



# Insurance Brokers (Registration) Act 1977

## 1977 CHAPTER 46

An Act to provide for the registration of insurance brokers and for the regulation of their professional standards; and for purposes connected therewith. [29th July 1977]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### *The Insurance Brokers Registration Council*

#### **1 Establishment of Insurance Brokers Registration Council**

- (1) There shall be established a body to be called the Insurance Brokers Registration Council (hereinafter referred to as "the Council") which shall be a body corporate with perpetual succession and a common seal and shall have the general function of carrying out the powers and duties conferred on them by this Act.
- (2) The Council shall be constituted in accordance with the Schedule to this Act and the supplementary provisions contained in that Schedule shall have effect with respect to the Council.

### *Registration and training of insurance brokers*

#### **2 The insurance brokers register**

The Council shall establish and maintain a register of insurance brokers (hereinafter referred to as "the register") containing the names, addresses and qualifications, and such other particulars as may be prescribed, of all persons who are entitled under the provisions of this Act to be registered therein and apply in the prescribed manner to be so registered.

### 3 Qualifications for registration

- (1) Subject to subsection (2) below and to section 16 of this Act, a person shall be entitled to be registered in the register if he satisfies the Council—
  - (a) that he holds a qualification approved by the Council under section 6 of this Act, being a qualification granted to him after receiving instruction from an institution so approved ; or
  - (b) that he holds a qualification recognised by the Council for the purposes of this paragraph, being a qualification granted outside the United Kingdom ; or
  - (c) that he has carried on business as an insurance broker, or as a whole-time agent acting for two or more insurance companies in relation to insurance business, for a period of not less than five years ; or
  - (d) that he holds a qualification recognised by the Council for the purposes of this paragraph and has carried on business as mentioned in paragraph (c) above for a period of not less than three years ; or
  - (e) that he has been employed by a person carrying on business as mentioned in paragraph (c) above, or by an insurance company, for a period of not less than five years; or
  - (f) that he holds a qualification recognised by the Council for the purposes of this paragraph and has been employed by a person carrying on business as mentioned in paragraph (c) above, or by an insurance company, for a period of not less than three years; or
  - (g) that he has knowledge and practical experience of insurance business which is comparable to that of a person who has carried on business as an insurance broker for a period of five years ; or
  - (h) that he holds a qualification recognised by the Council for the purposes of this paragraph and has knowledge and practical experience of insurance business which is comparable to that of a person who has carried on business as an insurance broker for a period of three years.
- (2) A person shall not be entitled to be registered in the register by virtue of subsection (1) above unless he also satisfies the Council—
  - (a) as to his character and suitability to be a registered insurance broker; and
  - (b) in a case falling within paragraph (a), (b), (e) or (f) of subsection (1) above, that he has had adequate practical experience in the work of an insurance broker; and
  - (c) if he is carrying on business as an insurance broker at the time when the application is made, that he is complying with the requirements of rules under section 11(1) of this Act.
- (3) Subject to section 16 of this Act, a person shall be entitled to be registered in the register if he satisfies the Council that he or a partnership of which he is a member is accepted as a Lloyd's broker by the Committee of Lloyd's.
- (4) The Secretary of State may, after consulting the Council, by order provide that any of the paragraphs in subsection (1) or (2) above shall be omitted or shall have effect subject to such amendments as may be specified in the order.

### 4 List of bodies corporate carrying on business as insurance brokers

- (1) The Council shall establish and maintain a list of bodies corporate carrying on business as insurance brokers (hereinafter referred to as " the list") containing the names,

principal places of business and such other particulars as may be prescribed of all bodies corporate which are entitled under this section to be enrolled therein and apply in the prescribed manner to be so enrolled.

- (2) Subject to subsection (3) below and to section 16 of this Act, a body corporate shall be entitled to be enrolled in the list if it satisfies the Council—
  - (a) that a majority of its directors are registered insurance brokers; or
  - (b) in the case of a body corporate having only one director, that he is a registered insurance broker; or
  - (c) in the case of a body corporate having only two directors, that one of them is a registered insurance broker and that the business is carried on under the management of that director.
- (3) A body corporate shall not be entitled to be enrolled in the list by virtue of subsection (1) above unless it also satisfies the Council that it is complying with the requirements of rules under section 11(1) of this Act.
- (4) Subject to section 16 of this Act, a body corporate shall be entitled to be enrolled in the list if it satisfies the Council that it is accepted as a Lloyd's broker by the Committee of Lloyd's.

## **5 Appeals against refusal to register or enrol**

- (1) Before refusing an application for registration under section 3 of this Act or an application for enrolment under section 4 of this Act, the Council shall give the person by whom or the body corporate by which the application was made an opportunity of appearing before and being heard by a committee of the Council.
- (2) Where the Council refuse any such application, the Council shall, if so required by the person by whom or the body corporate by which the application was made within seven days from notification of the decision, serve on that person or body a statement of the reasons therefor.
- (3) A person or body corporate whose application is so refused may within twenty-eight days from—
  - (a) notification of the decision, or
  - (b) if a statement of reasons has been required under subsection (2) above, service of the statement,appeal against the refusal to the Court.
- (4) The Council may appear as respondent on any such appeal and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.
- (5) On the hearing of any such appeal the Court may make such order as it thinks fit and its order shall be final.

