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STATUTORY INSTRUMENTS

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**1995 No. 353**

**INCOME TAX**

**The Lloyd's Underwriters (Special Reserve Funds) Regulations 1995**

<i>Made</i>	- - - -	<i>15th February 1995</i>
<i>Laid before the House of Commons</i>	- - - -	<i>16th February 1995</i>
<i>Coming into force</i>	- -	<i>9th March 1995</i>

The Commissioners of Inland Revenue, in exercise of the powers conferred on them by sections 182(1)(c) and (4) and 184(1) and (3) of the Finance Act 1993<sup>(1)</sup>, and paragraphs 3(2), 4(8), 5(10), 6(1) and (3) and 11(5) of Schedule 20 to that Act, hereby make the following Regulations:

**Citation, commencement and effect**

1. These Regulations may be cited as the Lloyd's Underwriters (Special Reserve Funds) Regulations 1995, shall come into force on 9th March 1995 and, except as otherwise provided by these Regulations, shall have effect for the year 1992–93 and subsequent years of assessment.

**Interpretation**

2. In these Regulations “Schedule 20” means Schedule 20 to the Finance Act 1993.

**Syndicate profit or loss — modification of definition — running-off syndicates**

3.—(1) Paragraph 1(2) of Schedule 20 shall apply with the following modifications.

(2) Immediately following paragraph (a) the word “and” shall be omitted.

(3) After paragraph (b) there shall be added the following paragraph—

“(c) where the accounts of a syndicate remain open beyond the end of the underwriting year which is the closing year for that syndicate, profits or losses shown in the accounts of the syndicate as arising to a member in any subsequent underwriting year shall be profits or losses of the member for the last underwriting year but one preceding that subsequent underwriting year.”.

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(1) 1993 c. 34. See the definition of “prescribed” in section 184(1) of the Finance Act 1993.

#### **Cash calls — running-off syndicates — modification of paragraph 4 of Schedule 20**

4.—(1) Paragraph 4 of Schedule 20 shall apply with the following modification.

(2) After sub-paragraph (1) there shall be inserted the following sub-paragraph—

“(1A) References in sub-paragraph (1) above to a cash call include references to a cash call made in respect of an underwriting year determined by paragraph 1(2)(c) above (“the relevant cash call”) if and to the extent that the aggregate amount of the relevant cash call and any previous cash calls made on the member in respect of the syndicate concerned exceeds the net amount of losses arising to the member from that syndicate which have been declared before the date of the relevant cash call after deducting the amount of profits arising to him from that syndicate which have been so declared.”.

#### **Payments into or out of special reserve fund — prescribed periods**

5.—(1) The period prescribed for the purposes of paragraph 3(1) of Schedule 20 is the period which begins on 1st January in the calendar year in which the profits and losses comprising the syndicate profit made by the member for the underwriting year concerned are declared and ends on 31st October in that calendar year or, if earlier, on the date on which payment is made to or on behalf of the member of an amount representing any part of the syndicate profit made by the member for that underwriting year.

(2) The period prescribed for the purposes of any payments required by paragraph 4(1) of Schedule 20—

(a) where the accounts of the syndicate have remained open beyond the end of the closing year and the cash call concerned is made—

(i) in respect of an underwriting year determined by reference to paragraph 1(2)(c) above, and

(ii) in a calendar year (“the relevant calendar year”) after the end of the closing year, is the period which begins on 1st January in the relevant calendar year and ends on the date which is 90 days after the date on which the cash call is made on the member;

(b) in any other case, is the period which begins on 1st January in the calendar year next but one preceding the underwriting year which is the closing year for the syndicate concerned and ends on the earlier of the following dates, namely—

(i) the date which is 90 days after the date on which the cash call concerned is made on the member, and

(ii) the date which is 90 days after the end of the closing year.

(3) The period prescribed for the purposes of any payments required by paragraph 4(2) of Schedule 20 is the period which begins on 1st January in the calendar year in which the profits and losses comprising the syndicate profit or loss of the member for the underwriting year concerned are declared and ends on the earlier of the following dates, namely—

(a) 31st October in that calendar year;

(b) where there is a syndicate profit made by the member for the underwriting year concerned, the date on which payment is made to or on behalf of the member of an amount representing any part of that profit.

