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## STATUTORY INSTRUMENTS

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# 1992 No. 2890

## The Insurance Companies (Amendment) Regulations 1992

### *Amendments of 1982 Act*

#### **Power to defer decision on application for authorisation**

**2.**—(1) At the beginning of subsection (2) of section 5 of the 1982 Act (submission of proposals etc.) insert the words “Subject to subsection (3) below,”.

(2) After that subsection insert—

“(3) The Secretary of State may defer a decision on an application for an authorisation under section 3 above for such period as may be necessary for the purpose of implementing any decision of the Council or Commission of the Communities under—

- (a) Article 29b(4) of the first general insurance Directive<sup>(1)</sup>; or
- (b) Article 32b(4) of the first long term insurance Directive<sup>(2)</sup>.”.

#### **Approval of transfers of general business**

**3.** In subsection (4A)(3) of section 51 of the 1982 Act (approval of transfers of general business), for the words from “unless” to the end substitute the words

“unless—

- (a) the supervisory authorities of that State certify that it possesses the necessary margin of solvency after taking the proposed transfer into account; or
- (b) every policy included in the proposed transfer evidences a contract of reinsurance.”.

#### **Change of Controller**

**4.** After subsection (2) of section 61 of the 1982 Act (approval of person proposing to become controller of insurance company where section 60 does not apply) insert—

“(2A) The Secretary of State may serve a notice of objection under subsection (1) above for the purpose of implementing any decision of the Council or Commission of the Communities under—

- (a) Article 29b(4) of the first general insurance Directive<sup>(1)</sup>; or
- (b) Article 32b(4) of the first long term insurance Directive<sup>(2)</sup>.”.

#### **Notification of change of control**

**5.** After section 63 of the 1982 Act insert—

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(1) Article 29b(4) was inserted by Council Directive [90/618/EEC](#), Article 4.  
(2) Article 32b(4) was inserted by Council Directive [90/619/EEC](#), Article 9.  
(3) Section 51(4A) was inserted by [S.I. 1990/1333](#), reg. 9(1).  
(1) Article 29b(4) was inserted by Council Directive [90/618/EEC](#), Article 4.  
(2) Article 32b(4) was inserted by Council Directive [90/619/EEC](#), Article 9.

**“Duty to notify change of control**

**63A.**—(1) A person resident or having its head office in a country or territory other than a member State who becomes the parent undertaking of an insurance company—

- (a) which has its head office in the United Kingdom; and
- (b) to which this Part of this Act applies,

shall before the expiration of the period of fourteen days beginning with the day next following that on which he becomes the parent undertaking notify the Secretary of State in writing of that fact.

(2) Subsection (1) above shall not apply if the insurance company concerned—

- (a) is required to give notice to the Secretary of State in accordance with section 62(2) above; or
- (b) is not authorised to carry on in any member State any insurance business other than reinsurance business.”.

**Enforcement of section 63A**

**6.** In subsection (3)(b) of section 71 of the 1982 Act (offences under Part II), for the words “or 61(1)” substitute the words “, 61(1) or 63A”.

**Provision of insurance from another member State**

**7.**—(1) Part IIIA of the 1982 Act(4) (provision of insurance from another member State) shall be amended as follows.

(2) In subsection (4) (risks to which Part IIIA applies) of section 81A (introductory provisions)—

- (a) omit the second and third paragraphs, that is to say, those relating to classes 10 and 12; and
- (b) at the end insert the words “and references in this Part to relevant motor vehicle risks are to risks (other than carrier’s liability) falling within class 10 of that Schedule (motor vehicle liability)”.

(3) In subsection (1) of section 81B (provision of insurance in the United Kingdom: documents to be furnished to the Secretary of State), omit the word “and” immediately following paragraph (c) and after paragraph (d) insert “and

- (e) in the case of an insurance company which intends to provide insurance to cover relevant motor vehicle risks—
  - (i) a notice stating the name and address of the claims representative; and
  - (ii) a declaration that the insurance company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);”.

(4) After that subsection insert—

“(1A) The insurance company shall notify the Secretary of State in writing of—

- (a) any change of address of the company for the purpose of the service of documents; and
- (b) where it provides insurance to cover relevant motor vehicle risks, any change of name or address of the claims representative,

before the expiration of the period of one month beginning with the day on which the change occurred.”.

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(4) Part IIIA was inserted by [S.I. 1990/1333](#), reg. 10.

