STATUTORY INSTRUMENTS

1994 No. 1696

The Insurance Companies (Third Insurance Directives) Regulations 1994

PART II

AMENDMENTS OF 1982 ACT

CHAPTER II

REGULATION OF INSURANCE COMPANIES

Financial resources

Margins of solvency

14.—(1) In subsection (3) of section 32 of the 1982 Act(**1**) (margins of solvency), for the words "Community margin of solvency" substitute the words "EEA margin of solvency".

(2) In subsections (5) and (6) of that section—

(a) for the words "Community margin of solvency" substitute the words "EEA margin of solvency"; and

(b) for the words "in member States (taken together)" substitute the words "in EEA States (taken together)".

(3) In subsections (1) and (3) of section 33 of that Act (failure to maintain minimum margin), for the words "Community margin of solvency" substitute the words "EEA margin of solvency".

Companies supervised in other EEA States

15. In subsection (1) of section 34 of the 1982 Act (companies supervised in other member States), for paragraphs (a) and (b) substitute—

"(a) whose head office is in an EEA State other than the United Kingdom, or

(b) which has in accordance with section 9(2) above made a deposit in such a State, or".

Form and situation of assets

16. In subsection (2) of section 35 of the 1982 Act(**2**) (form and situation of assets), for the words "an insurance company whose head office is in a member State" substitute the words "an insurance company whose head office is in an EFTA State".

(**1**) Subsection (3) was amended by S.I. 1993/3127, reg 3(3).
(**2**) Subsection (2) was amended by S.I. 1993/3127, reg 3(5).

Adequacy of assets

17. After section 35 of the 1982 Act insert—

"**Adequacy of assets.**

35A.—(1) A UK company shall secure—

(a) that its liabilities under contracts of insurance entered into by it, other than liabilities in respect of linked benefits, are covered by assets of appropriate safety, yield and marketability having regard to the classes of business carried on; and

(b) without prejudice to the generality of paragraph (a) above, that its investments are appropriately diversified and adequately spread and that excessive reliance is not placed on investments of any particular category or description.

(2) A UK company which has entered into a linked long term contract shall secure that, as far as practicable, its liabilities under the contract in respect of linked benefits are covered as follows—

(a) if those benefits are linked to the value of units in an undertaking for collective investments in transferable securities or to the value of assets contained in an internal fund, by those units or assets;

(b) if those benefits are linked to a share index or other reference value not mentioned in paragraph (a) above, by units which represent that reference value, or by assets of appropriate safety and marketability which correspond, as nearly as may be, to the assets on which that reference value is based.

(3) A UK company which has entered into a linked long term contract shall also secure that its liabilities under the contract in respect of linked benefits are covered by assets of a description prescribed by regulations under section 78 below.

(4) In this section—

'linked benefits', in relation to a contract of insurance, means benefits payable to the policy holder which are 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);

'linked long term contract' means a contract ofinsurance—

(a) the effecting of which constitutes the carrying on of long term business; and

(b) under which linked benefits are payable to the policy holder."

Adequacy of premiums: long term business

18. After section 35A of the 1982 Act insert—

"**Adequacy of premiums: long term business.**

35B.—(1) Before entering into a contract of insurance the effecting of which constitutes the carrying on of long term business, a UK company shall satisfy itself that the aggregate of—

(a) the premiums payable under the contract and the income which will be derived from them; and

(b) any other resources of the company which will be available for the purpose, will be sufficient, on reasonable actuarial assumptions, to meet all commitments arising under or in connection with the contract.

(2) A UK company shall not rely on other resources for the purposes of subsection (1) above in such a way as to jeopardise the solvency of the company in the long term."