
STATUTORY INSTRUMENTS

2003 No. 1102

**The Insurers (Reorganisation and
Winding Up) Regulations 2003**

PART VII

Revocations and amendments

Revocation of the Financial Services and Markets Act 2000 (Treatment of Assets of Insurers on Winding Up) Regulations 2001

51. The Financial Services and Markets Act 2000 (Treatment of Assets of Insurers on Winding Up) Regulations 2001(1) are revoked.

Amendment of the Insurers (Winding Up) Rules 2001 and the Insurers (Winding Up) (Scotland) Rules 2001

52. The Insurers (Winding Up) Rules 2001(2) (“the Winding Up Rules”) and the Insurers (Winding-up) (Scotland) Rules 2001(3) (“the Scottish Winding Up Rules”) are amended in accordance with regulations 53 to 58.

Maintenance of separate financial records for long term and other business

53.—(1) Rule 5 of the Winding Up Rules is revoked, and in its place is inserted—

“Maintenance of separate financial records for long-term and other business in winding up

5.—(1) This rule applies in the case of a company carrying on long-term business in whose case no stop order has been made.

(2) The liquidator shall prepare and keep separate financial records in respect of the long-term business and the other business of the company.

(3) Paragraphs (4) and (5) apply in the case of a company to which this rule applies which also carries on permitted general business (‘a hybrid insurer’).

(4) Where, before the liquidation date, a hybrid insurer has, or should properly have, apportioned the assets and liabilities attributable to its permitted general business to its long term business for the purposes of any accounts, those assets and liabilities must be apportioned to its long term business for the purposes of complying with paragraph (2) of this rule.

(5) Where, before the liquidation date, a hybrid insurer has, or should properly have, apportioned the assets and liabilities attributable to its permitted general business other than

(1) [S.I. 2001/2968](#).
(2) [S.I. 2001/3635](#).
(3) [S.I. 2001/4040](#).

to its long term business for the purposes of any accounts, those assets and liabilities must be apportioned to its other business for the purposes of complying with paragraph (2) of this rule.

(6) Regulation 10 of the general regulations (financial records) applies only in relation to the company's other business.

(7) In relation to the long-term business, the liquidator shall, with a view to the long-term business of the company being transferred to another insurer, maintain such accounting, valuation and other records as will enable such other insurer upon the transfer being effected to comply with the requirements of any rules made by the Authority under Part X of the 2000 Act relating to accounts and statements of insurers.

(8) In paragraphs (4) and (5)—

- (a) "accounts" means any accounts or statements maintained by the company in compliance with a requirement under the Companies Act 1985 or any rules made by the Authority under Part X of the 2000 Act;
- (b) "permitted general business" means the business of effecting or carrying out a contract of general insurance where the risk insured against relates to either accident or sickness."

(2) Rule 5 of the Scottish Winding-Up Rules is revoked and in its place is inserted—

"Maintenance of separate financial records for long-term and other business in winding up

5.—(1) This rule applies in the case of a company carrying on long-term business in whose case no stop order has been made.

(2) The liquidator shall prepare and keep separate financial records in respect of the long-term business and the other business of the company.

(3) Paragraphs (4) and (5) apply in the case of a company to which this rule applies which also carries on permitted general business ('a hybrid insurer').

(4) Where, before the liquidation date, a hybrid insurer has, or should properly have, apportioned the assets and liabilities attributable to its permitted general business to its long term business for the purposes of any accounts, those assets and liabilities must be apportioned to its long term business for the purposes of complying with paragraph (2) of this rule.

(5) Where, before the liquidation date, a hybrid insurer has, or should properly have, apportioned the assets and liabilities attributable to its permitted general business other than to its long term business for the purposes of any accounts, those assets and liabilities must be apportioned to its other business for the purposes of complying with paragraph (2) of this rule.

(6) Regulation 10 of the general regulations (financial records) applies only in relation to the company's other business.

(7) In relation to the long-term business, the liquidator shall, with a view to the long-term business of the company being transferred to another insurer, maintain such accounting, valuation and other records as will enable such other insurer upon the transfer being effected to comply with the requirements of any rules made by the Authority under Part X of the 2000 Act relating to accounts and statements of insurers.