## **6 Approval of educational institutions and qualifications**

- (1) The Council may approve for the purposes of this Act any institution (hereinafter referred to as "an approved educational institution") where the instruction given to persons being educated as insurance brokers appears to the Council to be such as to secure to them adequate knowledge and skill for the practice of their profession.

- (2) The Council may approve for the purposes of this Act any qualification (hereinafter referred to as "an approved qualification ") which appears to the Council to be granted to candidates who reach such a standard of proficiency at a qualifying examination as to secure to them adequate knowledge and skill for the practice of their profession.
- (3) Where the Council have refused to approve an institution or qualification under this section as suitable for any purpose, the Secretary of State, on representations being made to him within one month of the refusal, may, if he thinks fit, after considering the representations and after consulting the Council, order the Council to approve the institution or qualification as suitable for that purpose.
- (4) The Council shall publish before the day appointed for the coming into operation of section 3(1)(a) of this Act, and from time to time thereafter, a list of approved educational institutions and approved qualifications.

## **7 Supervision of educational institutions and qualifying examinations**

- (1) It shall be the duty of the Council to keep themselves informed of the nature of the instruction given by any approved educational institution to persons being educated as insurance brokers and of the examinations on the results of which approved qualifications are granted.
- (2) For the purposes of their duty under subsection (1) above the Council may appoint persons to visit approved educational institutions and to attend at the examinations held by the bodies which grant approved qualifications.
- (3) It shall be the duty of visitors appointed under subsection (2) above to report to the Council as to the sufficiency of the instruction given by the institutions visited by them, or of the examinations attended by them, and as to any other matters relating thereto which may be specified by the Council either generally or in any particular case, but no visitor shall interfere with the giving of any instruction or the holding of any examination.
- (4) Where it appears to the Council (as a result of a report under subsection (3) above or otherwise),—
  - (a) that the instruction given by any approved educational institution to persons being educated as insurance brokers or the examinations taken by such persons are not such as to secure the possession by them of adequate knowledge and skill for the practice of their profession; and
  - (b) that by reason thereof the approval of the institution or qualification in question should be withdrawn,the Council shall give notice in writing to the institution or body of their opinion, sending therewith a copy of any report on which their opinion is based.
- (5) On the receipt of the notice the institution or body may, within such period (not being less than one month) as the Council may have specified in the notice, make to the Council observations on the notice and any report sent therewith or objections to the notice and report.
- (6) As soon as may be after the expiration of the period specified in the notice under subsection (4) above the Council shall determine whether or not to withdraw their approval of the institution or qualification, as the case may be, taking into account any observations or objections duly made under subsection (5) above.

- (7) The Council shall give notice in writing of any decision under this section to withdraw approval of an institution or qualification to the institution or body concerned and the decision shall not take effect until the expiration of one month from the date of the giving of the notice or, if during that time the institution or body makes representations with respect to the decision to the Secretary of State, until the representations are finally dealt with.
- (8) Where the Council have decided to withdraw approval of an institution or qualification, the Secretary of State, on representations being made to him within one month from the giving of notice of the decision, may, if he thinks fit, after considering the representations and after consulting the Council order the Council to annul the withdrawal of approval.
- (9) The Council may pay to visitors appointed under this section such fees and such travelling and subsistence allowances as the Council may determine.

## **8 Supplementary provisions as to the register and list**

- (1) The register and list shall be kept by the registrar of the Council who shall be appointed by the Council.
- (2) The Council may make rules with respect to the form and keeping of the register and list and the making of entries and alterations therein and, in particular—
  - (a) regulating the making of applications for registration or enrolment and providing for the evidence to be produced in support of any such applications;
  - (b) providing for the notification to the registrar of any change in the particulars required to be entered in the register or list;
  - (c) prescribing a fee to be charged on the entry of a name in, or the restoration of a name to, the register or list;
  - (d) prescribing a fee to be charged in respect of the retention in the register or list of any name in any year subsequent to the year in which that name was first entered in the register or list;
  - (e) providing for the entry in the register of qualifications (whether approved qualifications or not) possessed by persons whose names are registered therein and for the removal of such qualifications from the register, and prescribing a fee to be charged in respect of the entry;
  - (f) authorising the registrar to refuse to enter a name in, or restore it to, the register or list until a fee prescribed for the entry or restoration has been paid and to erase from the register or list the name of a person who or body corporate which, after the prescribed notices and warnings, fails to pay the fee prescribed in respect of the retention of that name in the register or list;
  - (g) authorising the registrar to erase from the register or list the name of a person who or body corporate which, after the prescribed notices and warnings, fails to supply information required by the registrar with a view to ensuring that the particulars entered in the register or list are correct;
  - (h) prescribing anything required or authorised to be prescribed by the provisions of this Act relating to the register or list.
- (3) Rules under this section which provide for the erasure of a name from the register or list on failure to pay a fee shall provide for its restoration thereto on the making of the prescribed application in that behalf and on payment of that fee and any additional fee prescribed in respect of the restoration.

