



Insurance Companies Act 1982 (repealed)

1982 CHAPTER 50

[^{F1}PART IIIA

PROVISION OF INSURANCE FROM ANOTHER MEMBER STATE]

Textual Amendments

F1 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, reg. 10

Introduction

81A Introductory provisions.

[^{F2}(1) References in this Part to the provision of insurance in a member State are to either or both of the following—

- (a) the covering of a risk situated there through an establishment in another member State (referred to in this Part as the provision of general insurance); and
- (b) the covering of a commitment there through an establishment in another member State (referred to in this Part as the provision of long term insurance).]

[^{F3}(1A) References in this Part to relevant motor vehicle risks are to risks (other than carrier's liability) falling within class 10 of Schedule 2 to this Act (motor vehicle liability).]

(2) The member State in which the establishment is situated is referred to as the “member State of establishment”.

(3) In this Part—

- (a) references to an insurance company are to a company which has been authorised in accordance with Article 6 of the first general insurance Directive [^{F4}or Article 6 of the first long term insurance Directive]; and

Status: Point in time view as at 20/05/1993.

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- (b) references to the covering of a risk are to the covering (otherwise than by way of reinsurance) of a risk to which this Part applies [^{F5}; and
- ^{F5}(c) references to the covering of a commitment are to the covering (otherwise than by way of reinsurance) of a commitment to which this Part applies.]
- [^{F6}(4) This Part applies to—
- (a) risks falling within Schedule 2 to this Act (general business), other than—
- class 1, so far as it relates to accidents at work;
- class 13, so far as it relates to nuclear civil liability and pharmaceutical product liability;
- classes 9 and 13, so far as they relate to the compulsory insurance of building works; and
- (b) commitments falling within Schedule 1 to this Act other than class VII.]
- (5) An insurance company shall not be regarded for the purposes of Parts I and II of this Act as carrying on insurance business in the United Kingdom by reason only of the fact that it provides insurance in the United Kingdom.

Textual Amendments

- F2** S. 81A(1) substituted (20.5.1993) by S.I. 1993/174, reg. 4(2)
- F3** S. 81A(1A) inserted (20.5.1993) by S.I. 1993/1327, reg. 3(2)
- F4** Words in s. 81A(3)(a) inserted (20.5.1993) by S.I. 1993/174, reg. 4(3)(a)
- F5** S. 81A(3): the full stop at the end of para.(b) replaced with a semi colon and para. (c) and the preceding word “and” inserted (20.5.1993) by S.I. 1993/174, reg. 4(3)(b)
- F6** S. 81A(4) substituted (20.5.1993) by S.I. 1993/174, reg. 4(4)

[^{F7} Provision of insurance in the United Kingdom]

Textual Amendments

- F7** Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, reg. 10

81B Documents to be furnished to the Secretary of State.

- (1) An insurance company which intends to provide insurance in the United Kingdom shall send to the Secretary of State—
- (a) a certificate issued by the competent authorities of the member State in which the company’s head office is situated attesting—
- (i) that the company possesses for its activities as a whole the minimum solvency margin calculated in accordance with [^{F8}the relevant provisions], and
- (ii) that the company’s authorisation in accordance with Article 7(1) of [^{F8}the relevant Directive] enables the company to operate outside its member State of establishment,
- [^{F9}and

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- ^{F9}(iii) where the company intends to provide long term insurance in the United Kingdom, confirms that all the commitments which the company intends to cover fall within the classes of insurance business which the company has been authorised to undertake through that establishment,]
- (b) a certificate issued by the competent authorities of the member State of the establishment through which the company intends to provide insurance in the United Kingdom, which—
- (i) indicates the classes of insurance business which the company has been authorised to undertake through that establishment, and
- (ii) states that the authorities do not object to the company providing insurance in the United Kingdom,
- (c) a statement by the company of the nature of the risks^{F10}[or commitments]]which it proposes to cover in the United Kingdom,^{F11} . . .
- (d) a notice stating the address of the company for the purpose of the service of documents under this Part; ^{F12}and
- (e) in the case of an insurance company which intends to provide insurance to cover relevant motor vehicle risks—
- (i) a notice stating the name and address of the claims representative; and
- (ii) a declaration that the insurance company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);]

and the company shall not provide insurance in the United Kingdom before the date certified as that on which those documents were received by the Secretary of State.

