Insurance Companies Act 1982 (repealed)

1982 CHAPTER 50

PART II

REGULATION OF INSURANCE COMPANIES

Financial resources

32 Margins of solvency.

(1) Every insurance company to which this Part of this Act applies—

(a) whose head office is in the United Kingdom, or

(b) whose business in the United Kingdom is restricted to reinsurance,

shall maintain a margin of solvency of such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section.

(2) Subject to subsection (3) below, every insurance company to which this Part of this Act applies whose head office is not in a member State shall maintain—

(a) a margin of solvency, and

(b) a United Kingdom margin of solvency,

of such amounts as may be prescribed by or determined in accordance with regulations made for the purposes of this section.

(3) Subsection (2) above shall not apply to an insurance company if its business in the United Kingdom is restricted to re-insurance or if section 9(2) above applies to it; but an insurance company that has made a deposit in the United Kingdom in accordance with section 9(2)(b) above shall maintain—

(a) a margin of solvency, and

(b) a Community margin of solvency,

of such amounts as may be prescribed by or determined in accordance with regulations made for the purposes of this section.

(4) An insurance company that fails to comply with subsection (1), (2) or (3) above—

(a) shall at the request of the Secretary of State submit to him a plan for the restoration of a sound financial position;

(b) shall propose modifications to the plan (or the plan as previously modified) if the Secretary of State considers it inadequate;

(c) shall give effect to any plan accepted by the Secretary of State as adequate.

(5) For the purposes of this Act—

(a) the margin of solvency of an insurance company is the excess of the value of its assets over the amount of its liabilities, that value and amount being determined in accordance with any applicable valuation regulations;

(b) the United Kingdom margin of solvency of an insurance company is its margin of solvency computed by reference to the assets and liabilities of the business carried on by the company in the United Kingdom;

(c) the Community margin of solvency of an insurance company is its margin of solvency computed by reference to the assets and liabilities of the business carried on by the company in member States (taken together).

(6) In the case of an insurance company that carries on both long term and general business, subsections (1), (2) and (3) above shall have effect as if—

(a) the requirements to maintain a margin of solvency, and

(b) where the company carries on both kinds of business in the United Kingdom, the requirement to maintain a United Kingdom margin of solvency, and

(c) where the company carries on both kinds of business in member States (taken together), the requirement to maintain a Community margin of solvency,

were requirements to maintain separate margins in respect of the two kinds of business (and accordingly as if the references in subsection (5) to assets and liabilities were references to assets and liabilities relating to the kind of business in question).

Modifications etc. (not altering text)

C1 S. 32 modified by S.I. 1983/224, **reg. 3(1)**

C2 S. 32(5) modified by S.I. 1990/1181, **regs. 3(2)**, 4

33 Failure to maintain minimum margin.

(1) If—

(a) the margin of solvency of an insurance company to which section 32(1) above applies, or

(b) the margin of solvency or United Kingdom margin of solvency of an insurance company to which section 32(2) above applies, or

(c) the margin of solvency or Community margin of solvency of an insurance company to which section 32(3) above applies,

falls below such amount as may be prescribed by or determined in accordance with regulations made for the purposes of this section, the company shall at the request of the Secretary of State submit to him a short-term financial scheme.

(2) An insurance company that has submitted a scheme to the Secretary of State under subsection (1) above shall propose modifications to the scheme (or the scheme as previously modified) if the Secretary of State considers it inadequate, and shall give effect to any scheme accepted by him as adequate.

(3) Where a company is required by virtue of section 32(6) above to maintain separate margins in respect of long term and general business, subsection (1) above shall have effect as if any reference to the margin of solvency, the United Kingdom margin of solvency or the Community margin of solvency of the company were a reference to the margin in respect of either of the two kinds of business.

Modifications etc. (not altering text)

C3 S. 33 modified by S.I. 1983/224, **reg. 3(1)**

34 Companies supervised in other member States.

(1) An insurance company to which this Part of this Act applies—

- (a) whose head office is in a member State other than the United Kingdom, or
- (b) which has in accordance with section 9(2) above made a deposit in such a member State,

shall secure that the value of the assets of the business carried on by it in the United Kingdom does not fall below the amount of the liabilities of that business, that value and amount being determined in accordance with any applicable valuation regulations.