- (4) Rules under this section prescribing fees may provide for the charging of different fees in different classes of cases and for the making of arrangements for the collection of fees with such body or bodies as may be prescribed.

## **9 Publication of register and list**

- (1) The Council shall cause the register and list to be printed and published within one year of the establishment of the Council and as often thereafter as they think fit.
- (2) Where the register or list is not published in any year after the first publication thereof, the Council shall cause any alterations in the entries in the register or list which have been made since the last publication thereof to be printed and published within that year.
- (3) A copy of the register or list purporting to be printed and published by the Council, shall, as altered by any alterations purporting to be printed and published by the Council, be evidence in all proceedings that the individuals specified in the register are registered therein or, as the case may be, that the bodies corporate specified in the list are enrolled therein; and the absence of the name of any individual or body corporate from any such copy of the register or list shall be evidence, until the contrary is shown, that he is not registered or, as the case may be, that it is not enrolled therein.
- (4) In the case of an individual whose name or a body corporate the name of which does not appear in any such copy of the register or list as altered as aforesaid, a certified copy, under the hand of the registrar, of the entry relating to that individual or body corporate in the register or list shall be evidence of the entry.

### *Regulation of conduct*

## **10 Code of conduct**

- (1) The Council shall draw up and may from time to time revise a statement of the acts and omissions which, if done or made by registered insurance brokers or enrolled bodies corporate, or by registered insurance brokers or enrolled bodies corporate in particular circumstances, constitute in the opinion of the Council unprofessional conduct.
- (2) The statement shall serve as a guide to registered insurance brokers and enrolled bodies corporate and persons concerned with the conduct of registered insurance brokers and enrolled bodies corporate, but the mention or lack of mention in it of a particular act or omission shall not be taken as conclusive of any question of professional conduct.

## **11 Requirements for carrying on business**

- (1) The Council shall make rules requiring registered insurance brokers who are carrying on business as insurance brokers (hereinafter referred to as "practising insurance brokers ") and enrolled bodies corporate to ensure—
- (a) that their businesses have working capital of not less than such amount as may be prescribed ;
  - (b) that the value of the assets of their businesses exceeds the amount of the liabilities of their businesses by not less than such amount as may be prescribed ; and

- (c) that the number of insurance companies with which they place insurance business, and the amount of insurance business which they place with each insurance company, is such as to prevent their businesses from becoming unduly dependent on any particular insurance company.
- (2) The Council shall also make rules requiring practising insurance brokers and enrolled bodies corporate—
- (a) to open and keep accounts at banks for money received by them from persons with whom they do business ;
  - (b) to hold money so received in such manner as may be prescribed;
  - (c) to keep such accounting records showing and explaining the transactions of their businesses as may be prescribed ; and
  - (d) to prepare and submit to the Council at such intervals as may be prescribed balance sheets and profit and loss accounts containing such information as may be prescribed for the purpose of giving a true and fair view of the state of their businesses.
- (3) Without prejudice to the generality of subsections (1) and (2) above, rules under this section may empower the Council—
- (a) to require practising insurance brokers and enrolled bodies corporate to deliver at such intervals as may be prescribed reports given by qualified accountants and containing such information as may be prescribed for the purpose of ascertaining whether or not the rules have been complied with ;
  - (b) to require practising insurance brokers and enrolled bodies corporate to deliver at such intervals as may be prescribed statements made by them and containing such information as may be prescribed for the purpose of ascertaining whether or not the rules are being complied with; and
  - (c) to take such other steps as they consider necessary or expedient for the purpose of ascertaining whether or not the rules are being complied with.
- (4) Subject to subsections (5) and (6) below, an accountant is qualified to give reports for the purposes of the rules if he is a member of a recognised body of accountants or is for the time being authorised by the Secretary of State under section 161(1)(b) of the Companies Act 1948 or, in Northern Ireland, by the Department of Commerce for Northern Ireland under section 155(1)(b) of the Companies Act (Northern Ireland) 1960.
- (5) An accountant shall not be qualified to give such reports—
- (a) in relation to a practising insurance broker, if he is an employee or partner of, or an employee of a partner of, the practising insurance broker;
  - (b) in relation to an enrolled body corporate, if he is not qualified for appointment as auditor of the enrolled body corporate.
- (6) A Scottish firm of accountants shall be qualified to give such reports if, but only if, all the partners are so qualified.
- (7) Rules under this section may make different provision for different circumstances, and may specify circumstances in which persons are exempt from any of the requirements of the rules.

