

1976 No. 315

INSURANCE

Insurance Companies (Intermediaries) Regulations
(Northern Ireland) 1976

Made 25th October 1976

Coming into operation 31st December 1976

The Department(a) of Commerce, in exercise of the powers conferred upon it by Articles 75 and 93 of the Insurance Companies (Northern Ireland) Order 1976(b) and of every other power enabling it in that behalf, hereby makes the following regulations:

Citation, commencement and revocation

1.—(1) These regulations may be cited as the Insurance Companies (Intermediaries) Regulations (Northern Ireland) 1976 and shall come into operation on 31st December 1976.

(2) The Insurance Companies (Intermediaries) Regulations (Northern Ireland) 1974(c) are hereby revoked.

Interpretation

2. In these regulations—

“the Order” means the Insurance Companies (Northern Ireland) Order 1976;

“authorised insurer” has the meaning assigned to it in Article 75(2) of the Order;

“contract of insurance” does not include a contract of reinsurance or a contract of insurance the effecting and carrying out of which constitutes the carrying on of industrial assurance business or marine, aviation and transport insurance business;

“intermediary” means a person to whom the requirements of regulation 4 or 5 apply in respect of an invitation issued by him.

Persons connected with an insurance company

3.—(1) For the purposes of these regulations a person is connected with an insurance company if—

(a) that person, or any partner, director, controller or manager of that person, is a partner, director, controller or manager of the insurance company or of any controller thereof;

(b) the insurance company, or any partner, director, controller or manager of the insurance company, is a partner, director, controller or manager of that person or of any controller of that person:

(a) Formerly Ministry: see 1973 c. 36 s. 40 and Sch. 5 para. 8(1)

(b) S.I. 1976/59 (N.I. 3) brought into operation by S.R. 1976 No. 56 (C. 2)

(c) S.R. 1974 No. 250 (II, p. 1199)

- (c) that person or any controller of that person has a significant interest in shares of the insurance company or of any controller thereof;
- (d) the insurance company or any controller thereof has a significant interest in shares of that person or of any controller of that person;
- (e) that person, under any contract, not being a contract of employment, or under any other arrangement (whether legally enforceable or not) with the insurance company or with any associated company, undertakes not to perform any services relating to any class of insurance business (or any category thereof) for any insurance company other than the insurance company and, where the undertaking also relates to any associated company, the associated company:

Provided that an individual who gives an undertaking of the kind referred to above to any registered society shall not, by virtue of such undertaking, be a person connected with the society or with any company which is, within the meaning of section 144 of the Companies Act (Northern Ireland) 1960(d), a wholly owned subsidiary of the society.

(2) For the purposes of paragraphs (1)(c) and (d), a person shall be treated as having an interest in shares of a company if, by virtue of section 28 (other than subsection (3)(b)) of the Companies Act 1967(e), he would be so treated for the purposes of section 27 of that Act; and the interest shall be treated as significant if it is such that notification of it would be required under section 33 of that Act.

(3) A person who issues an invitation as is mentioned in regulation 4 in respect of a contract of insurance which will be underwritten at Lloyd's shall, in respect of such contract of insurance, be connected with the insurance company to which that contract relates if that person or any partner, director, controller or manager of that person will take a share in the contract as a member of Lloyd's.

(4) In this regulation—

“associated company” in relation to a body corporate means a subsidiary or holding company or subsidiary of the holding company of that body; “subsidiary” and “holding company” shall be construed in accordance with section 148 of the Companies Act (Northern Ireland) 1960; and any reference to “controller”, in relation to a body corporate which is not an insurance company, shall be construed as a reference to a person who is or would, if he were a company, be a holding company of that body; and any reference to “manager”, in relation to such a body, shall be construed as a reference to a person who directly or indirectly takes part in or is concerned in the management of the affairs of that body.

Invitation by person connected with insurance company

4. Subject to regulation 7, any person who invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company shall, if he is connected with that company at the time the invitation is issued, provide the person to whom the invitation is issued, in the manner specified in regulation 6, with information indicating the circumstances of his connection with that company.

Invitation to enter contract of insurance with insurance company not being authorised insurer

5. Subject to regulation 7, any person who, in the course of carrying on any business or profession, invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company which is not an authorised insurer shall provide the person to whom the invitation is issued, in the manner specified in regulation 6, with information indicating that the insurance company to which the invitation relates is not an authorised insurer in respect of the contract in question.

Manner in which information is to be provided.

