
STATUTORY INSTRUMENTS

1994 No. 1696

**The Insurance Companies (Third
Insurance Directives) Regulations 1994**

PART II

AMENDMENTS OF 1982 ACT

CHAPTER I

RESTRICTION ON CARRYING ON INSURANCE BUSINESS

Withdrawal of authorisation

Withdrawal of authorisation in respect of new business

10.—(1) For paragraph (aa) of subsection (2) of section 11 of the 1982 Act⁽¹⁾ (withdrawal of authorisation in respect of new business) substitute—

- “(aa) that the company is a UK company and it appears to the Secretary of State that the company has failed to satisfy an obligation to which it is subject by virtue of any provision of the law of another EEA State which—
- (i) gives effect to the general or long term insurance Directives; or
 - (ii) is otherwise applicable to the insurance activities of the company in that State;
- (ab) that the company is a UK or non-EC company and it appears to the Secretary of State that any of the criteria of sound and prudent management is or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the company.”

(2) In subsection (2) of section 12 of that Act (notices of withdrawal under section 11), for the words from “on the ground” to “company” substitute the words “on either of the grounds set out in subsection (2A) below”.

(3) After that subsection insert—

- “(2A) The grounds referred to in subsection (2) above are—
- (a) that the company is a UK or non-EC company and it appears to the Secretary of State that the second or third criterion of sound and prudent management is or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the company; and
 - (b) that there exists a ground on which the Secretary of State would be prohibited by section 7(3), 8(2) or 9(5) above from issuing an authorisation to the company.”

Suspension of authorisation in urgent cases

11. After section 12 of the 1982 Act insert—

(1) Paragraph (aa) was inserted by [S.I. 1990/1333](#), reg 8(1) and amended by [S.I. 1993/174](#), reg 2.

“Suspension of authorisation in urgent cases.

12A.—(1) Where, in the case of a UK or non-EC company, it appears to the Secretary of State—

- (a) that one of the grounds in section 11(2) above exists in relation to the company: and
- (b) that the authorisation should be suspended as a matter of urgency,

the Secretary of State may direct that the company shall forthwith cease to be authorised to effect contracts of insurance, or contracts of any description specified in the direction.

(2) A direction under this section—

- (a) shall not prevent a company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance; and
- (b) unless confirmed by the Secretary of State under subsection (6) below, shall cease to have effect at the end of the relevant period.

(3) Where the Secretary of State gives a direction under this section, he shall forthwith serve on the company a written notice stating—

- (a) the ground on which the direction is given; and
- (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if the company so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.

(4) Where the Secretary of State gives a direction under this section on the ground set out in section 11(2)(ab) above, the Secretary of State shall forthwith serve on any person whose fitness is in question a written notice stating—

- (a) the ground for giving the direction; and
- (b) that the person on whom the notice is served may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.

(5) The Secretary of State shall consider any representations made in response to a notice under subsection (3) or (4) above before confirming a direction under this section.

(6) At any time before the end of the relevant period, the Secretary of State may confirm a direction under this section by a written notice served on the company.

(7) Where a direction under this section is so confirmed, it may not be revoked or varied; but if the Secretary of State subsequently issues to the company under section 3 above an authorisation to carry on insurance business of a class to which the direction relates, the direction shall cease to have effect in relation to such business.

(8) In this section ‘the relevant period’, in relation to a direction under this section, means the period of two months beginning with the date on which the direction is given.”

Final withdrawal of authorisation

12. For subsections (1) and (2) of section 13 of the 1982 Act (final withdrawal of authorisation) substitute—

“(1) Where—

- (a) a UK company ceases to carry on insurance business or insurance business of any class in the European Community; or
- (b) an insurance company which is not a UK company ceases to carry on insurance business or insurance business of any class in the United Kingdom,

the Secretary of State may direct that it shall cease to be authorised under section 3 or 4 above to carry on insurance business or insurance business of that class.

(2) If—

- (a) a body authorised under section 3 above to carry on insurance business of any class has not at any time carried on insurance business of that class, and at least twelve months have elapsed since the issue of the authorisation; or
- (b) a body authorised under section 4 above to carry on insurance business of any class has not at any time since the commencement of this Act carried on business of that class,

the Secretary of State may direct that the body shall cease to be authorised to carry on business of that class.”