^{F13}(1A) The insurance company shall notify the Secretary of State in writing of—

- (a) any change of address of the company for the purpose of the service of documents; and
- (b) where it provides insurance to cover relevant motor vehicle risks, any change of name or address of the claims representative,
- (a) if the company intends to cover risks, the first general insurance Directive and Articles 16 and 17 of that Directive;
- (b) if the company intends to cover commitments, the first long term insurance Directive and Articles 18, 19 and 20 of that Directive.

before the expiration of the period of one month beginning with the day on which the change occurred.]

^{F14}(1B) In subsection (1) above “the relevant Directive” and “the relevant provisions” mean respectively—

- (a) if the company intends to cover risks, the first general insurance Directive and Articles 16 and 17 of that Directive;
- (b) if the company intends to cover commitments, the first long term insurance Directive and Articles 18, 19 and 20 of that Directive.]

- (2) Where an insurance company wishes to provide insurance in the United Kingdom in respect of risks ^{F15}[or commitment] other than those mentioned in the statement given in accordance with subsection (1)(c), it shall give written notice to the Secretary of State amending that statement; and it shall not provide insurance in the United Kingdom in respect of such risks ^{F15}[or commitment]before the date certified as that on which written notice of the amendment was received by the Secretary of State.

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Textual Amendments

- F8** Words in s. 81B(1)(a) substituted (20.5.1993) by S.I. 1993/174, **reg. 4(5)(a)**
- F9** S. 81B(1)(b)(iii) and the preceding word “and” inserted (20.5.1993) by S.I. 1993/174, **reg. 4(5)(b)**
- F10** Words in s. 81B(c) inserted (20.5.1993) by S.I. 1993/174, **reg. 4(5)(c)**
- F11** Word in s. 81B(1) omitted (19.11.1992) by virtue of S.I. 1992/2890, **reg. 7(3)**
- F12** S. 81B(1)(e) and word "and" preceding it inserted (19.11.1992) by S.I. 1992/2890, **reg. 7(3)**
- F13** S. 81B(1A) inserted (19.11.1992) by S.I. 1992/2890, **reg. 7(4)**
- F14** S. 81B(1B) inserted (20.5.1993) by S.I. 1993/174, **reg. 4(6)**
- F15** Words in s. 81B(2) inserted (20.5.1993) by S.I. 1993/174, **reg. 4(7)**

[^{F16F17}81C] **Information to be given to policy holder.**

- (1) Before entering into a contract for the provision of insurance in the United Kingdom, the insurance company shall inform the policy holder of the member State in which the establishment is situated through which the risk [^{F18}or commitment] is to be covered; and any document issued to the policy holder by the company shall also contain that information.

The requirements of this subsection do not apply where the contract is for the coverage of large risks only.

- (2) An insurance company providing insurance in the United Kingdom shall ensure that—
- (a) the address of the establishment through which the risk [^{F18}or commitment] is or is to be covered, and
 - (b) the address of the company’s head office, [^{F19}and
 - (c) where the insurance relates to relevant motor vehicle risks, the name and address of the claims representative,]

are stated on any policy or other document under the terms of which insurance is granted, and on the insurance proposal if statements in the proposal bind the proposer.]

Textual Amendments

- F16** Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, **reg. 10**
- F17** s. 81B substituted for ss. 81B–81J (1.7.1994) by S.I. 1994/1696, **reg. 46(1)**
- F18** Words in s. 81C(1)(2)(a) inserted (20.5.1993) by S.I. 1993/174, **reg. 4(8)**
- F19** S. 81C(2)(c) and word "and" preceding it inserted (19.11.1992) by S.I. 1992/2890, **reg. 7(5)**

[^{F21}81CC^{F20} **Additional requirements with respect to relevant motor vehicle risks.**

- (1) An insurance company shall not provide insurance in the United Kingdom to cover relevant motor vehicle risks unless—
- (a) it is a member of the Motor Insurers’ Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and
 - (b) it has appointed a claims representative who satisfies the requirements of subsections (2) to (6) below.
- (2) The claims representative must be a person who has been designated as the insurance company’s claims representative for the purposes of this section.

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- (3) The claims representative must be authorised—
- (a) to act on behalf of the insurance company and to represent, or to instruct others to represent, the insurance company in relation to any matters giving rise to relevant claims;
 - (b) to pay sums in settlement of relevant claims; and
 - (c) to accept service on behalf of the insurance company of proceedings in respect of relevant claims;
- but the authority must not extend to the settlement of relevant claims.
- (4) The claims representative must be authorised to represent the insurance company in any proceedings or enquiry to establish the existence or validity of a policy issued by the insurance company which covers or purports to cover relevant motor vehicle risks.
- (5) Without prejudice to subsection (3) above, the claims representative must not act on behalf of the insurance company in the carrying on of its general business in the United Kingdom other than its reinsurance business, if any.
- (6) The claims representative must—
- (a) in the case of an individual, be resident in the United Kingdom;
 - (b) in the case of a corporation, have a place of business in the United Kingdom.
- (7) In this section “relevant claim” means any claim which may be made against a policy issued by the insurance company to the extent that it covers relevant motor vehicle risks, whether or not submitted to the company and whether by a policyholder or by a third party having rights of action against the company or a policyholder or both.]

