



Income and Corporation Taxes Act 1988

1988 CHAPTER 1

PART XII

SPECIAL CLASSES OF COMPANIES AND BUSINESSES

CHAPTER I

INSURANCE COMPANIES, UNDERWRITERS AND CAPITAL REDEMPTION BUSINESS

Insurance companies: general

431 Interpretative provisions relating to insurance companies.

(1) ^{M1}This section has effect for the interpretation of this Chapter.

(2) ^{M2}Unless the context otherwise requires—

“annuity business” means the business of granting annuities on human life [^{F1}, other than the business of granting immediate needs annuities (within the meaning of section 580C)];

^{F2}

^{F2}

[^{F3F4}

^{F5}

[^{F6}“basic life assurance and general annuity business” has the meaning given by section 431F;]

[^{F7}“brought into account” has the meaning given by section 83A of the Finance Act 1989;]

“closing” and “opening”, in relation to a period of account, refer respectively to the position at the end and at the beginning of the period and, in relation to an accounting period, refer respectively to the position at the

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end and at the beginning of the period of account in which the accounting period falls;

“closing liabilities” includes liabilities assumed at the end of the period of account concerned in consequence of the declaration of reversionary bonuses or a reduction in premiums;

[^{F8}“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001 and “contract of long-term insurance” means any contract which falls within Part II of Schedule 1 to that Order;]

[^{F9F10}.....]

[^{F11}.....]

[^{F12}[^{F13}“insurance business transfer scheme” means a scheme falling within section 105 of the Financial Services and Markets Act 2000, including an excluded scheme falling within Case 2, 3 or 4 of subsection (3) of that section;

“insurance company” means—

- (a) a person (other than a friendly society) who has permission under Part 4 of the Financial Services and Markets Act 2000 to effect or carry out contracts of insurance, or
- (b) an EEA firm of the kind mentioned in paragraph 5(d) of Schedule 3 to that Act or a firm qualifying for authorisation under Schedule 4 to that Act which—
 - (i) carries on business which consists of the effecting or carrying out of contracts of insurance, and
 - (ii) carries on that business through a branch or agency in the United Kingdom;]]

[^{F14}“investment reserve”, in relation to an insurance company, means the excess of the value of the assets of the company’s long-term business over the aggregate of—

- (a) the value of the liabilities of that business, and
- (b) any money debts (within the meaning of Chapter 2 of Part 4 of the Finance Act 1996) of the company not within paragraph (a) above which are owed in respect of that business;]

[^{F15F16}.....]

“liabilities”, in relation to an insurance company, means the [^{F17}long-term liabilities of the company determined for the purposes of the company’s periodical return on actuarial principles in accordance with section 5.6 of the Prudential Sourcebook (Insurers) (excluding any that have been reinsured);]

“life assurance business” includes annuity business;

[^{F18}“life reinsurance business” has the meaning given by section 431C;

[^{F19}[^{F20}“linked assets”, and related expressions, shall be construed in accordance with section 432ZA;]

[^{F21}“long-term business” means business which consists of the effecting or carrying out of contracts of long-term insurance;]

[“^{F22}long-term insurance fund” means the fund maintained by an insurance company in respect of its [^{F23}long-term] business ^{F24}. . . ;]

[^{F25}“long-term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long-term business (including liabilities arising from deposit back arrangements within the meaning given by section 11.1 of the Prudential Sourcebook (Insurers));]

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[F27F28

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[F30“overseas life assurance business” has the meaning given by section 431D;

“overseas life assurance fund” shall be construed in accordance with Schedule 19AA;]

“overseas life insurance company” means an insurance company [F31not resident in] the United Kingdom but carrying on life assurance business through a branch or agency in the United Kingdom; F32 . . .

[F33“pension business” has the meaning given by section 431B;

“periodical return”, in relation to an insurance company, means a return deposited with the [F34Financial Services Authority under section 9.6 of the Prudential Sourcebook (Insurers)].

[F35“period of account” means the period covered by a periodical return;]

[F36“the Prudential Sourcebook (Insurers)” means the Interim Prudential Sourcebook for Insurers made by the Financial Services Authority under the Financial Services and Markets Act 2000 X1;]

F37

[F38“reinsurance business” includes retrocession business;

[F39F40

[F41“value”, in relation to assets of an insurance company, means the value of the assets as taken into account for the purposes of the company’s periodical return;

“with-profits liabilities” means liabilities in respect of policies or contracts under which the policy holders or annuitants are eligible to participate in surplus;]

[Subsections (2ZB) and (2ZC) below apply where an insurance business transfer F42(2ZA) scheme has effect to transfer long-term business from one person (“the transferor”) to another (“the transferee”).

