



Insurance Companies Act 1982 (repealed)

1982 CHAPTER 50

PART I

RESTRICTION ON CARRYING ON INSURANCE BUSINESS

Withdrawal of authorisation

11 Withdrawal of authorisation in respect of new business.

- (1) The Secretary of State may, at the request of the company or on any grounds set out in subsection (2) below, direct that an insurance company authorised under section 3 or 4 above to carry on insurance business shall cease to be authorised to effect contracts of insurance, or contracts of any description specified in the direction.
- (2) The grounds referred to in subsection (1) above are—
 - (a) that it appears to the Secretary of State that the company has failed to satisfy an obligation to which it is subject by virtue of this Act [^{F1}or the Financial Services Act 1986 or, if it is a member of a recognised self-regulating organisation within the meaning of that Act, an obligation to which it is subject by virtue of the rules of that organisation];
 - [^{F2}(aa) that the company is a UK company and it appears to the Secretary of State that the company has failed to satisfy an obligation to which it is subject by virtue of any provision of the law of another EEA State which—
 - (i) gives effect to the general or long term insurance Directives; or
 - (ii) is otherwise applicable to the insurance activities of the company in that State;
 - (ab) that the company is a UK or non-EC company and it appears to the Secretary of State that any of the criteria of sound and prudent management [^{F3}is not or has not been] fulfilled, or may not be or may not have been fulfilled, in respect of the company.]
 - (b) that there exists a ground on which he would be prohibited by [^{F4}section 5(1B) or (1C), 7, 8 or 9] above from issuing an authorisation to the company;

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- (c) that the company has ceased to be authorised to effect contracts of insurance, or contracts of a particular description, in a member State where it has its head office or where it has in accordance with section 9(2) above made a deposit.
 - [^{F5}(d) that the company is a Swiss general insurance company which has ceased to be authorised to effect contracts of insurance, or contracts of a particular description, in Switzerland.]
- (3) After giving a direction under this section otherwise than at the request of the company concerned the Secretary of State shall inform the company concerned of his reasons for giving the direction.
- (4) A direction under this section shall not prevent a company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.
- [^{F6}(5) Where a direction under this section has been given in respect of—
- (a) a company which has its head office, or has in accordance with section 9(2) above made a deposit, in a member State other than the United Kingdom; or
 - (b) a Swiss general insurance company, the Secretary of State may revoke or vary the direction if after consultation with the supervisory authority in that member State or, as the case may be, in Switzerland he considers it appropriate to do so.]
- (6) Subject to subsection (5) above a direction given under this section in respect of any insurance company may not be revoked or varied; but if the Secretary of State subsequently issues to the company under section 3 above an authorisation to carry on insurance business of a class to which the direction relates, the direction shall cease to have effect in relation to such business.
- [^{F7}(7) In this Act “Swiss general insurance company” means an insurance company—
- (a) whose head office is in Switzerland;
 - (b) which is authorised under section 3 or 4 above to carry on general business; and
 - (c) whose authorisation is not restricted to reinsurance business.]

Textual Amendments

- F1** Words inserted by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 129, **Sch. 10 para. 7(1)**
- F2** [S. 11\(2\)\(aa\)\(ab\)](#) substituted for 11(2)(aa) (1.7.1994) by [S.I. 1994/1696](#), **reg. 10(1)**
- F3** Words in [s. 11\(2\)\(ab\)](#) substituted (31.12.1994) by [S.I. 1994/3132](#), **reg. 10(1)**
- F4** Words in [s. 11\(2\)\(b\)](#) substituted (18.7.1994) by [S.I. 1996/1669](#), **reg. 18(2)**
- F5** [S. 11\(2\)\(d\)](#) inserted (5.1.1994) by [S.I. 1993/3127](#), **reg. 2(4)**
- F6** [S. 11\(5\)](#) substituted (5.1.1994) by [S.I. 1993/3127](#), **reg. 2(5)**
- F7** [S. 11\(7\)](#) inserted (5.1.1994) by [S.I. 1993/3127](#), **reg. 2(6)**

Modifications etc. (not altering text)

- C1** [S. 11](#) applied by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), ss. 98(4), 129, **Sch. 10 para. 9**

12 Notices of withdrawal under section 11.

- (1) Before giving a direction under section 11 above otherwise than at the request of the company concerned the Secretary of State shall serve on the company a written notice stating—