6.—(1) An intermediary shall provide the information required under regulations 4 or 5 in the following manner—

- (a) where the invitation is issued in writing and is sent or delivered, by sending or (as the case may be) by delivering with the invitation a written statement containing that information;
- (b) where the invitation is issued orally, by supplying the person to whom the invitation is issued with the information orally, and
 - (i) if the person is present when the invitation is issued, by delivering to him immediately thereafter a written statement containing that information; or
 - (ii) if the person is not so present, by sending by post or causing to be delivered to him as soon as reasonably practicable, at the address supplied by him for the purpose or at his last known address, a written statement containing that information.

(2) The requirement of the written statement referred to in paragraph (1) shall be deemed to have been complied with where the invitation issued by the intermediary under regulation 4 is issued on stationery having printed upon it, in prominent positions, on the side on which the invitation is contained, the name of the intermediary, the name of the insurance company and a clear statement of the relationship between them and which contains in the body of the invitation a clear indication of the name of the insurance company to which the invitation relates, expressed in the same style as in the printed statement:

Provided that where the intermediary is a Lloyd's broker or a member of Lloyd's and it is clearly indicated in the invitation that the contract will be underwritten at Lloyd's there may be inserted, in place of the statement of relationship referred to above, the expression "Lloyd's Brokers" or (as the case may be) "Mr. _____ is a member of Lloyd's" without a reference to the names of the underwriters concerned.

Excepted cases

7.—(1) These regulations shall not apply to—

- (a) an invitation for the renewal or amendment of the terms of any contract of insurance effected before the coming into operation of these regulations;
- (b) an invitation for the renewal or amendment of the terms of a contract of insurance effected as a result of an invitation issued by an intermediary in accordance with these regulations where there has been no significant change in the circumstances relevant to the information provided when the contract was first effected;

- (c) an amendment of an invitation issued by an intermediary in accordance with these regulations where there has been no significant change in the circumstances relevant to the information provided when the invitation was first issued;
- (d) an invitation for the effecting of a contract of insurance in respect of general business where—
- (i) the contract relates to motor vehicle insurance business or to property insurance business and the initial premium to be paid in respect of that contract exceeds £5,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into other contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £5,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation in question is made; or
 - (ii) the contract relates to any other class of insurance business and the initial premium to be paid exceeds £1,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £1,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation is made;
- (e) an invitation for the effecting of a contract of insurance with such persons as are mentioned in paragraphs (d) and (e) of Article 6(1) of the Order;
- (f) an invitation such as is referred to in regulation 5 which relates to a contract of insurance with an insurance company which is permitted by virtue of section 2(1)(a) or (b) or (2)(a) of the Insurance Companies Act 1974(f) to carry on insurance business of any class in Great Britain.

(2) Regulation 4 shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company, or the share in the aggregate to be taken by two or more companies, with which the intermediary is connected, does not exceed one-quarter of the total.

(3) Regulation 5 shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company which is not an authorised insurer, or the share in the aggregate to be taken by two or more companies which are not authorised insurers, does not exceed one-quarter of the total.

Sealed with the Official Seal of the Department of Commerce for Northern Ireland on 25th October 1976.

(L.S.)

W. T. McCrory

Assistant Secretary

EXPLANATORY NOTE

(This note is not part of the regulations but is intended to indicate their general purport.)

These regulations supersede the Insurance Companies (Intermediaries) Regulations (Northern Ireland) 1974 which applied to invitations to enter into long term insurance business with overseas insurers who were not authorised to carry on long term insurance business in the United Kingdom.

These regulations apply to all contracts of insurance other than contracts of reinsurance, contracts relating to industrial assurance business and contracts relating to marine, aviation and transport insurance business. The regulations require an intermediary who is connected with an insurance company in accordance with regulation 3 to supply persons (being persons ordinarily resident in the United Kingdom) to whom he issues invitations to enter into contracts of insurance with information of the circumstances of his connection with the company. Additionally, any intermediary who, in the course of any business or profession, invites another person to enter into a contract of insurance with an insurance company which is not authorised under the Insurance Companies (Northern Ireland) Order 1976 [which was brought into operation on 19th April 1976 (S.R. 1976 No. 56 (C. 2))] is required to inform that person of the fact that the company in question is not so authorised. Certain invitations are excluded from the application of the regulations, e.g. invitations for the renewal or amendment of contracts effected before the coming into operation of the regulations and invitations relating to the effecting of contracts with friendly societies, trade unions or employers' associations.

The Order provides that any person who contravenes these regulations shall be guilty of an offence.