(4) The period prescribed for the purposes of any payment required by paragraph 4(3) of Schedule 20 is the period of 90 days following the date on which the stop-loss payment is made to the member in respect of his syndicate loss.

(5) The period prescribed for the purposes of any payments required by paragraph 4(6) of Schedule 20 is the period of 90 days following the date on which the whole or part of the stop-loss payment made to the member is repaid by him.

(6) The period prescribed for the purposes of any payments required by paragraph 5(1) of Schedule 20 is the period which begins on 1st January in the calendar year in which the profits and losses comprising the syndicate loss sustained by the member for the underwriting year concerned are declared and ends on 31st October in that calendar year.

(7) The period prescribed for the purposes of any payment required by paragraph 5(4) of Schedule 20 is the period of 90 days following the date on which the stop-loss payment is made to the member in respect of his syndicate loss.

(8) The period prescribed for the purposes of any payments required by paragraph 5(7) of Schedule 20 is the period of 90 days following the date on which the whole or part of the stop-loss payment made to the member is repaid by him.

(9) The period prescribed for the purposes of any payments required by paragraph 6(2) of Schedule 20 is the period of 90 days following the last day of the underwriting year in respect of which the valuation giving rise to the payments is made.

#### **Valuation of special reserve fund**

6.—(1) Paragraph (2) below prescribes the manner in which the value of a member's special reserve fund as at the end of an underwriting year shall be determined, and paragraph (3) below prescribes the matters which, in addition to the value of the fund, are to be stated by the fund manager in his report to the member of the value of the fund.

(2) The value of the fund shall be determined so as to be in accordance with—

- (a) the market value of the assets of the fund, and
- (b) the rules of Lloyd's relating to the method of valuation of the fund.

(3) The matters prescribed are—

- (a) the amount of any payment made in the underwriting year to which the valuation relates under any of the paragraphs of Schedule 20 specified in paragraph (4) below, and
- (b) the date on which each such payment was made.

(4) The paragraphs specified are paragraphs 3(1), 4(1), (2), (3) and (6), 5(1), (4) and (7), 6(2) and 7(1).

(5) This regulation shall have effect for the underwriting year 1994 and subsequent underwriting years.

#### **Cessation of underwriting business — modifications of Part I of Schedule 20**

7.—(1) For the purposes of the Income Tax Acts and these Regulations, references in paragraphs 1, 3 to 6, 8 and 10(2) of Schedule 20 to a member, other than references relating to a member's special reserve fund, shall be construed, in the circumstances specified in paragraph (2) below and unless the context otherwise requires, as including references to the member's personal representatives.

(2) The circumstances specified in this paragraph are where—

- (a) the member dies on or after 6th April 1994, and
- (b) the member's personal representatives carry on his underwriting business after his death.

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(2) Paragraph 8 was substituted by paragraph 13 of Schedule 21 to the Finance Act 1994 (c. 9) with effect for the year 1994–95 and subsequent years of assessment. Paragraph 10 was amended by paragraph 14 of Schedule 21 to the Finance Act 1994 with effect for the year 1997–98 and subsequent years of assessment, and treated by that paragraph as omitted for the years 1994–95 to 1996–97.

(3) This regulation shall have effect—

- (a) in its application to paragraphs 1, 3 to 6 and 8 of Schedule 20, for the year 1994–95 and subsequent years of assessment;
- (b) in its application to paragraph 10 of Schedule 20, for the year 1997–98 and subsequent years of assessment.

**8.**—(1) Paragraph 11 of Schedule 20(3) (tax consequences of cessation) shall apply with the modifications specified in paragraphs (2) to (5) below.

(2) In sub-paragraph (5) in the definition of “the penultimate underwriting year” for the words from “immediately preceding” to the end there shall be substituted the words “corresponding to the year of assessment immediately preceding the member’s final year of assessment;”.

