broker who carries on more than one business as a sole proprietor may for the purposes of rules 10 and 11 of these Rules notify the Council in writing that the levy to be paid by him shall be based upon the aggregate of the practising insurance broker and the number of individuals engaged in, or employed by him, in all such businesses.
 - (ii) In the events referred to in paragraph (2)(i) of this rule one statement shall be completed and submitted to the Council under the provisions of rule 13(5) of these Rules in respect of all such businesses.

(3) Practising insurance brokers and enrolled bodies corporate who carry on business in two or more partnerships in which not less than one half of the partners in each such partnership are the same persons may agree and if so notify the Council in writing from time to time of such agreement for the purposes of rules 10 and 11 of these Rules that they shall be deemed to be related companies and that the provisions of paragraph (1) of this rule shall apply mutatis mutandis to all such practising insurance brokers and enrolled bodies corporate.

(4) The expression “related company” in this rule shall mean any subsidiary or holding company or any subsidiary of a holding company of the enrolled body corporate where “subsidiary” and “holding company” shall be construed in accordance with the provisions of section 736 of the Companies Act 1985(1) or article 4 of the Companies (Northern Ireland) Order 1986(2) as the case may be.

13.—(1) On imposing a levy under the provisions of these Rules the Council shall send to every practising insurance broker and enrolled body corporate to whom a levy applies a written notice in accordance with the provisions of these Rules.

(2) A notice under paragraph (1) of this rule shall indicate:

- (i) the circumstances in which a levy is being imposed;
- (ii) the amount of the total actual levy; and
- (iii) the amount of the levy payable in respect of each of the businesses of the practising insurance broker or enrolled body corporate.

(3) The practising insurance broker or enrolled body corporate to whom notice of a levy is sent under paragraph (1) of this rule shall pay to the Council within one month from the date for payment thereof specified in the notice the amount specified in the notice provided that if the said amount is not paid within such month the Council may, without prejudice to any remedy or action they may be entitled to take, charge interest on any unpaid amounts at a rate of 4 per centum per annum over National Westminster Bank Plc’s base rate from time to time from the expiry of the said month until the date of payment.

(4) Any sum due to the Council in respect of a levy imposed under the provisions of these Rules shall be recoverable in any court of competent jurisdiction.

(1) 1985 c. 6.
(2) S.I.1986/1032.

(5) For the purpose of providing the Council with evidence for the calculation of any levy practising insurance brokers and enrolled bodies corporate shall at the same time as any fee is paid under rules made under section 8 of the Act complete and submit a statement upon the appropriate form available from the Registrar.

(6) A notice under the provisions of these Rules imposing a levy may be sent by post, and a letter containing such a notice shall be deemed to be properly addressed if it is addressed to the practising insurance broker or enrolled body corporate at the registered address in respect of such practising insurance broker or enrolled body corporate.

(7) The Council should be entitled in any Notice sent under paragraph (1) of this rule to specify different dates of payment of the levy in respect of practising insurance brokers and enrolled bodies corporate.

(i) **14.** (1) (i) Every applicant shall complete, sign and deliver to the Council a Notice in the form set out in the Appendix to these Rules.

(ii) Every such Notice shall be delivered within six months after the loss or likelihood of loss, or failure to account, as the case may be, first came to the knowledge of the applicant.

(2) The Council may require an application to be supported by a statutory declaration made by the applicant and by the production to the Council of any relevant documents and may cause such enquiries to be made in relation to the application as they see fit.

(3) The Council may, before deciding whether or not to make a grant, require the pursuit of any civil remedy which in their opinion is still available in respect of the loss to the applicant or that criminal proceedings shall have been instituted in respect of any dishonesty leading to the loss.

(4) Where the Council make or intend to make a grant under the Scheme the Council shall be subrogated, to the extent specified in the following paragraph of this rule, to any rights and remedies of the applicant to whom the grant is made (“the grantee”) in relation to the act or default in respect of which it is made, and shall be entitled, upon giving him a sufficient indemnity against costs, to require him, whether before or after payment of the grant, to sue in his own name but on behalf of the Council for the purpose of giving effect to the Council’s rights, and to permit the Council to have the conduct of the proceedings.

