



Insurance Companies Act 1982 (repealed)

1982 CHAPTER 50

PART V

SUPPLEMENTARY PROVISIONS

Interpretation

95 Insurance business.

For the purposes of this Act “insurance business” includes—

- (a) the effecting and carrying out, by a person not carrying on a banking business, of contracts for fidelity bonds, performance bonds, administration bonds, bail bonds or customs bonds or similar contracts of guarantee, being contracts effected by way of business (and not merely incidentally to some other business carried on by the person effecting them) in return for the payment of one or more premiums;
- (b) the effecting and carrying out of tontines;
- (c) the effecting and carrying out, by a body (not being a body carrying on a banking business) that carries on business which is insurance business apart from this paragraph, of—
 - (i) capital redemption contracts;
 - (ii) contracts to manage the investments of pension funds (other than funds solely for the benefit of its own officers or employees and their dependants or, in the case of a company, partly for the benefit of those persons and partly for the benefit of officers or employees and their dependants of its subsidiary or holding company or a subsidiary of its holding company);
- (d) the effecting and carrying out of contracts to pay annuities on human life.

96 General interpretation.

- (1) In this Act, unless the context otherwise requires—

Status: Point in time view as at 18/07/1996.

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- “actuary” means an actuary possessing the prescribed qualifications;
- “annuities on human life” does not include superannuation allowances and annuities payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment, or of the dependants of such persons;
- [^{F1}‘associate’ shall be construed in accordance with section 96C below;]
- “body corporate” does not include a corporation sole or a Scottish firm but includes a body incorporated outside the United Kingdom;
- “chief executive” has the meaning given in [^{F2}section 96D below];
- [^{F3}[^{F4}‘claims representative’ has the meaning given in section 96F below;]
- [^{F5}“commitment” means a commitment represented by insurance business of any of the classes specified in Schedule 1 to this Act;]
- “the Companies Act” means the Companies Act 1985]
- “contract of insurance” includes any contract the effecting of which constitutes the carrying on of insurance business by virtue of section 95 above;
- “controller” has the meaning given in [^{F6}section 96C below];
- [^{F7}‘Community co-insurance operation’ and, in relation to such an operation, ‘leading insurer’ have the same meanings as in Council Directive [78/473/EEC](#) of 30th May 1978 ^{F8} on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance;]
- “court” means the High Court of Justice in England or, in the case of an insurance company registered or having its head office in Scotland, the Court of Session or, in the case of an insurance company registered or having its head office in Northern Ireland, the High Court of Justice in Northern Ireland;
- [^{F9}‘criteria of sound and prudent management’ means the criteria set out in Schedule 2A to this Act;]
- “deed of settlement”, in relation to an insurance company, includes any instrument constituting the company;
- “director” includes any person occupying the position of director by whatever name called;
- [^{F10}‘EC company’ has the meaning given in section 2 above;
- ‘EEA Agreement’ means the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 ^{F11} as adjusted by the Protocol signed at Brussels on 17th March 1993 ^{F12};
- ‘EEA State’ means a State which is a Contracting Party to the EEA Agreement ^{F13} . . . ;
- ‘EFTA company’ has the meaning given by section 72B above;
- ‘EFTA State’ means an EEA State which is not a member State;]
- “enactment” includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;
- “financial year” means, subject to section 69 above, each period of twelve months at the end of which the balance of the accounts of the insurance company is struck or, if no such balance is struck, the calendar year;
- “former Companies Acts” means the ^{M1}Companies Act 1929 or the ^{M2}Companies Act (Northern Ireland) 1932 and any enactment repealed by that Act of 1929 or, as the case may be, that Act of 1932 or by the ^{M3}Companies (Consolidation) Act 1908; [^{F14}and the Companies Acts 1948 to 1983][^{F15}and the Companies Acts (Northern Ireland) 1960 to 1983]
- “general business” has the meaning given in section 1 above;

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“holding company” shall be construed in accordance with section [F¹⁶736] of the [F¹⁷Companies Act] or [F¹⁸Article 4] of the [F¹⁹Companies (Northern Ireland) Order 1986];

[F²⁰home State’, in relation to an EC company, means the member State in which the company’s head office is situated;]

“industrial assurance business” has the meaning given in section 1(2) of the ^{M4}Industrial Assurance Act 1923 or Articles 2(2) and 3(1) of the ^{M5}Industrial Assurance (Northern Ireland) Order 1979;