## **12 Professional indemnity, etc.**

- (1) The Council shall make rules for indemnifying—

- (a) practising insurance brokers and former practising insurance brokers, and
  - (b) enrolled bodies corporate and former enrolled bodies corporate,against losses arising from claims in respect of any description of civil liability incurred by them, or by employees or former employees of theirs, in connection with their businesses.
- (2) The Council shall also make rules for the making of grants or other payments for the purpose of relieving or mitigating losses suffered by persons in consequence of—
  - (a) negligence or fraud or other dishonesty on the part of practising insurance brokers or enrolled bodies corporate, or of employees of theirs, in connection with their businesses; or
  - (b) failure on the part of practising insurance brokers or enrolled bodies corporate to account for money received by them in connection with their businesses.
- (3) For the purpose of providing such indemnity and of enabling such grants or other payments to be made, rules under this section—
  - (a) may authorise or require the Council to establish and maintain a fund or funds ;
  - (b) may authorise or require the Council to take out and maintain insurance with authorised insurers ;
  - (c) may require practising insurance brokers or enrolled bodies corporate or any specified description of practising insurance brokers or enrolled bodies corporate to take out and maintain insurance with authorised insurers.
- (4) Without prejudice to the generality of the preceding subsections, rules under this section—
  - (a) may specify the terms and conditions on which indemnity or a grant or other payment is to be available, and any circumstances in which the right to it is to be excluded or modified;
  - (b) may provide for the management, administration and protection of any fund maintained by virtue of subsection (3)(a) above and require practising insurance brokers or enrolled bodies corporate or any description of practising insurance brokers or enrolled bodies corporate to make payments to any such fund ;
  - (c) may require practising insurance brokers or enrolled bodies corporate or any description of practising insurance brokers or enrolled bodies corporate to make payments by way of premium on any insurance policy maintained by the Council by virtue of subsection (3)(b) above;
  - (d) may prescribe the conditions which an insurance policy must satisfy for the purposes of subsection (3)(c) above;
  - (e) may authorise the Council to determine the amount of any payments required by the rules, subject to such limits, or in accordance with such provisions, as may be prescribed;
  - (f) may specify circumstances in which, where a registered insurance broker or an enrolled body corporate for whom indemnity is provided has failed to comply with the rules, the Council or insurers may take proceedings against him or it in respect of sums paid by way of indemnity in connection with a matter in relation to which there has been a failure to comply with the rules;
  - (g) may specify circumstances in which, where a grant or other payment is made in consequence of the act or omission of a practising insurance broker or enrolled body corporate, the Council or insurers may take proceedings against him or it in respect of the sum so paid;



- (h) may make different provision for different circumstances, and may specify circumstances in which practising insurance brokers or enrolled bodies corporate are exempt from any of the rules ;
- (i) may empower the Council to take such steps as they consider necessary or expedient to ascertain whether or not the rules are being complied with ; and
- (j) may contain incidental, procedural or supplementary provisions.

### *Disciplinary proceedings*

## **13 Preliminary investigation of disciplinary cases**

- (1) The Council shall set up a committee, to be known as the Investigating Committee, for the preliminary investigation of cases in which—
  - (a) it is alleged that a registered insurance broker or enrolled body corporate is liable to have his or its name erased from the register or list on any ground specified in section 15 of this Act; or
  - (b) a complaint is made to the Council by or on behalf of a member of the public about a registered insurance broker or an enrolled body corporate or an employee of a registered insurance broker or an enrolled body corporate.

Any such case is hereinafter referred to as " a disciplinary case ".

- (2) A disciplinary case shall be referred to the Investigating Committee who shall carry out a preliminary investigation of it and, unless they are satisfied that there is insufficient evidence to support a finding that the registered insurance broker or enrolled body corporate is liable to have his or its name erased from the register or list, the Committee shall refer the case, with the results of their investigation, to the Disciplinary Committee set up under the next following section.
- (3) The Council shall make rules as to the constitution of the Investigating Committee.

## **14 The Disciplinary Committee**

- (1) The Council shall set up a committee, to be known as the Disciplinary Committee, for the consideration and determination of disciplinary cases referred to them under the last foregoing section and of any other cases of which they have cognizance under the following provisions of this Act.
- (2) The Council shall make rules as to the constitution of the Disciplinary Committee, the times and places of the meetings of the Committee, the quorum and the mode of summoning the members thereof.
- (3) Rules under this section shall secure that a person, other than the Chairman of the Council, who has acted in relation to any disciplinary case as a member of the Investigating Committee does not act in relation to that case as a member of the Disciplinary Committee.

## **15 Erasure from the register and list for crime, unprofessional conduct, etc.**

- (1) If a registered insurance broker or enrolled body corporate—
  - (a) is convicted by any court in the United Kingdom of any criminal offence, not being an offence which, owing to its trivial nature or the circumstances under

which it was committed, does not render him or it unfit to have his or its name on the register or list, or

- (b) is judged by the Disciplinary Committee to have been guilty of unprofessional conduct,

the Disciplinary Committee may, if they think fit, direct that the name of the insurance broker or body corporate shall be erased from the register or list.

- (2) If it appears to the Disciplinary Committee that a registered insurance broker or an enrolled body corporate has contravened or failed to comply with any rules made under section 11 or section 12 of this Act and that the contravention or failure is such as to render the insurance broker unfit to have his name on the register or the body corporate unfit to have its name on the list, the Disciplinary Committee may, if they think fit, direct that the name of the insurance broker or body corporate shall be erased from the register or list.