(8) In paragraphs (4) and (5)—

- (a) "accounts" means any accounts or statements maintained by the company in compliance with a requirement under the Companies Act 1985 or any rules made by the Authority under Part X of the 2000 Act;

- (b) “permitted general business” means the business of effecting or carrying out a contract of general insurance where the risk insured against relates to either accident or sickness.”.

Excess of long term business assets

54. In paragraph (1) of rule 11 of both the Winding Up Rules and the Scottish Winding-Up Rules (excess of long-term business assets), after “Where the company is one carrying on long-term business” insert “and in whose case no stop order has been made”.

Proof of debts

55. In rule paragraph (1) of rule 20 of the Winding Up Rules and paragraph (1) of rule 19 of the Scottish Winding Up Rules (proof of debts) after “carrying on long-term business” insert “in whose case no stop order has been made”.

Valuation of policies for meetings of creditors

56. In paragraph (6) of rule 22 of the Winding Up Rules and in paragraph (6) of rule 21 of the Scottish Winding Up Rules (notice of valuation of policy), for “attributable either to” substitute “attributable to either or both”.

Meetings of creditors

57.—(1) Rule 24 of the Winding Up Rules (meetings of creditors) is amended as follows.

(2) For paragraph (1) substitute—

“(1) In the case of a company carrying on long-term business in whose case no stop order has been made, the creditors entitled to participate in creditors' meetings may be—

- (a) in relation to the long-term business assets of the company, only those who are creditors in respect of liabilities attributable to the long-term business of the company; and
- (b) in relation to the other business assets of the company, only those who are creditors in respect of liabilities attributable to the other business of the company.

(1A) In a case where separate general meetings of the creditors are summoned by the liquidator pursuant to—

- (a) paragraph (1) above; or
- (b) regulation 28 of the Insurers (Reorganisation and Winding Up) Regulations 2003(4) (composite insurers: general meetings of creditors),

chapter 8 of Part 4 and Part 8 of the principal rules apply to each such separate meeting.”.

(3) After paragraph (2) insert—

“(3) In paragraph (1)—

“long-term business assets” means the assets representing the fund or funds maintained by the company in respect of its long-term business;

“other business assets” means any assets of the company which are not long-term business assets.”.

(4) Rule 23 of the Winding Up (Scotland) Rules is amended as follows.

(5) For paragraph (1) substitute—

“(1) In the case of a company carrying on long-term business in whose case no stop order has been made, the creditors entitled to participate in creditors' meetings may be—

- (a) in relation to the long-term business assets of the company, only those who are creditors in respect of liabilities attributable to the long-term business of the company; and
- (b) in relation to the other business assets of the company, only those who are creditors in respect of liabilities attributable to the other business of the company.

(1A) In a case where separate general meetings of the creditors are summoned by the liquidator pursuant to—

- (a) paragraph (1) above; or
- (b) regulation 29 of the Insurers (Reorganisation and Winding Up) Regulations 2003⁽⁵⁾ (composite insurers: general meetings of creditors), chapter 4 (meetings of creditors) and rule 4.31 (final meeting) of Part 4 and Chapters 1 and 2 of Part 7 (meetings and proxies and company representation) of the principal rules apply to each such separate meeting.”.

(6) After paragraph (2) insert—

“(3) In paragraph (1)—

“long-term business assets” means the assets representing the fund or funds maintained by the company in respect of its long-term business;

“other business assets” means any assets of the company which are not long-term business assets.”.

Apportionment of expenses of the liquidation

58.—(1) In paragraph (1) of rule 26 of the Winding Up Rules (apportionment of costs payable out of the assets), for “Rule 4.218” substitute “Where no stop order has been made in relation to a company, rule 4.218”.

(2) In paragraph (1) of rule 24 of the Scottish Winding Up rules (apportionment of expenses of liquidation), for “Rule 4.67” substitute “Where no stop order has been made in relation to a company, Rule 4.67”.