
STATUTORY INSTRUMENTS

1994 No. 3132

The Insurance Companies (Amendment) Regulations 1994

AMENDMENTS OF THE 1982 ACT

Extended meaning of “member State” for purposes of Act

3.—(1) After subsection (6) of section 2 of the 1982 Act (restriction on carrying on insurance business) insert—

“(7) In relation to any time before it becomes a member State, each of the following, namely, Austria, Iceland, Norway and Sweden, shall be treated as if it were a member State for all purposes of this Act.

(8) In relation to any time before it becomes a member State, Finland shall be treated as if it were a member State for all purposes of this Act relating to the carrying on of long term business or the provision of long term insurance.”

(2) In subsection (1) of section 96 of that Act (general interpretation), after the definitions of “margin of solvency” and related expressions insert—

“‘member State’ shall be construed in accordance with section 2(7) and (8) above;”.

Insurance companies to which Part II of Act applies

4. For subsections (1) and (1A)(1) of section 15 of the 1982 Act (insurance companies to which Part II applies) substitute—

“(1) Subject to the provisions of this section, this Part of this Act applies to—

- (a) all insurance companies, whether established within or outside the United Kingdom, which carry on insurance business within the United Kingdom; and
- (b) all UK companies which carry on business in a member State other than the United Kingdom.

(1A) Except as otherwise provided by Part I of Schedule 2F to this Act, this Part of this Act except—

- (a) sections 47A, 47B, 52A, 52B, 54 to 59 and Schedule 2B; and
- (b) section 49 and Schedule 2C so far as relating to the transfer of policies which evidence contracts of reinsurance,

does not apply to an EC company in so far as it is carrying on insurance business through a branch in respect of which such of the requirements of Part I of Schedule 2F to this Act as are applicable have been complied with.”

Restriction on transactions with connected persons

5.—(1) In subsection (5) of section 31 of the 1982 Act (restriction on transactions with connected persons), omit the words from “and for the purposes of this subsection” to the end.

(2) After that subsection insert—

- “(5A) For the purposes of subsection (5) above a person controls a company if he is—
- (a) a person in accordance with whose directions or instructions the directors of the insurance company or of a body corporate of which it is a subsidiary are accustomed to act; or
 - (b) person who either alone or with any associate or associates is entitled to exercise, or control the exercise of, 15 per cent. or more of the voting power at any general meeting of the insurance company or of a body corporate of which it is a subsidiary;

and for the purposes of this subsection ‘associate’ shall be construed in accordance with section 96C(4) below as it has effect for the purpose of determining for the purposes of this Act whether any person is a controller of an insurance company other than a UK company.”

Adequacy of assets

6.—(1) In subsection (3) of section 35A of the 1982 Act⁽²⁾ (adequacy of assets), for the words “its liabilities under the contract in respect of linked benefits” substitute the words “such of its liabilities under the contract in respect of linked benefits as are not covered by contracts of reinsurance”.

(2) In subsection (4) of that section, in the definition of “linked long term contract”, after the word “means” insert the words “(subject to subsection (5) below)”.

(3) After that subsection insert—

“(5) In subsection (3) above ‘linked long term contract’ does not include a contract the effecting of which constitutes the carrying on of long term business of class VII(a).”

Transfers of insurance business

7.—(1) In paragraph 2(2)(a) of Schedule 2C to the 1982 Act⁽³⁾ (transfers of insurance business), for the words from “published” to the end of sub-paragraph (i) substitute the words

“published in the London, Edinburgh and Belfast Gazettes and, except where the court has otherwise directed—

- (i) in two national newspapers in the United Kingdom;”.

(2) In paragraph 3(4) of that Schedule, for paragraph (b) substitute—

“(b) where the United Kingdom is the State of the commitment the Secretary of State certifies that—

- (i) the transferee company is not precluded by Schedule 2F to this Act from covering the commitment; and
- (ii) the supervisory authority in the EEA State in which the establishment is situated agrees to the transfer;”.

(3) In paragraph 7(1)(a) of that Schedule, for the words from “published” to the end of sub-paragraph (i) substitute the words

“published in the London, Edinburgh and Belfast Gazettes and, if he thinks fit—

- (i) in two national newspapers in the United Kingdom which have been so approved;”.

(4) In paragraph 8(1) of that Schedule, omit the word “and” immediately before paragraph (d) and after that paragraph insert and

(2) Section 35A was inserted by [S.I.1994/1696](#), reg.17.

(3) Schedule 2C was inserted by [S.I.1994/1696](#), reg.28 and Schedule 3.