Textual Amendments

F20 S. 81CC inserted (19.11.1992) by S.I. 1992/2890, reg.7(6)

F21 S. 81B substituted for ss.81B-81J (1.7.1994) by S.I. 1994/1696, reg. 46(1)

^{F22F23}81 Powers of intervention

- (1) Where it appears to the Secretary of State that an insurance company providing insurance in the United Kingdom has failed to comply with any provision of this Act, he may require it to take such steps as he may specify to comply with that provision.
- (2) If the company fails to comply with a requirement under subsection (1), the Secretary of State shall notify the competent authorities of the member State of establishment.
- (3) If such a company persists in contravening a provision of this Act which has been the subject of a requirement under subsection (1), the Secretary of State may, after informing the competent authorities of the member State of establishment, direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom.
- (4) After giving such a direction, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.
- (5) A direction under this section does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

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- (6) A requirement or direction under this section may be varied or revoked by the Secretary of State.]

Textual Amendments

F22 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, **reg. 10**

F23 S. 81B substituted for ss.81B-81J (1.7.1994) by S.I. 1994/1696, **reg. 46(1)**

[^{F24F25}81B Power to require information.

The Secretary of State may, for the purpose of facilitating the exercise by him of his functions under section 81D, require an insurance company providing insurance in the United Kingdom to furnish him, at specified times or intervals, with information about such matters as he may specify being, if he so requires, information verified in a specified manner.]

Textual Amendments

F24 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, **reg. 10**

F25 S. 81B substituted for ss.81B-81J (1.7.1994) by S.I. 1994/1696, **reg. 46(1)**

[^{F26F27}81C Withdrawal of authorisation.

- (1) Where an insurance company is providing insurance in the United Kingdom and the Secretary of State is notified by the competent authorities of the member State of establishment, or of the company's head office, that the authorisation of the company has been withdrawn in accordance with

[Article 22 of the first general insurance Directive; or
^{F28}(a)

- (b) Article 26 of the first long term insurance Directive,] he may direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom through all, or any specified, establishments.]

- (2) After giving such a direction, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.
- (3) A direction under this section does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

Textual Amendments

F26 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, **reg. 10**

F27 S. 81B substituted for ss.81B-81J (1.7.1994) by S.I. 1994/1696, **reg. 46(1)**

F28 S. 81F(1)(a)(b) substituted for words (20.5.1993) by S.I. 1993/174, **reg. 4(9)**

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[^{F29} Provision of insurance in another member State]

Textual Amendments

F29 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, reg. 10

^{F30}81G Notification to Secretary of State.

- (1) Where an insurance company intends to provide insurance in a member State other than the United Kingdom and—
- (a) its head office is situated in the United Kingdom, or
 - (b) the insurance is to be provided through an establishment in the United Kingdom,

it shall before doing so notify the Secretary of State of its intention.

- (2) The notification shall indicate—
- (a) the member State in which the insurance is to be provided,
 - (b) the nature of the risks [^{F31}or commitments] which the company proposes to cover, and
 - (c) where the company's head office is situated in the United Kingdom, the member State in which the establishment through which the risks [^{F31}or commitments] will be covered is situated.

- (3) Where the company intends to provide insurance in more than one member State, the information specified above may be contained in a single notification but must be set out separately in relation to each member State.

- (4) Where a company has duly notified the Secretary of State of its intention to provide insurance in another member State where administrative authorisation is required for the provision of insurance, then, if the original notification related—

- (a) only to risks [^{F31}or commitments] in respect of which such authorisation is required, or
- (b) only to risks [^{F31}or commitments] in respect of which such authorisation is not required,

and the company subsequently intends to extend its activities to risks [^{F31}or commitments] falling within the other category, it shall before doing so comply with subsections (1) to (3) above in relation to those risks [^{F31}or commitments].]

Textual Amendments

F30 S. 81B substituted for ss.81B-81J (1.7.1994) by S.I. 1994/1696, reg. 46(1)

F31 Words in s. 81G(2)(4) inserted (20.5.1993) by S.I. 1993/174, reg. 4(10)

[^{F32F33}81H Issue of certificates by Secretary of State.