“insolvent” means, in relation to an insurance company at any relevant date, that if proceedings had been taken for the winding up of the company the court could, in accordance with the provisions of sections [F²¹122 and 123 or section 221 of the Insolvency Act 1986] or, as the case may be, [F²²Articles 102 and 103 or Article 185 of the Insolvency (Northern Ireland) Order 1989], hold or have held that the company was at that date unable to pay its debts;

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

“life policy” means any instrument by which the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, or any instrument evidencing a contract which is subject to payment of premiums for a term dependent on human life;

“long term business” has the meaning given in section 1 above;

“long term policy holder” means a policy holder in respect of a policy the effecting of which by the insurer constituted the carrying on of long term business;

“main agent” has the meaning given in [F²³section 96E below];

“manager”, except in section 56, has the meaning given in [F²⁴section 96D below];

- (a) where the policy holder is an individual, the member State in which he had his habitual residence at that date; or
- (b) where the policy holder is not an individual, the member State in which the establishment of the policy holder to which the commitment relates was situated at that date;

“margin of solvency”, “United Kingdom margin of solvency” and [F²⁵EEA margin of solvency’] shall be construed in accordance with section 32 above;

[F²⁶member State’ shall be construed in accordance with section 2(7) ^{F27}. . . above;]

“mortgage”, in relation to Scotland, means a heritable security within the meaning of section 9(8) of the ^{M6}Conveyancing and Feudal Reform (Scotland) Act 1970;

[F²⁸non-EC company’ has the meaning given in section 5 above;

‘notifiable holding’ means voting rights or shares which, if acquired by any person, will result in his becoming a 10 per cent.shareholder controller, a 20 per cent.shareholder controller, a 33 per cent.shareholder controller, a 50 per cent.shareholder controller or a majority shareholder controller;]

“ordinary long-term insurance business” means long term business that is not industrial assurance business;

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[^{F29}“parent undertaking” shall be construed in accordance with section 258 of the Companies Act 1985 ^{F30} and Article 266 of the Companies (Northern Ireland) Order 1986 ^{F31};

“policy”—

- (a) in relation to ordinary long-term insurance business and industrial assurance business, includes an instrument evidencing a contract to pay an annuity upon human life;
- (b) in relation to insurance business of any other class includes any policy under which there is for the time being an existing liability already accrued or under which a liability may accrue; and
- (c) in relation to capital redemption business, includes any policy, bond, certificate, receipt or other instrument evidencing the contract with the company;

“policy holder” means the person who for the time being is the legal holder of the policy for securing the contract with the insurance company or, in relation to capital redemption business, means the person who for the time being is the legal holder of the policy, bond, certificate, receipt or other instrument evidencing the contract with the company, and—

- (a) in relation to such ordinary long-term insurance business or industrial assurance business as consists in the granting of annuities upon human life, includes an annuitant; and
- (b) in relation to insurance business of any kind other than such as is mentioned in the foregoing paragraph or capital redemption business, includes a person to whom, under a policy, a sum is due or a periodic payment is payable;

“prescribed” means prescribed by regulations under this Act;

“registered society” means a society registered or deemed to be registered under the ^{M7}Industrial and Provident Societies Act 1965 or the ^{M8}Industrial and Provident Societies Act (Northern Ireland) 1969;

“registrar of companies” has the [^{F32}the same meaning as in] the [^{F17}Companies Act] and “registrar of companies in Northern Ireland” means the registrar of companies within the meaning of [^{F33}Article 2 of the Companies (Northern Ireland) Order 1986];

[^{F34}‘relevant motor vehicle risks’ means risks falling within class 10 of Schedule 2 to this Act (motor vehicle liability), but excluding carrier’s liability;

‘shareholder controller’, ‘10 per cent.shareholder controller’, ‘20 per cent.shareholder controller’, ‘33 per cent.shareholder controller’, ‘50 per cent.shareholder controller’ and ‘majority shareholder controller’ have the meanings given by section 96C below;

‘State of the commitment’, in relation to a commitment entered into at any date, means—

- (a) where the policy holder is an individual, the State in which he had his habitual residence at that date;
- (b) where the policy holder is not an individual, the State in which the establishment of the policy holder to which the commitment relates was situated at that date,

and ‘member State of the commitment’ shall be construed accordingly;]

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“subsidiary”, except in section 57, shall be construed in accordance with section [F35736] of the [F17Companies Act] or [F36Article 4] of the [F19Companies (Northern Ireland) Order 1986]:

[F37’subsidiary undertaking’ shall be construed in accordance with section 258 of the Companies Act F38 and Article 266 of the Companies (Northern Ireland) Order 1986 F39;]

[F40“supervisory authority”, in relation to a member State other than the United Kingdom or in relation to Switzerland, means the authority responsible in that State or country for supervising insurance companies;]

[F40“Swiss general insurance company” has the meaning given in section 11 above;]

[F41“UK company’ has the meaning given in section 5 above;]

“underwriter” includes any person named in a policy or other contract of insurance as liable to pay or contribute towards the payment of the sum secured by the policy or contract;

“valuation regulations” means regulations under section 90 above;

“vessel” includes hovercraft.