- “(e) in the opinion of the Secretary of State the circumstances of the case justify the giving of his approval”.
- (5) In paragraph 8(4) of that Schedule, omit the words “other than the United Kingdom”, in the second place where they occur, and for paragraph (b) substitute—
- “(b) where the United Kingdom is the State in which the risk is situated, he is satisfied that—
- (i) the transferee is not precluded by Schedule 2F to this Act from covering the risk; and
 - (ii) the supervisory authority in the EEA State in which the establishment is situated agrees to the transfer;”.
- (6) In paragraph 8(5) of that Schedule, for the words from “the transferee is” to the end substitute—
- “(a) the transferee is, or will be immediately after the approval—
- (i) authorised under section 3 or 4 above to carry on; or
 - (ii) an EC company which is not precluded by Part I of Schedule 2F to this Act from carrying on,
- general business of the class or classes to be transferred by the instrument; and
- (b) every policy included in the transfer evidences a contract which was entered into before the date of the application,
- and in his opinion the transferee’s financial resources and the other circumstances of the case justify the giving of his approval.”
- (7) In subsection (1) of section 52A of that Act(4) (issue of certificates by the Secretary of State), after paragraph insert—
- “(aa) a company which is authorised in accordance with Article 27 of the first long term insurance Directive, or Article 23 of the first general insurance Directive, is to transfer to a UK company all its rights and obligations under such long term or general policies, or long term or general policies of such descriptions, as may be so specified; or”.
- (8) In section 52B of that Act(5) (effect of transfers authorised in other EEA States)—
- (a) in subsection (1)(c), for the words “a non-EC company whose head office is not in an EFTA state” substitute the words “a company which is authorised in accordance with Article 27 of the first long term insurance Directive, or Article 23 of the first general insurance Directive;”; and
 - (b) in subsection (4), omit the word “direct”.

Information for policy holders of UK insurers and EC companies

- 8.—**(1) In paragraph 1(1) of Schedule 2E to the 1982 Act(6) (information for policy holders of UK insurers and EC companies), after the words “Subject to sub-paragraph (2)” insert the words “and paragraph 5”.
- (2) At the beginning of paragraph 2(1) of that Schedule insert the words “Subject to paragraph 5 below,”.
- (3) After paragraph 4 of that Schedule insert—

(4) Section 52A was inserted by [S.I.1990/1333](#), reg 9(2) and amended by [S.I.1993/174](#), reg.3(4), [S.I.1993/3127](#), reg.3(9) and [S.I.1994/1696](#), reg.29.

(5) Section 52B was inserted by [S.I.1994/1696](#), reg.30.

(6) Schedule 2E was inserted by [S.I.1994/1696](#), reg.40 and Schedule 5.

“General

5.—(1) In the case of a contract involving two or more other parties, this Schedule shall have effect as if a separate contract were being or had been entered into by the insurer with each of those parties.

(2) Paragraphs 1 and 2 of this Schedule shall not apply in relation to a contract unless the other party to the contract is habitually resident in the United Kingdom at the time when the contract is entered into.

(3) In this paragraph ‘other party’, in relation to a contract, means a party to the contract other than the insurer.”

Statutory notice by insurer in relation to long term policy

9.—(1) For subsection (1) of section 75 of the 1982 Act(7) (statutory notice by insurer in relation to long term policy) substitute—

“(1) Subject to subsections (5) and (5A) below, unless the requirements of subsection (1A) below are fulfilled—

- (a) no insurance company which is authorised under section 3 or 4 above, no EC company and no member of Lloyd’s shall enter into a contract the effecting of which constitutes the carrying on of long term business in the United Kingdom; and
- (b) no UK, EC or EFTA company and no member of Lloyd’s shall enter into a contract the effecting of which constitutes the provision of long term insurance in the United Kingdom.”

(2) In subsection (5B)(8) of that section, for paragraph (a) substitute—

“(a) the insurer is a UK, EC or EFTA company or a member of Lloyd’s;”.

Minor amendments of Act

10.—(1) In subsection (2)(ab)(9) of section 11 of the 1982 Act (withdrawal of authorisation in respect of new business) and subsection (2A)(a)(10) of section 12 of that Act (notices of withdrawal under section 11), for the words “is or has not been” substitute the words “is not or has not been”.

(2) In paragraph 1(4)(a) of Schedule 2B to that Act(11) (restriction on disclosure of information), after the word “company” insert the words “or any member of Lloyd’s”.

(3) In subsection (1) of section 96 of that Act (general interpretation), in the definitions of “margin of solvency” and related expressions, for the words “Community margin of solvency” substitute the words “EEA margin of solvency”.

(4) In subsection (3)(d) of section 96A of that Act(12) (interpretation of expressions derived from insurance Directives—

- (a) at the end of sub-paragraph (i) insert the words “at the date when the contract is entered into”; and
- (b) at the end of sub-paragraph (ii) insert the words “at that date”.

(7) Subsection (1) was amended by S.I.1993/1327, reg.2(1) and S.I. 1994/1696, reg.43.

(8) Subsection (5B) was inserted by S.I.1993/1327, reg.2(3).

(9) Subsection (2)(ab) was inserted by S.I.1994/1696, reg.10.

(10) Subsection (2A)(a) was inserted by S.I.1994/1696, reg.10.

(11) Schedule 2B was inserted by S.I.1994/1696, reg.26 and Schedule 2.

(12) Section 96A was inserted by S.I.1990/1333, reg.2(1) and amended by S.I.1992/2890, reg.9(4), S.I.1993/174, reg.6(3) to (5) and S.I. 1994/1696, reg.51.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