- (3) Where—

- (a) the name of a director of an enrolled body corporate is erased from the register under subsection (1) above, or
- (b) a director of any such body corporate is convicted of an offence under this Act, or
- (c) the name of a registered insurance broker employed by any such body corporate is erased from the register under subsection (1) above and the act or omission constituting the ground on which it was erased was instigated or connived at by a director of the body corporate, or, if the act or omission was a continuing act or omission, a director of the body corporate had or reasonably ought to have had knowledge of the continuance thereof,

the Disciplinary Committee may, if they think fit, direct that the name of the body corporate shall be erased from the list:

Provided that the Disciplinary Committee shall not take a case into consideration during any period within which proceedings by way of appeal may be brought which may result in this subsection being rendered inapplicable in that case or while any such proceedings are pending.

- (4) If the Disciplinary Committee are of opinion as respects an enrolled body corporate that the conditions for enrolment in section 4 of this Act are no longer satisfied, the Disciplinary Committee may, if they think fit, direct that the name of the body corporate shall be erased from the list.
- (5) Where a registered insurance broker dies while he is a director of an enrolled body corporate, he shall be deemed for the purposes of subsection (4) above to have continued to be a director of that body until the expiration of a period of six months beginning with the date of his death or until a director is appointed in his place, whichever first occurs.
- (6) When the Disciplinary Committee direct that the name of an individual or body corporate shall be erased from the register or list, the registrar shall serve on that individual or body a notification of the direction and a statement of the Committee's reasons therefor.

**16 Restoration of names erased as result of disciplinary cases, etc.**

- (1) Where the name of an individual or body corporate has been erased from the register or list in pursuance of a direction under the last foregoing section, the name of that individual or body corporate shall not again be entered in the register or list unless the Disciplinary Committee on application made to them in that behalf otherwise direct.
- (2) An application under subsection (1) above for the restoration of a name to the register or list shall not be made to the Disciplinary Committee—
  - (a) within ten months of the date of erasure ; or
  - (b) within ten months of a previous application thereunder.

**17 Erasure from register and list on grounds of fraud or error**

- (1) If it is proved to the satisfaction of the Disciplinary Committee that any entry in the register or list has been fraudulently or incorrectly made, the Disciplinary Committee may, if they think fit, direct that the entry shall be erased from the register or list.
- (2) An individual may be registered or a body corporate enrolled in pursuance of this Act notwithstanding that his or its name has been erased under this section, but if it was so erased on the ground of fraud, that individual or body corporate shall not be registered or enrolled except on an application in that behalf to the Disciplinary Committee; and on any such application the Disciplinary Committee may, if they think fit, direct that the individual or body corporate shall not be registered or enrolled, or shall not be registered or enrolled until the expiration of such period as may be specified in the direction.
- (3) Where the Disciplinary Committee direct that the name of an individual or body corporate shall be erased from the register or list under this section, the registrar shall serve on that individual or body a notification of the direction and a statement of the Committee's reasons therefor.

**18 Appeals in disciplinary and other cases**

- (1) At any time within twenty-eight days from the service of a notification that the Disciplinary Committee have under section 15 or section 17 of this Act directed that the name of an individual or a body corporate be erased from the register or list that individual or body corporate may appeal to the Court.
- (2) The Council may appear as respondent on any such appeal and for the purpose of enabling directions to be given as to the costs of any such appeal the Council shall be deemed to be a party thereto, whether they appear on the hearing of the appeal or not.
- (3) Where no appeal is brought against a direction under section 15 or section 17 of this Act or where such an appeal is brought but withdrawn or struck out for want of prosecution, the direction shall take effect on the expiration of the time for appealing or, as the case may be, on the withdrawal or striking out of the appeal.
- (4) Subject as aforesaid, where an appeal is brought against a direction under either of those sections, the direction shall take effect if and when the appeal is dismissed and not otherwise.

## 19 Procedure of Disciplinary Committee

- (1) For the purpose of any proceedings before the Disciplinary Committee in England or Wales or Northern Ireland the Disciplinary Committee may administer oaths, and any party to the proceedings may sue out writs of subpoena ad testificandum and duces tecum, but no person shall be compelled under any such writ to produce any document which he could not be compelled to produce on the trial of an action.
- (2) The provisions of section 49 of the Supreme Court of Judicature (Consolidation) Act 1925 or of the Attendance of Witnesses Act 1854 (which provide a special procedure for the issue of such writs so as to be in force throughout the United Kingdom) shall apply in relation to any proceedings before the Disciplinary Committee in England or Wales or, as the case may be, in Northern Ireland as they apply in relation to causes or matters in the High Court or actions or suits pending in the High Court of Justice in Northern Ireland.
- (3) For the purpose of any proceedings before the Disciplinary Committee in Scotland, the Disciplinary Committee may administer oaths and the Court of Session shall on the application of any party to the proceedings have the like power as in any action in that Court—
  - (a) to grant warrant for the citation of witnesses and havers to give evidence or to produce documents before the Disciplinary Committee, and for the issue of letters of second diligence against any witness or haver failing to appear after due citation,
  - (b) to grant warrant for the recovery of documents, and
  - (c) to grant commissions to persons to take the evidence of witnesses or to examine havers and receive their exhibits and productions.
- (4) The Council shall make rules as to the procedure to be followed and the rules of evidence to be observed in proceedings before the Disciplinary Committee ; and in particular—
  - (a) for securing that notice that the proceedings are to be brought shall be given, at such time and in such manner as may be specified in the rules, to the individual or body corporate alleged to be liable to have his or its name erased from the register or list;
  - (b) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the Disciplinary Committee;
  - (c) for enabling any party to the proceedings to be represented by counsel or solicitor or (if the rules so provide and the party so elects) by a person of such other description as may be specified in the rules;
  - (d) for requiring proceedings before the Disciplinary Committee to be held in public except in so far as may be provided by the rules ;
  - (e) for requiring, in cases where it is alleged that a registered insurance broker or enrolled body corporate has been guilty of unprofessional conduct, that where the Disciplinary Committee judge that the allegation has not been proved they shall record a finding that the insurance broker or body corporate is not guilty of such conduct in respect of the matters to which the allegation relates;
  - (f) for requiring, in cases where it is alleged that a registered insurance broker or enrolled body corporate is liable to have his or its name erased from the register or list under section 15(2) of this Act, that where the Disciplinary Committee judge that the allegation has not been proved they shall record a finding that the insurance broker or body corporate is not guilty of the matters alleged.