(5) In subsection (2) of section 81C (information to be given to policyholder), after paragraph (b) insert “and

(c) where the insurance relates to relevant motor vehicle risks, the name and address of the claims representative,”.

(6) After section 81C insert—

**“Additional requirements with respect to relevant motor vehicle risks.**

**81CC.**—(1) An insurance company shall not provide insurance in the United Kingdom to cover relevant motor vehicle risks unless—

- (a) it is a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and
- (b) it has appointed a claims representative who satisfies the requirements of subsections (2) to (6) below.

(2) The claims representative must be a person who has been designated as the insurance company’s claims representative for the purposes of this section.

(3) The claims representative must be authorised—

- (a) to act on behalf of the insurance company and to represent, or to instruct others to represent, the insurance company in relation to any matters giving rise to relevant claims;
- (b) to pay sums in settlement of relevant claims; and
- (c) to accept service on behalf of the insurance company of proceedings in respect of relevant claims;

but the authority must not extend to the settlement of relevant claims.

(4) The claims representative must be authorised to represent the insurance company in any proceedings or enquiry to establish the existence or validity of a policy issued by the insurance company which covers or purports to cover relevant motor vehicle risks.

(5) Without prejudice to subsection (3) above, the claims representative must not act on behalf of the insurance company in the carrying on of its general business in the United Kingdom other than its reinsurance business, if any.

(6) The claims representative must—

- (a) in the case of an individual, be resident in the United Kingdom;
- (b) in the case of a corporation, have a place of business in the United Kingdom.

(7) In this section “relevant claim” means any claim which may be made against a policy issued by the insurance company to the extent that it covers relevant motor vehicle risks, whether or not submitted to the company and whether by a policyholder or by a third party having rights of action against the company or a policyholder or both.”.

**Lloyd’s underwriters**

**8.** In Part IV of the 1982 Act (special classes of insurers), after section 83 insert—

**“Lloyd’s underwriters— insurance Directives.**

**83A.** The powers conferred on the Secretary of State by sections 38 to 41, 44 and 45 above shall be exercisable in relation to the members of Lloyd’s if there is a failure by Lloyd’s to satisfy an obligation to which it is subject by virtue of any provision of the law of another member State giving effect to the general insurance Directives.”.

## Interpretation

9.—(1) Part V of the 1982 Act (supplementary provisions) shall be amended as follows.

(2) Renumber the section 94A inserted by the Insurance Companies (Amendment) Regulations 1990<sup>(5)</sup> (law applicable to certain contracts of insurance) as section 94B and transpose that section and the section 94A inserted by the Insurance (Fees) Act 1985<sup>(6)</sup>.

(3) In subsection (1) of section 96 (general interpretation)—

(a) after the definition of “chief executive” insert—

““claims representative” means a person appointed by an insurance company in accordance with section 81CC above;”;

(b) after the definition of “ordinary long-term business” insert—

““parent undertaking” shall be construed in accordance with section 258 of the Companies Act 1985<sup>(7)</sup> and Article 266 of the Companies (Northern Ireland) Order 1986<sup>(8)</sup>;”.

(4) After subsection (1) of section 96A<sup>(9)</sup> (interpretation of expressions derived from general insurance Directives) insert—

“(1A) The Directives amending the general insurance Directives referred to in subsection (1) above include Council Directive [90/618/EEC](#) amending, particularly as regards motor vehicle liability insurance, Directive [73/239/EEC](#) and Directive [88/357/EEC](#).

(1B) In this Act “the first long term insurance Directive” means Council Directive [79/267/EEC](#) of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of direct life assurance.”.

(5) In subsection (1)(c) of section 96B<sup>(10)</sup> (meaning of “large risks”), for the words “classes 8, 9, 13 and 16” substitute “classes 3, 8, 9, 10, 13 and 16”.

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<sup>(5)</sup> [S.I. 1990/1333](#), reg. 6(1).

<sup>(6)</sup> 1985 c. 46.

<sup>(7)</sup> 1985 c. 6; section 258 was inserted by section 21 of the Companies Act 1989 (c. 40).

<sup>(8)</sup> [S.I. 1986/1032 \(N.I.6\)](#); Article 266 was inserted by Article 23 of the Companies (Northern Ireland) Order 1990 ([S.I. 1990/593 \(N.I.5\)](#)).

<sup>(9)</sup> Section 96A was inserted by [S.I. 1990/1333](#), reg. 2(1).

<sup>(10)</sup> Section 96B was inserted by [S.I. 1990/1333](#), reg. 4.