(2) References in this Act to a fund or funds maintained in respect of long term business are references to a fund or funds maintained under section 28(1)(b) above and in sections 48(3) and 55(6) above include references to a fund or funds maintained under section 3(1) of the M9Insurance Companies Act 1958 or section 14(1) of the M10Insurance Companies Act (Northern Ireland) 1968.

(3) A person shall not be deemed to be within the meaning of any provision of this Act a person in accordance with whose directions or instructions the directors of a company or other body corporate or any of them are accustomed to act by reason only that the directors of the company or body act on advice given by him in a professional capacity.

[F42(2B) Any reference in this Act—

(a) to an undertaking being closely linked with any person, or being closely linked with any person by control; or

(b) to an undertaking’s close links with any person,

shall be construed in accordance with regulation 2 of the Financial Institutions (Prudential Supervision) Regulations 1996.)]

(4) Any reference in this Act to an enactment of the Parliament of Northern Ireland or a Measure of the Northern Ireland Assembly shall include a reference to any enactment re-enacting it with or without modifications.

[F43(5) Except as otherwise provided by paragraph 27 of Schedule 2F to this Act, this Act shall apply as if Gibraltar were a member State.]

Subordinate Legislation Made

P1 S. 96(1): s. 97 (with ss. 94A, 96(1)), power exercised (11.3.1991) by S.I. 1991/621

S. 96(1): s. 17 (with ss. 20, 21, 96(1), 97), power exercised (14.11.1991) by S.I. 1991/2736

Textual Amendments

F1 Definition of “associate” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, reg. 50(1)(a)

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- F2** Words in the definition of “chief executive” in s. 96(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(b)**
- F3** Definition inserted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F4** Definition of “claims representative” in s. 96(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(c)**
- F5** Definition of commitment in s. 96(1) inserted (20.5.1993) by S.I. 1993/174, **reg. 6(2)(b)**
- F6** Words in the definition of “controller” in s. 96(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(d)**
- F7** Definition of “Community co-insurance operation” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(e)**
- F8** O.J. L151, 7.6.78, page 25.
- F9** Definition of “criteria of sound and prudent management” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(f)**
- F10** Definitions of “EC company”
“EEA Agreement”
“EEA State”
“EFTA company” and “EFTA State” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(g)**
- F11** O.J. L1, 3.1.94, page 3.
- F12** O.J. L1, 3.1.94, page 572.
- F13** Words in the definition of “EEA State” in s. 96(1) omitted (30.4.1996) by virtue of S.I. 1996/944, **reg. 4(3)(a)**
- F14** Words added by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F15** Words added by S.I. 1986/1035 (N.I. 9), art. 23, **Sch. 1 Pt. II**.
- F16** Figure substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F17** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F18** Words substituted by S.I. 1986/1035 (N.I. 9), art. 23, **Sch. 1 Pt. II**
- F19** Words substituted by S.I. 1986/1035 (N.I. 9), art. 23, **Sch. 1 Pt. II**
- F20** Definition of “home State” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(h)**
- F21** Words substituted by Insolvency Act 1986 (c. 45, SIF 66), s. 439(2), **Sch. 14**
- F22** Words in s. 96(1) substituted (N.I.) (1.10.1991) by S.I. 1989/2405 (N.I. 19), art. 381(2), **Sch. 9 para. 38; S.R. 1991/411, art. 2**
- F23** Words in the definition of “main agent” in s. 96(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(i)**
- F24** Words in the definition of “manager” in s. 96(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(j)**
- F25** Definition of “EEA margin of solvency” in s. 96(1) substituted (30.12.1994) for “Community margin of solvency” by S.I. 1994/3132, **reg. 10(3)**
- F26** Definition of “member State” in s. 96(1) inserted (30.12.1994) by S.I. 1994/3132, reg. 3(2)
- F27** Words in the definition of “member State” in s. 96(1) omitted (30.4.1996) by virtue of S.I. 1996/944, **reg. 4(3)(b)**
- F28** Definitions of “non-EC company” and “notifiable holding” in s. 96(1) substituted for “member State of the commitment” by S.I. 1994/1696, **reg. 50(1)(k)**
- F29** Definition in s. 96(1) inserted (19.11.1992) by S.I. 1992/2890, **reg. 9(3)(b)**
- F30** 1985 c.6; section 258 was inserted by section 21 of the Companies Act 1989 (c.40).
- F31** S.I. 1986/1032 (N.I.6); Article 266 was inserted by Article 23 of the Companies (Northern Ireland) Order 1990 (S.I.1990/593 (N.I.5)).
- F32** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F33** Words substituted by S.I. 1986/1035 (N.I. 9), art. 23, **Sch. 1 Pt. II**
- F34** Definitions of “relevant motor vehicle risks”
“shareholder controller”