(2ZB) If the transfer takes place otherwise than on the last day of a period of account of the transferor, references to—

- (a) opening liabilities of the transferor,
- (b) opening values or net values of assets of the transferor, or
- (c) the opening amount of the investment reserve of the transferor,

for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion A/C.

(2ZC) If the transfer takes place otherwise than on the first day of a period of account of the transferee, references to—

- (a) closing liabilities of the transferee,
- (b) closing values or net values of assets of the transferee, or
- (c) the closing amount of the investment reserve of the transferee,

for the period of account, so far as relating to the business transferred, are to the part of those liabilities or values, or that reserve, which bears to the whole the proportion B/C.

(2ZD) For the purposes of subsection (2ZC) above—

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- (a) closing liabilities of the transferee are to be taken not to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferor with the transferee, but
- (b) closing liabilities of the transferee are to be taken to relate to the business transferred to the extent that they are liabilities which, immediately before the transfer, were reinsured by the transferee with the transferor if the business transferred consists of or includes that reinsurance business.

(2ZE) In subsections (2ZB) and (2ZC) above—

A is the number of days in the period beginning with the period of account and ending with the day of the transfer,

B is the number of days in the period beginning with the day of the transfer and ending with the period of account, and

C is one-half of the number of days in the period of account.]

- ^{F44} [.....]
- ^{F43}(2A) (3) ^{F44}]
- (4) ^{F44}]
- (5) ^{F44}]
- (6) ^{F44}]]]]

Editorial Information

- X1** This sourcebook is part of the FSA Handbook. The FSA Handbook may be purchased on paper and on CD Rom from the Publications Department (Sales), Financial Services Authority, 25 The North Colonnade, Canary Wharf, London E14 5HS and is available on line at www.fsa.gov.uk.

Textual Amendments

- F1** S. 431(2): words in definition of "annuity business" inserted (with effect in accordance with s. 147(4) (5) of the amending Act) by [Finance Act 2004 \(c. 12\)](#), [s. 147\(2\)](#)
- F2** S. 431(2): definition of "general annuity business" and "pension business" repealed (with effect in accordance with Sch. 8 para. 57, Sch. 29 Pt. 8(5) Notes 2, 3 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#)
- F3** S. 431(2): definitions inserted by [Finance Act 1990 \(c. 29\)](#), [Sch. 6 para. 1\(2\)](#)
- F4** S. 431(2): definition of "basic life assurance business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F5** S. 431(2): definition of "basic life assurance and general annuity business" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 29 Pt. 8\(5\)](#), Note 2
- F6** S. 431(2): definition of "basic life assurance and general annuity business" inserted (with effect in accordance with [Sch. 8 para. 57](#) of the amending Act) by [Finance Act 1995 \(c. 4\)](#), [Sch. 8 para. 1](#)
- F7** S. 431(2): definition of "brought into account" inserted (with effect in accordance with [Sch. 33 para. 20\(3\)](#) of the amending Act) by [Finance Act 2003 \(c. 14\)](#), [Sch. 33 para. 20\(2\)](#)
- F8** S. 431(2): definition of "contract of insurance" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by [The Financial Services and Markets Act 2000 \(Consequential Amendments\) \(Taxes\) Order 2001 \(S.I. 2001/3629\)](#), [art. 26\(2\)](#)
- F9** S. 431(2): definition of "foreign income dividends" inserted (3.5.1994) by [Finance Act 1994 \(c. 9\)](#), [Sch. 16 para. 4](#)

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- F10** S. 431(2): definition of "foreign income dividends" repealed (with effect in accordance with Sch. 6 para. 5(2) of the repealing Act) by Finance (No. 2) Act 1997 (c. 58), Sch. 6 para. 5(1), **Sch. 8 Pt. 2(11)**, Note
- F11** S. 431(2): definition of "industrial assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F12** S. 431(2): definition of "insurance company" substituted (with effect in accordance with s. 52(5) of the amending Act) by Finance Act 1995 (c. 4), **s. 52(1)**
- F13** S. 431(2): definitions of "insurance business transfer scheme" and "insurance company" substituted for definition of "insurance company" (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(3)**
- F14** S. 431(2): definition of "investment reserve" inserted (with effect in accordance with Sch. 33 para. 28 of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 25**
- F15** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F16** S. 431(2): definition of "investment reserve" repealed (with effect in accordance with s. 109(10) of the repealing Act) by Finance Act 2000 (c. 17), s. 109(9)(a), **Sch. 40 Pt. 2(16)**, Note 1
- F17** S. 431(2): words in definition of "liabilities" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(4)**
- F18** S. 431(2): definition of "life reinsurance business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F19** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F20** S. 431(2): definition of "linked assets" substituted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 11(1)**
- F21** S. 431(2): definition of "long-term business" substituted for definition of "long term business" (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(5)**
- F22** S. 431(2): words in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(1)(b)**
- F23** S. 431(2): word in definition of "long term business fund" substituted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 52(2)(a)**
- F24** S. 431(2): words in definition of "long term business fund" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F25** S. 431(2): definition of "long-term liabilities" inserted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(6)**
- F26** S. 431(2): definition of "offshore income gain" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 1
- F27** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F28** S. 431(2): definition of "ordinary long term business" and "ordinary life assurance business" repealed (with effect in accordance with Sch. 41 Pt. 5(26) Note of the repealing Act) by Finance Act 1996 (c. 8), **Sch. 41 Pt. 5(26)**
- F29** S. 431(2): definition of "overseas life assurance business" repealed (with effect in accordance with Sch. 8 para. 55 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 1
- F30** S. 431(2): definition of "overseas life assurance business" inserted (with effect in accordance with Sch. 8 para. 55 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F31** S. 431(2): words in the definition of "overseas life insurance company" substituted (27.7.1993 as mentioned in s. 103(3)(4) of the amending Act) by 1993 c. 34, **s. 103(1)(3)(4)**
- F32** S. 431(2): word following the definition of "overseas life assurance company" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2

