
STATUTORY INSTRUMENTS

1996 No. 3011

INSURANCE

The Insurance (Lloyd's) Regulations 1996

Made - - - - *2nd December 1996*
Laid before Parliament *3rd December 1996*
Coming into force - - *24th December 1996*

The Secretary of State, being designated⁽¹⁾ for the purposes of section 2(2) of the European Communities Act 1972⁽²⁾ in relation to the authorisation of the carrying on of insurance business and the regulation of such business and its conduct and in relation to anything supplemental or incidental to those matters, in exercise of the powers conferred by that section and by sections 83(4), 86, 96(1) and 97 of the Insurance Companies Act 1982⁽³⁾ hereby makes the following Regulations:—

Citation and commencement

1. These Regulations may be cited as the Insurance (Lloyd's) Regulations 1996 and shall come into force on 24th December 1996.

Interpretation

2. In these Regulations—

“the 1982 Act” means the Insurance Companies Act 1982;

“the 1983 Regulations” means the Insurance (Lloyd's) Regulations 1983⁽⁴⁾; and

“former member” means a former underwriting member of Lloyd's (within the meaning of the Lloyd's Act 1982⁽⁵⁾) who has ceased to be a member of Lloyd's, whether by resignation or otherwise, in accordance with the Lloyd's Act 1982 and any byelaw made thereunder.

(1) S.I. 1976/2141.
(2) 1972 c. 68.
(3) 1982 c. 50.
(4) S.I. 1983/224, as amended by S.I. 1994/1516.
(5) 1982 c. 14.

AMENDMENTS OF 1982 ACT

Application of 1982 Act to former members of Lloyd's

3.—(1) If and so long as a former member continues to be liable as a party to contracts of insurance entered into by him as a member of Lloyd's—

- (a) he shall not require authorisation under section 3 of the 1982 Act by virtue only of being so liable (or of doing anything to meet any liability of his under any of those contracts); but
- (b) he shall be treated for the purpose of the 1982 Act as if he were a UK company to which Part II of that Act applies in respect of any liability of his under any of those contracts.

(2) Paragraph (1) above shall not be taken to affect any question whether (apart from the provisions of this regulation) a former member would require authorisation under section 3 of the 1982 Act or be a person who is subject to Part II of that Act.

4. Section 68 of the 1982 Act (power to modify Part II in relation to particular companies) shall have effect in relation to any former member to whom regulation 3(1) above applies with the following modifications—

- (a) the requirement for an order under that section to be made on the application, or with the consent, of the person in respect of whom it is made shall be omitted;
- (b) the order may exclude or modify the application to the person in respect of whom it is made of any provision of Part II of that Act.

Requirements for Lloyd's underwriters

5. In section 15(4) of the 1982 Act (application of Part II to members of Lloyd's)—

- (a) omit the words “he complies with”;
- (b) at the end add the words “are complied with by or in respect of him”.

6.—(1) Section 83 of the 1982 Act (requirements to be complied with by Lloyd's underwriters) is amended as follows.

(2) In subsection (4), omit the words following “Lloyd's”.

(3) For subsection (5) substitute—

“(4A) The Council of Lloyd's and the Secretary of State shall be furnished with a certificate from the accountant who audits the accounts of an underwriter which—

- (a) is in the prescribed form; and
- (b) contains the statements mentioned in subsection (5) below.

(5) The statements so required in relation to the accounts of an underwriter are statements that in the opinion of the auditor—

- (a) the value of the assets available to meet the underwriter's liabilities in respect of insurance business is correctly shown in the accounts; and
- (b) the value of those assets is sufficient to meet the liabilities calculated—
 - (i) in the case of long term business by an actuary; and
 - (ii) in the case of other liabilities, by the auditor on a basis approved by the Secretary of State.”

7. After section 85(4) of the 1982 Act(6) (Lloyd's underwriters—transfer of business) insert—

(6) Section 85(4) was added by S.I. 1994/1696, reg. 48(2).

“(5) In this section references to a member of Lloyd’s include references to a former underwriting member of Lloyd’s (within the meaning of the Lloyd’s Act 1982) who has ceased to be a member of Lloyd’s, whether by resignation or otherwise, in accordance with the Lloyd’s Act 1982 and any byelaw made thereunder.”

AMENDMENTS OF 1983 REGULATIONS

Audit

8.—(1) In regulation 4(1) of the 1983 Regulations, for the words “underwriting member of Lloyd’s” substitute the word “underwriter”.

(2) For Schedule 2 to the 1983 Regulations (audit certificate), substitute Schedule 2 as set out in the Schedule to these Regulations.

Statement of business by Council of Lloyd’s

9.—(1) After regulation 5(1) of the 1983 Regulations (statement of business) insert—

“(1A) If it appears to the Council of Lloyd’s that there are special reasons for departing from any of the annexed forms, it may, with the approval of the Secretary of State, do so, but particulars of any such departure and the reasons for it and its effect shall be given by way of an additional note to the relevant form or forms.”