(5) The extent to which the Council is subrogated under the provisions of paragraph (4) of this rule is the amount of any grant made to the grantee.

(6) A grantee shall be required by the Council upon receiving a sufficient indemnity against costs to sign an undertaking to prove or rank, if required, in the bankruptcy or liquidation of the practising insurance broker or enrolled body corporate or partnership as the case may be together with a further undertaking to comply with all proper requirements of the Council in exercise of subrogated rights under the provisions of paragraph (4) of this rule.

(7) The Council may entertain an application for a supplementary grant by way of a sum in lieu of interest on a principal grant in respect of the period from the date of the loss to the date of the authorisation of the principal grant and the Council may also entertain an application for a further grant for the amount of the applicant’s solicitors costs incurred wholly and exclusively in connection with the preparation, submission and proof of the application for a principal or supplementary grant.

(8) A grant under the provisions of these Rules may be made by way of a loan upon such terms and conditions including terms and conditions as to the time and manner of repayment, the payment of interest and the giving of security for repayment as the Council may determine and the Council may at any time or times, upon such terms and conditions, if any, as the Council shall decide, waive or refrain from enforcing the repayment of the whole or any part of the loan, the payment of any interest on the loan or any of its terms and conditions.

(9) For the purposes of these Rules “a grant by way of loan” shall be deemed to be a grant for all other purposes of these Rules.

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(10) If the Council refuse to make a grant for either the whole or part of the amount applied for then the Council shall cause the applicant to be informed in writing of the reason for their decision.

(11) In these Rules, where the context so admits, references to the applicant or grantee shall include, in the event of his death, insolvency or other disability, reference to his personal representatives or to his trustee, or assignee, in bankruptcy or other representative as the case may be.

15.—(1) The Council may invest in securities in which trustees are authorised by law to invest trust funds in their hands, any money which forms part of the Grants Fund.

(2) Subject to the provisions of section 1 of the Borrowing (Control and Guarantees) Act 1946⁽³⁾ and of any order under that section for the time being in force, the Council may borrow for the purposes of the Grants Fund from any lender and may charge any investments of the Grants Fund by way of security for any such loan.

(3) There shall be carried to the credit of the Grants Fund:

- (i) all levies paid to the Council in pursuance of these Rules;
- (ii) all interest, dividends and other income and accretions of capital arising from the investment of the Grants Fund or any part of it;
- (iii) the proceeds of any realisation of any investment of the Grants Fund;
- (iv) all money borrowed for the purposes of the Grants Fund;
- (v) all sums received by the Council under the provisions of rules 14, 17 and 18 of these Rules;
- (vi) all other money which may belong or accrue to the Grants Fund or be received by the Council in respect of the Grants Fund;
- (vii) all tax recovered by the Council in respect of the Grants Fund.

(4) All money from time to time forming part of the Grants Fund and all investments of the Grants Fund shall be applicable:

- (i) for payment of any grants which the Council may make under the provisions of these Rules;
- (ii) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Grants Fund;
- (iii) for payment of any premiums on insurances effected by the Council under the provisions of rule 17 of these Rules;
- (iv) for repayment of any money borrowed by the Council for the purposes of the Grants Fund and for payment of interest on any money so borrowed;
- (v) for payment of all costs, charges and expenses incurred by the Council by virtue of rules 14 and 18 of these Rules;
- (vi) for payment of any other sums properly payable out of the Grants Fund by virtue of the provisions of these Rules;
- (vii) for payment of any tax assessable in respect of the Grants Fund.

16. The Council shall have power from time to time and in their absolute discretion, for the purpose of Part III of these Rules to require practising insurance brokers or enrolled bodies corporate to:

(1) supply other and additional information; and

(2) produce, at a time during ordinary business hours and at a place to be fixed by the Council, their accounting records, files, other records and all or any documentation as may relate to matters

(3) 1946 c. 58.

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covered by these Rules for the inspection of any person appointed by the Council and to supply to such person any necessary information and explanations.