- (5) Before making rules under this section the Council shall consult such organisations representing the interests of insurance brokers and bodies corporate carrying on business as insurance brokers as appear to the Council requisite to be consulted.
- (6) In this section and in section 20 of this Act " proceedings " means proceedings under this Act, whether relating to disciplinary cases or otherwise.

## **20 Assessors to Disciplinary Committee**

- (1) For the purpose of advising the Disciplinary Committee on questions of law arising in proceedings before them there shall in all such proceedings be an assessor to the Disciplinary Committee who shall be a barrister, advocate or solicitor of not less than ten years' standing.
- (2) The power of appointing assessors under this section shall be exercisable by the Council, but if no assessor appointed by them is available to act at any particular proceedings the Disciplinary Committee may appoint an assessor under this section to act at those proceedings.
- (3) The Lord Chancellor or, in Scotland, the Lord Advocate may make rules as to the functions of assessors appointed under this section, and, in particular, rules under this subsection may contain such provisions for securing—
  - (a) that where an assessor advises the Disciplinary Committee on any question of law as to evidence, procedure or any other matters specified in the rules, he shall do so in the presence of every party, or person representing a party, to the proceedings who appears thereat or, if the advice is tendered after the Disciplinary Committee have begun to deliberate as to their findings, that every such party or person as aforesaid shall be informed what advice the assessor has tendered ;
  - (b) that every such party or person as aforesaid shall be informed if in any case the Disciplinary Committee do not accept the advice of the assessor on any such question as aforesaid,and such incidental and supplementary provisions, as appear to the Lord Chancellor or the Lord Advocate expedient.
- (4) Subject to the provisions of this section, an assessor under this section may be appointed either generally or for any particular proceedings or class of proceedings, and shall hold and vacate office in accordance with the terms of the instrument under which he is appointed.
- (5) Any remuneration paid by the Council to persons appointed to act as assessors shall be at such rates as the Council may determine.
- (6) The power to make rules conferred by this section shall be exercisable by statutory instrument.

### *Committees of the Council*

## **21 General power to appoint committees**

- (1) The Council may set up a committee for any purpose (other than a purpose for which the Council are required to set up a committee under this Act) and may delegate to a

committee set up under this section, with or without restrictions or conditions, as they think fit, any functions exercisable by them except the following—

- (a) the power to make rules under this Act,
  - (b) any functions expressly conferred by this Act on any committee set up under any of the foregoing provisions of this Act, and
  - (c) subject to any express provision for delegation in the rules, any functions expressly conferred on the Council by rules under this Act.
- (2) The number of members of a committee set up under this section and their term of office shall be fixed by the Council.
- (3) A committee set up under this Act may include persons who are not members of the Council, but at least two-thirds of the members of every such committee shall be members of the Council.
- (4) Every member of a committee set up under this Act who at the time of his appointment was a member of the Council shall, upon ceasing to be a member of the Council, also cease to be a member of the committee:

Provided that for the purposes of this subsection a member of the Council shall not be deemed to have ceased by reason of retirement to be a member thereof if he has again been nominated or elected a member thereof not later than the day of his retirement.

*Restriction on use of titles and descriptions*

**22 Penalty for pretending to be registered, etc.**

- (1) Any individual who wilfully—
- (a) takes or uses any style, title or description which consists of or includes the expression " insurance broker " when he is not registered in the register, or
  - (b) takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that he is registered in the register,
- shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.
- (2) Any body corporate which wilfully—
- (a) takes or uses any style, title or description which consists of or includes the expression " insurance broker " when it is not enrolled in the list, or
  - (b) takes or uses any name, title, addition or description falsely implying, or otherwise pretends, that it is enrolled in the list,
- shall be liable on summary conviction to a fine not exceeding £400, or on conviction on indictment to a fine.
- (3) References in this section to the expression " insurance broker " include references to the following related expressions, that is to say " assurance broker ", " reinsurance broker " and " reassurance broker ".