(2) In Schedule 3 to the 1983 Regulations (statement of business by Council of Lloyd’s) for paragraph 3 substitute the following paragraph—

“(3) A certificate for the purposes of section 83(4A) of the Insurance Companies Act 1982 has been furnished to the Council of Lloyd’s and the Secretary of State in respect of every underwriter at Lloyd’s who has not fully reinsured his liabilities by reinsurance to close in accordance with Lloyd’s byelaws.”

(3) For paragraph 5 of that Schedule, substitute the following paragraph—

“(5) Every member of Lloyd’s has complied with regulation 63 (which relates to co-insurance) of the Insurance Companies Regulations 1994(7) (as applied by regulation 3(1) of the Insurance (Lloyd’s) Regulations 1983(8)).”

(4) In Schedule 3 to those Regulations—

- (a) for the words “underwriting members of Lloyd’s” and “underwriting members”, wherever they appear, substitute the words “underwriters at Lloyd’s” and “underwriters” respectively;
- (b) for the words “19 year of account”, wherever they appear, substitute the words “(year) year of account”;
- (c) in paragraph 4 for the words “31 December 19” substitute the words “31 December (year)”;
- (d) for the words “Secretary General of the Council of Lloyd’s” substitute the words “Secretary to the Council of Lloyd’s, For and on behalf of the Council of Lloyd’s”;
- (e) in Forms 1 to 10 for the words “31 December 19”, wherever they appear, substitute the words “31 December (year)”;
- (f) in Forms 1 and 2—

(7) S.I. 1994/1516.

(8) Regulation 3(1) was amended by S.I. 1994/1516, reg. 85(2).

- (i) for the words in line 2 substitute the words “Reinsurance premiums received from, and amounts placed to reserve in respect of, estimated liabilities of previous accounts”;
- (ii) for the words in line 4 substitute the words “Gross investment return on syndicate funds”;
- (iii) for the words in line 8 substitute the words “Reinsurance premiums paid at close of account and amounts placed to reserve in respect of estimated liabilities of accounts which remain open”;
- (g) in Form 4, columns 2 and 3 delete the words “(see note 2)”; and
- (h) in Form 9—
 - (i) for the words in Note 3 substitute the words “A Lloyd’s Special Reserve Fund is a fund maintained under arrangements to which section 452 of the Income and Corporation Taxes Act 1988⁽⁹⁾ applies. New arrangements apply from the 1992/93 tax year under section 175 of the Finance Act 1993⁽¹⁰⁾”; and
 - (ii) for the words in Note 5 substitute the words “The Lloyd’s Central Fund is a fund, held by the Society of Lloyd’s, to which underwriters contribute and which can be applied for the purpose of preventing or making good any default by any member of the Society under any contract of insurance or guarantee underwritten at Lloyd’s”.

Transitional provisions

10.—(1) It is immaterial for the purposes of regulation 3(1)(a) when a former member ceased to be a member of Lloyd’s; but regulations 3(1)(b) and 4 do not apply to a former member whose membership ceased before the day on which these Regulations come into force.

(2) Regulations 6, 8 and 9 apply in relation to the 12 months ending on 31st December 1996, as well as subsequent years.

Department of Trade and Industry
2nd December 1996

Anthony Nelson,
Minister for Trade,

⁽⁹⁾ 1988 c. 1.
⁽¹⁰⁾ 1993 c. 34.

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SCHEDULE

Regulation 8(2)

[SCHEDULE 2 TO 1983 REGULATIONS]
REPORT OF (A FIRM) TO THE COUNCIL OF LLOYD'S AND TO THE SECRETARY OF STATE

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INSURANCE COMPANIES ACT 1982

1. We have examined the accounts, described in paragraphs 3(a) and 3(b) below (the "Accounts"), relating to the insurance business carried on during the year ended 31st December (*year*) by every underwriter at Lloyd's whose name appears in the attached Schedule, pursuant to the procedures set out below and in accordance with the current rules drawn up by the Council of Lloyd's and, as regards the valuation of liabilities in respect of business other than long term business, approved by the Secretary of State (the "Rules").

RESPECTIVE RESPONSIBILITIES OF THE COUNCIL OF LLOYD'S AND (A FIRM)

2. Lloyd's conducts an annual solvency test on behalf of the underwriters referred to in paragraph 1 and prepares underwriters' solvency statements which form part of the Accounts. It is our responsibility to carry out procedures necessary to form our opinion on the outcome of the annual solvency test and report our opinion to you.

We do not accept any responsibility whatsoever for our opinion towards anyone other than the Council of Lloyd's and the Secretary of State.