- (1) An insurance company whose head office is situated in the United Kingdom and which intends to provide insurance in another member State may apply to the Secretary of State for a certificate attesting—

- (a) that the company possesses for its activities as a whole the minimum solvency margin calculated in accordance with [^{F34}the relevant provisions], and

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- (b) the company's authorisation to carry on business in the United Kingdom, issued in accordance with Article 7(1) of [^{F35}the relevant Directive], enables the company to operate outside the member State of establishment.

^{F36}[In subsection (1) above "the relevant Directive" and "the relevant provisions" mean (1A) respectively—

- (a) if the company intends to cover risks, the first general insurance Directive and Articles 16 and 17 of that Directive;
 - (b) if the company intends to cover commitments, the first long term insurance Directive and Articles 18, 19 and 20 of that Directive.]
- (2) insurance company which intends to provide insurance in another member State through an establishment in the United Kingdom may apply to the Secretary of State for a certificate—
- (a) indicating the classes of insurance business which the company has been authorised to carry on in the United Kingdom, and
 - (b) stating that the Secretary of State does not object to the company providing the insurance.
- (3) If it appears to the Secretary of State that a certificate applied for under subsection (1) or (2) ought to be issued, he shall issue the certificate accordingly.
- (4) If the Secretary of State refuses to issue a certificate, he shall inform the company in writing of his decision and of the reasons for it.]

Textual Amendments

- F32** Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, **reg. 10**
- F33** S. 81B substituted for ss.81B–81J (1.7.1994) by S.I. 1994/1696, **reg. 46(1)**
- F34** Words in s. 81H(1)(a) substituted (20.5.1993) by S.I. 1993/174, **reg. 4(11)(a)**
- F35** Words in s. 81H(1)(b) substituted (20.5.1993) by S.I. 1993/174, **reg. 4(11)(b)**
- F36** S. 81H(1A) inserted (20.5.1993) by S.I. 1993/174, **reg. 4(12)**

^{F37F38}**81**Provisions as to transfer of business.

- (1) The Secretary of State shall not approve a transfer on an application under section 51(1) above (transfer of general business to another company in the United Kingdom) relating to policies written by way of provision of insurance in another member State unless—
- (a) the transferee fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in the member State where the risk is situated, and
 - (b) the supervisory authorities of that member State agree to the transfer.
- (2) The Secretary of State may approve a transfer on an application under section 51(1) above notwithstanding the provisions of paragraphs (a)(ii) and (b) of subsection (4) of that section (which require the transferee to be carrying on insurance business in the United Kingdom and to be authorised under section 3 or 4 above) where he is satisfied that—
- (a) the transfer relates to policies covering risks situated in another member State,
 - (b) the transferee is an insurance company established in another member State and the supervisory authorities of that member State agree to the transfer, and

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- (c) where the risk is not situated in the transferee's member State of establishment—
- (i) the transferee fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in the member State where the risk is situated,
 - (ii) the law of that member State provides for the possibility of such a transfer, and
 - (iii) the supervisory authorities of that member State agree to the transfer.
- (3) An instrument giving effect to any such transfer as is mentioned in subsection (1) or (2) above shall not bind a policy holder whose policy is included in the instrument unless notice of the execution of the instrument has been published, in a manner directed by the Secretary of State, in the member State in which the risk is situated.]

Textual Amendments

F37 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, reg. 10

F38 S. 81B substituted for ss.81B–81J (1.7.1994) by S.I. 1994/1696, reg. 46(1)

[^{F39} Supplementary provisions]

Textual Amendments

F39 Pt. IIIA (ss. 81A–81J) inserted by S.I. 1990/1333, reg. 10

^{F40}81J Offences under Part IIIA.

- (1) An insurance company commits an offence if it—
- (a) provides insurance in the United Kingdom in contravention of section 81B, or
 - (b) makes default in complying with, or with a requirement imposed under, any other provision of this Part.
- (2) A person commits an offence if—
- (a) in purported compliance with a requirement under section 81E he furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular, or
 - (b) he causes or permits to be included in—
 - (i) a document required by section 81B to be sent to the Secretary of State, or
 - (ii) a notification sent to the Secretary of State under section 81G, a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person committing an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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Textual Amendments

F40 S. 81B substituted for ss. 81B-81J (1.7.1994) by S.I. 1994/1696, reg. 46(1)

Status:

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Changes to legislation:

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