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- F33** S. 431(2): definition of "pension business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F34** S. 431(2): words in definition of "periodical return" substituted (1.12.2001 in accordance with arts. 1(2)(a), 26(9) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(7)**
- F35** S. 431(2): definition of "period of account" inserted (10.7.2003) by Finance Act 2003 (c. 14), **Sch. 33 para. 29**
- F36** S. 431(2): definition of "the Prudential Sourcebook (Insurers)" inserted (1.12.2001 in accordance with art. 1(2)(a) of the amending S.I.) by The Financial Services and Markets Act 2000 (Consequential Amendments) (Taxes) Order 2001 (S.I. 2001/3629), **art. 26(8)**
- F37** S. 431(2): definition of "policy holders' fraction" and "shareholders' fraction" inserted by Finance Act 1989 (c. 26), **Sch.8 para.1** and repealed (retrospectively) by Finance Act 1990 (c. 29), **Sch.19 Part IV**, Note 6
- F38** S. 431(2): definition of "reinsurance business" inserted (with effect in accordance with Sch. 8 para. 57 of the amending Act) by Finance Act 1995 (c. 4), **Sch. 8 para. 1**
- F39** S. 431(2): definition of "UK distribution income" inserted (27.7.1993 with effect in relation to accounting periods beginning after 31.12.1992) by 1993 c. 34, **s. 99(2)(3)**
- F40** S. 431(2): definition of "UK distribution income" repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2
- F41** S. 431(2): definitions inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(2)**
- F42** S. 431(2ZA)-(2ZE) inserted (with effect in accordance with Sch. 33 para. 22(2) of the amending Act) by Finance Act 2003 (c. 14), **Sch. 33 para. 22(1)**
- F43** S. 431(2A) inserted by Finance Act 1990 (c. 29), **Sch. 6 para. 1(3)**
- F44** S. 431(2A)-(6) repealed (with effect in accordance with Sch. 8 para. 57 of the repealing Act) by Finance Act 1995 (c. 4), **Sch. 29 Pt. 8(5)**, Note 2

Modifications etc. (not altering text)

- C1** S. 431(2) modified (31.7.1992 with effect as mentioned in reg. 1 of the modifying S.I.) by S.I. 1992/1655, **regs. 1, 5** (as amended (31.12.1993) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1993 (S.I. 1993/3111), **regs. 1, 5, 6**; and as further amended (19.3.1997) by The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 1997 (S.I. 1997/471), **regs. 1, 6**)
- C2** S. 431 modified (20.3.1997 with effect as mentioned in reg. 1(2) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 6** (as amended by: S.I. 2001/3629, **regs. 1, 156, 165(2)(b)**; S.I. 2003/23, **regs. 1, 4**; S.I. 2004/822, **regs. 1, 6**; S.I. 2005/2005, **regs. 1, 5**)
- C3** S. 431(2) modified (20.3.1997 with effect as mentioned in reg. 7(1) of the modifying S.I.) by The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473), **regs. 1(1), 7**
- C4** S. 431(2) modified (6.4.1999) by The Individual Savings Account (Insurance Companies) Regulations 1998 (S.I. 1998/1871), **regs. 1, 5, 7**
- C5** S. 431(2) modified (23.3.1999 with effect in accordance with reg. 1 of the modifying S.I.) by The Insurance Companies (Capital Redemption Business) (Modification of the Corporation Tax Acts) Regulations 1999 (S.I. 1999/498), **regs. 3, 5**

Marginal Citations

- M1** Source—1970 s.323(1); 1973 s.40(7); 1982 s.58(7)
- M2** Source—1970 s.323(2); 1970(F) Sch.5 Pt.III 11(4)

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