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- (a) that he is considering giving a direction and the ground on which he is considering it; and
 - (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if the company so requests, oral representations to an officer of the Department of Trade appointed for the purpose by the Secretary of State.
- (2) Before giving a direction under section 11 above in respect of a company [^{F8} on either of the grounds set out in subsection (2A) below], the Secretary of State shall serve on the person whose fitness is in question a written notice stating—
 - (a) that he is considering giving a direction on that ground; and
 - (b) that the person on whom the notice is served may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if that person so requests, oral representations to an officer of the Department of Trade appointed for the purpose by the Secretary of State.
- [^{F9}(2A) The grounds referred to in subsection (2) above are—
 - (a) that the company is a UK or non-EC company and it appears to the Secretary of State that the second or third criterion of sound and prudent management is or has not been fulfilled, or may not be or may not have been fulfilled, in respect of the company; and
 - (b) that there exists a ground on which the Secretary of State would be prohibited by section 7(3), 8(2) or 9(5) above from issuing an authorisation to the company.]
 - (3) Subject to subsection (4) below, the Secretary of State shall consider any representations made in response to a notice under subsection (2) above before serving a notice under subsection (1) above.
 - (4) Subsection (3) above shall not apply where the position held by the person on whom the notice under subsection (2) above is served, and whose fitness for that position is in question, is controller of a company.
 - (5) A notice under subsection (1) or (2) above shall give particulars of the ground on which the Secretary of State is considering giving a direction.
 - (6) Where representations are to be made in response to a notice under subsection (1) or (2) above, the Secretary of State shall take them into consideration before giving a direction.
 - (7) Any notice to be served on a person under subsection (1) or (2) above may be served by post, and a letter containing the notice shall be deemed to be properly addressed if it is addressed to that person at his last known residence or last known place of business in the United Kingdom.
 - (8) After giving a direction under section 11 above the Secretary of State shall publish notice of it in the London, Edinburgh and Belfast Gazettes and in such other ways as appear to him expedient for notifying the public.

Textual Amendments

F8 Words in s. 12(2) substituted (1.7.1994) by S.I. 1994/1696, reg. 10(2)

F9 S. 12(2A) inserted (1.7.1994) by S.I. 1994/1696, reg. 10(3)

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[^{F10}12A Suspension of authorisation in urgent cases.

- (1) Where, in the case of a UK or non-EC company, it appears to the Secretary of State—
 - (a) that one of the grounds in section 11(2) above exists in relation to the company: and
 - (b) that the authorisation should be suspended as a matter of urgency,
 the Secretary of State may direct that the company shall forthwith cease to be authorised to effect contracts of insurance, or contracts of any description specified in the direction.
- (2) A direction under this section—
 - (a) shall not prevent a company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance; and
 - (b) unless confirmed by the Secretary of State under subsection (6) below, shall cease to have effect at the end of the relevant period.
- (3) Where the Secretary of State gives a direction under this section, he shall forthwith serve on the company a written notice stating—
 - (a) the ground on which the direction is given; and
 - (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if the company so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (4) Where the Secretary of State gives a direction under this section on the ground set out in section 11(2)(ab) above, the Secretary of State shall forthwith serve on any person whose fitness is in question a written notice stating—
 - (a) the ground for giving the direction; and
 - (b) that the person on whom the notice is served may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.
- (5) The Secretary of State shall consider any representations made in response to a notice under subsection (3) or (4) above before confirming a direction under this section.
- (6) At any time before the end of the relevant period, the Secretary of State may confirm a direction under this section by a written notice served on the company.
- (7) Where a direction under this section is so confirmed, it may not be revoked or varied; but if the Secretary of State subsequently issues to the company under section 3 above an authorisation to carry on insurance business of a class to which the direction relates, the direction shall cease to have effect in relation to such business.
- (8) In this section 'the relevant period', in relation to a direction under this section, means the period of two months beginning with the date on which the direction is given.]

Textual Amendments

F10 S. 12A inserted (1.7.1994) by S.I. 1994/1696, reg. 11

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[13 Final withdrawal of authorisation.

[Where—

- ^{F11}(1) (a) a UK company ceases to carry on insurance business or insurance business of any class in the European Community; or
- (b) an insurance company which is not a UK company ceases to carry on insurance business or insurance business of any class in the United Kingdom,
- the Secretary of State may direct that it shall cease to be authorised under section 3 or 4 above to carry on insurance business or insurance business of that class.

^{F11}(2) If—

- (a) a body authorised under section 3 above to carry on insurance business of any class has not at any time carried on insurance business of that class, and at least twelve months have elapsed since the issue of the authorisation; or
- (b) a body authorised under section 4 above to carry on insurance business of any class has not at any time since the commencement of this Act carried on business of that class,

the Secretary of State may direct that the body shall cease to be authorised to carry on business of that class.]

(2A) The Secretary of State may direct that an insurance company shall cease to be authorised to carry on business which is insurance business by virtue of section 95(c)(ii) of this Act if it appears to him that the company has failed to satisfy an obligation to which it is subject by virtue of the Financial Services Act 1986 or, if it is a member of a recognised self-regulating organisation within the meaning of that Act, an obligation to which it is subject by virtue of the rules of that organisation.

(2B) Subsections (3), (5) and (6) of section 11 and subsections (1) and (5) to (8) of section 12 above shall apply to a direction under subsection (2A) above as they apply to a direction under section 11.]

(3) A direction under this section is without prejudice to the subsequent issue of an authorisation to carry on insurance business of a class to which the direction relates.

Textual Amendments

F11 S. 13(1)(2) substituted (1.7.1994) by S.I. 1994/1696, reg. 12

Modifications etc. (not altering text)

C2 S. 13 amended (1.1.1993) by S.I. 1992/3218, reg. 64

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