(3) In sub-paragraph (5) for the definition of “the relevant underwriting year” there shall be substituted the following definition—

““the relevant underwriting year” means—

- (a) where a member dies before the occurrence of any of the events specified in sub-paragraph (6) below, the underwriting year immediately preceding that corresponding to the relevant year of assessment; and
- (b) in any other case, the underwriting year corresponding to the year of assessment immediately preceding the member’s final year of assessment.”.

(4) In sub-paragraph (5) for paragraph (a) of the definition of “the relevant year of assessment” there shall be substituted the following paragraph—

“(a) where a member dies before the occurrence of any of the events specified in sub-paragraph (6) below, the year of assessment at the end of which he is treated, by virtue of section 179A(2) of this Act(4), as having died;”.

(5) After sub-paragraph (5) there shall be added the following sub-paragraphs—

“(6) For the purposes of the definitions of “the relevant underwriting year” and “the relevant year of assessment” in sub-paragraph (5) above the events specified before the occurrence of which a member dies are the following—

- (a) the member’s deposit at Lloyd’s is paid over to him or his assigns, or to a person other than the member or his assigns;
- (b) the member or another person is released from any arrangement entered into by the member or that person in order to satisfy the requirement on the part of the member to provide a deposit at Lloyd’s;
- (c) the last open year of account of any syndicate of which he was a member is closed.

(7) For the purposes of sub-paragraph (6)(c) above, the last open year of account of any syndicate of which a person was a member shall be regarded as having closed either—

- (a) when the member is treated under the rules or practice of Lloyd’s as having been discharged of all his liabilities in relation to that syndicate, whether by the syndicate closing its accounts or by the member or his personal representatives or assigns entering into a quota share contract, or
- (b) in a case where the member entered, or his personal representatives or assigns have entered, into a quota share contract before the end of the closing year of the syndicate, at the end of the underwriting year in which the contract was made.”.

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(3) Paragraph 11 was amended by paragraph 15 of Schedule 21 to the Finance Act 1994 with effect for the year 1994–95 and subsequent years of assessment.

(4) Section 179A of the Finance Act 1993 was inserted by paragraph 6(2) of Schedule 21 to the Finance Act 1994.

(6) This regulation shall have effect for the year 1994—95 and subsequent years of assessment.

15th February 1995

*S. C. T. Matheson*  
*C. W. Corlett*  
Two of the Commissioners of Inland Revenue

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

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations make provision in relation to special reserve funds of underwriting members of Lloyd's other than corporate members. Except where otherwise provided the Regulations have effect for the year of assessment 1992–93 and subsequent years of assessment. Authority for the retrospective effect of the Regulations is given by sections 182(4) and 184(3) of the Finance Act 1993.

Regulation 1 provides for citation, commencement and effect, and regulation 2 contains a definition.

Regulation 3 modifies paragraph 1(2) of Schedule 20 to the Finance Act 1993 (“Schedule 20”) so as to provide that the profits or losses arising to a member from his membership of a syndicate in a run off underwriting year of that syndicate shall be attributable to the last underwriting year but one preceding the run off year concerned.

Regulation 4 modifies paragraph 4(1) of Schedule 20 in connection with a cash call made on a member in a run off year of a syndicate.

Regulation 5 prescribes the various periods before the end of which payments into or out of a special reserve fund under Part I of Schedule 20 have to be made.

Regulation 6 prescribes the manner in which the value of a member's special reserve fund has to be determined and the additional matters to be specified in the report of the fund manager containing the valuation.

Regulation 7 modifies certain provisions of Part I of Schedule 20 so that they apply to a member's personal representatives where the member dies on or after 6th April 1994 and the personal representatives carry on his underwriting business.

Regulation 8 extends the definitions of “the penultimate underwriting year”, “the relevant underwriting year” and “the relevant year of assessment” in paragraph 11(5) of Schedule 20 (as substituted by paragraph 15(3) of Schedule 21 to the Finance Act 1994 (c. 9)) so as to cover certain situations arising on the death of a member which are not covered by the existing wording of the definitions.