(2) In the case of a company that carries on in the United Kingdom both long term and general business subsection (1) above shall have effect separately in relation to the assets and liabilities of the two kinds of business.

VALID FROM 30/04/1996

[F1 34A General business: equalisation reserve.

(1) Every insurance company to which this section applies which carries on general business of a prescribed description shall maintain, in accordance with regulations made for the purposes of this section, a reserve (in this section referred to as an "equalisation reserve") in respect of its general business of that description.

(2) Subject to subsection (3) below, this section applies to any insurance company to which this Part of this Act applies—

- (a) whose head office is in the United Kingdom;
- (b) whose business in the United Kingdom is restricted to reinsurance; or
- (c) whose head office is not in a member State.

(3) This section does not apply to an insurance company of a description prescribed for the purposes of this subsection.

(4) Without prejudice to the generality of subsection (1) above, regulations made for the purposes of this section may make provision—

- (a) as to the circumstances in which, and times at which, amounts are to be placed to, or taken from, an equalisation reserve;
- (b) as to the determination of the amounts to be so placed or taken; and
- (c) as to such other matters incidental to the maintenance of an equalisation reserve as the Secretary of State considers expedient.**]**

Textual Amendments

F1 S. 34A inserted (30.4.1996) by 1995 c. 29, **s. 1(1)**; S.I. 1996/945, **art. 2**

35 Form and situation of assets.

(1) Regulations may make provision for securing that, in such circumstances and to such extent as may be prescribed, the assets of an insurance company to which this Part of this Act applies are maintained in such places as may be prescribed and the nature of the assets is appropriate in relation to the currency in which the liabilities of the company are or may be required to be met.

(2) Regulations made for the purposes specified in subsection (1) above shall not have effect in relation to the assets of an insurance company whose head office is in a member State so far as their value exceeds the amount of the liabilities of the business carried on by the company in the United Kingdom, that value and amount being determined in accordance with any applicable valuation regulations.

Modifications etc. (not altering text)

C4 S. 35 modified by S.I. 1983/224, **reg. 3(3)**

VALID FROM 01/07/1994

[35A F2 Adequacy of assets.

(1) A UK company shall secure—

(a) that its liabilities under contracts of insurance entered into by it, other than liabilities in respect of linked benefits, are covered by assets of appropriate safety, yield and marketability having regard to the classes of business carried on; and

(b) without prejudice to the generality of paragraph (a) above, that its investments are appropriately diversified and adequately spread and that excessive reliance is not placed on investments of any particular category or description.

(2) A UK company which has entered into a linked long term contract shall secure that, as far as practicable, its liabilities under the contract in respect of linked benefits are covered as follows—

(a) if those benefits are linked to the value of units in an undertaking for collective investments in transferable securities or to the value of assets contained in an internal fund, by those units or assets;

(b) if those benefits are linked to a share index or other reference value not mentioned in paragraph (a) above, by units which represent that reference value, or by assets of appropriate safety and marketability which correspond, as nearly as may be, to the assets on which that reference value is based.

(3) A UK company which has entered into a linked long term contract shall also secure that [its liabilities under the contract in respect of linked benefitsunder the contract in

respect of linked benefits as are not covered by contracts of reinsurance**]** are covered by assets of a description prescribed by regulations under section 78 below.

(4) In this section—

'linked benefits', in relation to a contract of insurance, means benefits payable to the policy holder which are determined by reference to the value of or the income from property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified);

'linked long term contract' means a contract ofinsurance —

(a) the effecting of which constitutes the carrying on of long term business; and

(b) under which linked benefits are payable to the policy holder.**]**

Textual Amendments

F2 S. 35A inserted (1.7.1994) by S.I. 1994/1696, **reg. 17**

VALID FROM 01/07/1994

[F3 35B Adequacy of premiums: long term business.

(1) Before entering into a contract of insurance the effecting of which constitutes the carrying on of long term business, a UK company shall satisfy itself that the aggregate of—

(a) the premiums payable under the contract and the income which will be derived from them; and

(b) any other resources of the company which will be available for the purpose,

will be sufficient, on reasonable actuarial assumptions, to meet all commitments arising under or in connection with the contract.

(2) A UK company shall not rely on other resources for the purposes of subsection (1) above in such a way as to jeopardise the solvency of the company in the long term.**]**

Textual Amendments

F3 S. 35B inserted (1.7.1994) by S.I. 1994/1696, **reg. 18**