**23 Exceptions from s. 22**

- (1) Where a practising insurance broker dies, then, during the period of three months beginning with his death or such longer period as the Council may in any particular case allow, the last foregoing section shall not operate to prevent his personal

representatives, his surviving spouse or any of his children or trustees on behalf of his surviving spouse or any of his children from taking or using in relation to his business, but in conjunction with the name in which he carried it on, any title which he was entitled to take or use immediately before his death.

- (2) Where a practising insurance broker becomes bankrupt, then, during the period of three months beginning with the bankruptcy or such longer period as the Council may in any particular case allow, the last foregoing section shall not operate to prevent his trustee in bankruptcy or, in Northern Ireland, the assignee in bankruptcy, from taking or using in relation to his business, but in conjunction with the name in which he carried it on, any title which he was entitled to take or use immediately before the bankruptcy.

## **24 Offences by bodies corporate**

Where an offence under this Act which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

### *Miscellaneous*

## **25 Accounts of Council**

- (1) The Council shall keep proper accounts of all sums received or paid by them and proper records in relation to those accounts.
- (2) The Council shall appoint auditors to the Council who shall be members of a recognised body of accountants.
- (3) The Council shall cause their accounts to be audited annually by the auditors to the Council and as soon as is practicable after the accounts for any period have been audited the Council shall cause them to be published and shall send a copy of them to the Secretary of State together with a copy of any report of the auditors thereon.

## **26 Service of documents**

Any notice or other document authorised or required to be given under this Act may, without prejudice to any other method of service but subject to any provision to the contrary in rules under this Act, be served by post; and for the purpose of the application to this section of section 26 of the Interpretation Act 1889 (which relates to service by post) the proper address of a person or body corporate to whose registration or enrolment such a document relates shall be his or its address in the register or list.

## **27 Rules etc. made by Council**

- (1) Rules made by the Council under sections 8, 11, 12, 13, 14 or 19 of this Act, the statement drawn up by the Council under section 10 of this Act or any revision of that statement made by the Council under that section shall not come into operation until approved by order of the Secretary of State.

- (2) The Secretary of State may approve rules made under section 19 of this Act either as submitted to him or subject to such modifications as he thinks fit; but where the Secretary of State proposes to approve any such rules subject to modifications he shall notify the modifications to the Council and consider any observations of the Council thereon.
- (3) The Secretary of State may, after consulting the Council, by order vary or revoke any rules made under sections 8, 11 or 12 of this Act or revise the statement under section 10 of this Act.

## 28 Orders

- (1) The power to make orders under this Act shall be exercisable by statutory instrument; and any order made under this Act may be varied or revoked by a subsequent order so made.
- (2) Any statutory instrument by which that power is exercised, except one containing an order under section 30(3) of this Act or any such order as is mentioned in subsection (3) below, shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) An order under section 3(4) or section 27(3) of this Act, an order under paragraph 2 of the Schedule to this Act approving a scheme subject to modifications or an order under paragraph 10 of that Schedule shall not be made unless a draft of the order has been approved by resolution of each House of Parliament.

## 29 Interpretation

- (1) In this Act, unless the context otherwise requires—
  - " approved qualification " and " approved educational institution " have the meanings respectively assigned to them by section 6 of this Act;
  - " authorised insurers " means a person permitted under the Insurance Companies Act 1974 or the Insurance Companies (Northern Ireland) Order 1976 to carry on liability insurance business or pecuniary loss insurance business ;
  - " the Council " means the Insurance Brokers Registration Council established pursuant to section 1 of this Act;
  - " the Court " means the High Court or, in relation to Scotland, the Court of Session or, in relation to Northern Ireland, a judge of the High Court of Justice in Northern Ireland;
  - " disciplinary case " has the meaning assigned to it by section 13 of this Act;
  - " employee ", in relation to a body corporate, includes a director of the body corporate and " employed " shall be construed accordingly;
  - " enrolled " means enrolled in the list and " enrolment " shall be construed accordingly;
  - " functions " includes powers and duties ;
  - " insurance business " means insurance business of any class relevant for the purposes of Part I of the Insurance Companies Act 1974, or Part II of the Insurance Companies (Northern Ireland) Order 1976, other than industrial assurance business, and " insurance broker " shall be construed accordingly ;



" insurance company " means a person or body of persons (whether incorporated or not) carrying on insurance business;

" list " means the list of bodies corporate carrying on business as insurance brokers ;

" practising insurance broker " means a registered insurance broker who is carrying on business as an insurance broker;

" prescribed " means prescribed by rules under this Act;

" recognised body of accountants " means any one of the following, namely—

the Institute of Chartered Accountants in England and Wales;

the Institute of Chartered Accountants of Scotland ;

the Association of Certified Accountants;

the Institute of Chartered Accountants in Ireland;

any other body of accountants established in the United Kingdom and for the time being recognised for the purposes of section 161(1)(a) of the Companies Act 1948 by the Secretary of State;

" register " means the register of insurance brokers and "registered" and "registration" shall be construed accordingly;

" registered insurance broker " means a person who is registered in the register;

" the registrar " means the registrar of the Council appointed under section 8(1) of this Act.