BASIS OF OPINION

3. Our procedures comprised:

- (a) a review of the system employed by Lloyd's to aggregate each underwriter's assets and liabilities determined in accordance with the Rules; and
- (b) an examination on a test basis of:
 - (i) the compilation of underwriters' solvency statements;
 - (ii) assets held within the funds management system; and
 - (iii) the existence and valuation of assets of the Society of Lloyd's which have been made available by the Council of Lloyd's.

4. In connection with our examination, we have relied upon a report from accountants approved by the Council of Lloyd's acting as auditors of each syndicate in which each underwriter has participated during that year stating that in their opinion all assets have been valued and all liabilities have been calculated in accordance with the Rules, liabilities in respect of long term business having been calculated by an actuary. We have also relied upon a report from accountants approved by the Council of Lloyd's acting as auditors of each agency through which the underwriter has carried on insurance business as to whether members' agents' asset returns and supplementary asset returns have been properly prepared.

OPINION

5. In our opinion, based upon the above-mentioned procedures and reports, the value of the assets, valued in accordance with the Rules, available to meet each underwriter's liabilities, calculated in accordance with the Rules, in respect of his insurance business is correctly shown in the Accounts and is sufficient to meet his liabilities in respect of that business.

(Firm's Name)

Accountants approved by the Council of Lloyd's

(Place)

(Date)

Schedule of Underwriters at Lloyd's To Whom Certificate Relates

(Names of relevant underwriters)

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, which come into force on 24th December 1996, amend the Insurance Companies Act 1982 (“the 1982 Act”) and the Insurance (Lloyd's) Regulations 1983 (S.I. 1983/224), as amended by the Insurance Companies Regulations 1994 (S.I. 1994/1516) (“the 1983 Regulations”). The main purpose of the Regulations is to clarify certain aspects of the regulatory arrangements for members and former members of the Society of Lloyd’s (“Lloyd's”) and to update the prescribed form of returns on behalf of members of Lloyd’s and by the Council of Lloyd’s to the Secretary of State.

The amendments of the 1982 Act are made under section 2(2) of the European Communities Act 1972. They are related to requirements of Council Directive 73/239/EEC (O.J. No. L228, 16.8.73, p.3) on the co-ordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance (“first non-life Directive”), as amended and supplemented by Directive 88/357/EEC (O.J. No. L172, 4.7.88, p.1) and Directive 92/49/EEC (O.J. No. L228, 11.8.92, p.1) (“third non-life Directive”); and corresponding requirements of Council Directive 79/269/EEC (O.J. No. L63, 13.3.79, p.1) on the co-ordination of laws, regulations and administrative provisions relating to direct life assurance (“first life Directive”), as amended and supplemented by Directive 90/619/EEC (O.J. No. L330, 29.11.90, p.50) and Directive 92/96/EEC (O.J. No. L360, 9.12.92, p.1) (“third life Directive”). Those requirements concern the authorisation of insurance undertakings (article 8 of the first non-life and life Directives), the supervisory powers of competent authorities (articles 19(3) of the first non-life and 23(3) of the first life Directives), and the transfer of insurance business (articles 12 of the third non-life and 11 of the third life Directives). The amendments of the 1983 Regulations are made under section 83(4) (audit of underwriters' accounts) and section 86 (statement of business by the council of Lloyd's) of the 1982 Act.

Regulation 1 provides for citation and commencement.

Regulation 2 contains interpretation provisions.

Regulation 3 makes clear that a former member of Lloyd's, as defined in the Regulations, does not require authorisation under the 1982 Act merely because he continues to be liable as a party to contracts of insurance entered into by him as a member of Lloyd's. However, he will be treated as though he were a UK company to which Part II of the 1982 Act applies (subject to any order of the Secretary of State under section 68 of that Act disapplying or modifying the application of provisions in that Part).

Regulation 4 removes, in relation to former members of Lloyd's, the requirement in section 68 that an order under that section may only be made on the application or with the consent of a company. It also provides that an order under section 68 in relation to a former member may exclude or modify the application of any provision of Part II.

Regulations 5 and 6 introduce minor amendments to sections 15 and 83 of the 1982 Act to ensure that the certificate which is required to be furnished by the accountant who audits the annual accounts of an underwriter states affirmatively that the value of the assets are, in the opinion of the auditor, correctly shown and are sufficient to meet the underwriter’s liabilities.

Regulation 7 extends section 85 of the 1982 Act so as to cover transfers of business by former members of Lloyd's.

Regulations 8 and 9 update the format of the financial returns required by sections 83 and 86 of the 1982 Act and by the 1983 Regulations. These returns are made annually by Lloyd’s in relation to its members both individually and taken together. The changes reflect modern audit practices and

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recent changes to the way in which business is conducted, including the introduction to Lloyd's of corporate members in 1994.

Regulation 10 contains transitional provisions.

A compliance cost assessment is available, copies of which have been placed in the libraries of both Houses of Parliament. Copies are also available from the Insurance Directorate of the Department of Trade and Industry, Room 5.A.28, 1 Victoria Street, London SW1H 0ET.