- (2) References in this Act to any other enactment (including an enactment of the Parliament of Northern Ireland and an Order in Council under the Northern Ireland Act 1974) shall be construed as references thereto, as amended, and as including references thereto as extended, by or under any subsequent enactment.

### **30 Short title, extent and commencement**

- (1) This Act may be cited as the Insurance Brokers (Registration) Act 1977.
- (2) This Act extends to Northern Ireland,
- (3) Subject to subsection (4) below, this Act shall come into operation on such date as the Secretary of State may by order appoint and different dates may be appointed for different provisions and for different purposes.
- (4) The day appointed for the coming into operation of section 22 of this Act shall not be earlier than the expiration of a period of two years beginning with the day appointed for the coming into operation of section 1 of this Act.

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*Status: This is the original version (as it was originally enacted).*

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## SCHEDULE

Section 1.

### CONSTITUTION, ETC., OF INSURANCE BROKERS REGISTRATION COUNCIL

- 1       The Council shall consist of—
- (a) twelve persons chosen to represent registered insurance brokers of whom one shall be Chairman of the Council;
  - (b) five persons nominated by the Secretary of State of whom one shall be a barrister, advocate or solicitor, another shall be a member of a recognised body of accountants and a third shall be a person appearing to the Secretary of State to represent the interests of persons who are or may become policyholders of insurance companies.
- 2       (1) The persons chosen to represent registered insurance brokers in the first instance shall be nominated by the British Insurance Brokers' Association.
- (2) The persons chosen to represent registered insurance brokers after the retirement of those nominated under sub-paragraph (1) above shall be elected by registered insurance brokers in accordance with a scheme which—
- (a) shall be made by the Council;
  - (b) shall not come into operation until approved by order of the Secretary of State ; and
  - (c) may be varied or revoked by a subsequent scheme so made and so approved.
- (3) The Secretary of State may approve a scheme either as submitted to him or subject to such modifications as he thinks fit; but where the Secretary of State proposes to approve a scheme subject to modifications he shall notify the modifications to the Council and consider any observations of the Council thereon.
- (4) The Council shall submit a scheme to the Secretary of State for approval before the expiration of a period of two years beginning with the day appointed for the coming into operation of section 1 of this Act.
- (5) In the exercise of any functions under this paragraph due regard shall be had to the desirability of securing that the Council includes persons representative of all parts of the United Kingdom.
- 3       Nominations of the first members of the Council shall so far as practicable be made before the day appointed for the establishment of the Council in time to enable the persons nominated to assume membership on its establishment.
- 4       (1) The term of office of—
- (a) members nominated by the British Insurance Brokers' Association shall be such period, not exceeding four years, as may be fixed by the scheme;
  - (b) members elected by registered insurance brokers shall be such period as may be fixed by the scheme;
  - (c) members nominated by the Secretary of State shall be such period, not exceeding three years, as may be fixed by the Secretary of State.
- (2) In this paragraph " the scheme " means the scheme or schemes under paragraph 2 above which are for the time being in operation.
- 5       A member of the Council may at any time, by notice in writing addressed to the registrar, resign his office.

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*Status: This is the original version (as it was originally enacted).*

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- 6 (1) A person nominated or elected to fill a casual vacancy among the members of the Council shall hold office during the remainder of the term of office of the person whose vacancy he has filled.
- (2) Any vacancy other than a casual vacancy in the membership of the Council shall be filled before the date on which the vacancy occurs.
- 7 A person ceasing to be a member of the Council shall be eligible to be again nominated or elected a member.
- 8 (1) The Council shall have power to do anything which in their opinion is calculated to facilitate the proper discharge of their functions.
- (2) The Council shall, in particular, have power—
- (a) to appoint, in addition to a registrar, such officers and servants as the Council may determine ;
  - (b) to pay to the members of the Council or their committees such fees for attendance at meetings of the Council or their committees and such travelling and subsistence allowances while attending such meetings or while on any other business of the Council as the Council may determine;
  - (c) to pay to their officers and servants such remuneration as the Council may determine ;
  - (d) as regards any officers or servants in whose case they may determine to do so, to pay to, or in respect of them, such pensions and gratuities, or provide and maintain for them such superannuation schemes (whether contributory or not), as the Council may determine ;
  - (e) subject to the provisions of section 1 of the Borrowing (Control and Guarantees) Act 1946 or, in Northern Ireland, of section 2 of the Loans Guarantee and Borrowing Regulation Act (Northern Ireland) 1946 and of any order under those provisions for the time being in force, to borrow such sums as the Council may from time to time require for performing any of their functions under this Act.
- (3) The powers of the Council and any of its committees may be exercised notwithstanding any vacancy, and no proceedings of the Council or of any of its committees shall be invalidated by any defect in the nomination or election of a member.
- 9 The Council may make standing orders for regulating the proceedings (including quorum) of the Council and of any committee thereof:
- Provided that orders shall not be made under this paragraph with respect to the proceedings of the Disciplinary Committee.
- 10 The Secretary of State may, after consulting the Council, by order so amend the provisions of this Schedule as to vary the number of members and the manner in which they are chosen or appointed.