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“10 per cent shareholder controller”
“20 per cent shareholder controller”
“33 per cent shareholder controller”
“50 per cent shareholder controller”
“majority shareholder controller” and “State of the commitment” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(l)**

F35 Figure substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**

F36 Figure substituted by S.I. 1986/1035 (N.I. 9), art. 23, **Sch. 1 Pt. II**.

F37 Definition of “subsidiary undertaking” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(m)**

F38 1985 c.6: section 258 was inserted by the Companies Act 1989 (c.40), **section 21**.

F39 S.I. 1986/1032 (N.I.6); Article 266 was inserted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I.5)), **Article 23**.

F40 Definitions of “supervisory authority” and “Swiss general insurance company” substituted for definition of “supervisory authority” in s. 96(1) inserted (5.1.1994) by S.I. 1993/3127, **reg. 4**

F41 Definition of “UK company” in s. 96(1) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(1)(n)**

F42 By S.I. 1996/1669, **reg. 23, Sch. 5 para. 7** (with **reg. 5(6)**) it is provided (18.7.1996) that s. 96(2B) shall be inserted after s. 96(3)

F43 S. 96(5) inserted (1.7.1994) by S.I. 1994/1696, **reg. 50(2)**

Modifications etc. (not altering text)

C1 Definition of “chief executive” in s. 96 applied (15.5.1991) by Standard Life Assurance Company Act 1991 (c. iii), s. 14(1), **Sch. reg. 1** (1); appointed day (15.5.1991) as published in the London Gazette on 19.4.1991

Marginal Citations

M1 1929 c. 23.
M2 1932 c. 7(N.I.).
M3 1908 c. 69.
M4 1923 c. 8.
M5 S.I. 1979/1574 (N.I. 13)
M6 1970 c. 35.
M7 1965 c. 12.
M8 1969 c. 24 (N.I.)
M9 1958 c. 72.
M10 1968 c. 6 (N.I.)

[^{F44}96A Interpretation of expressions derived from ^{F45} . . . insurance Directives.

(1) In this Act—

- (a) “the first general insurance Directive” means Council Directive 73/239/EEC of 24 July 1973 on the coordination of laws, regulations and administrative provisions relating to the taking-up and pursuit of the business of direct insurance other than life assurance;
- (b) “the second general insurance Directive” means Council Directive 88/357/EEC of 22 June 1988 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive 73/239/EEC;

[^{F46}(c) ‘the third general insurance Directive’ means Council Directive 92/49/EEC of 18 June 1992 ^{F47} on the coordination of laws, regulations and administrative

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provisions relating to direct insurance other than life assurance and amending Directives [73/239/EEC](#)^{F48} and [88/357/EEC](#)^{F49};

and “the general insurance Directives” means those Directives as amended and such other Directives as make provision with respect to the business of direct insurance other than life assurance.

^{F50F51} [The Directives amending the general insurance Directives referred to in subsection (1) (1A) above include Council Directive [90/618/EEC](#) amending, particularly as regards motor vehicle liability insurance, Directive [73/239/EEC](#) and Directive [88/357/EEC](#).

[In this Act—

^{F50}(1B) (a) “the first long term insurance Directive” means Council Directive [79/267/EEC](#) of 5 March 1979 on the coordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of direct life assurance;

(b) “the second long term insurance Directive” means Council Directive [90/619/EEC](#) of 8 November 1990 on the coordination of laws, regulations and administrative provisions relating to direct life assurance, laying down provisions to facilitate the effective exercise of freedom to provide services and amending Directive [79/267/EEC](#);

^{F52}(c) [‘the third long term insurance Directive’ means Council Directive [92/96/EEC](#) of 10 November 1992^{F53} on the coordination of laws, regulations and administrative provisions relating to direct life assurance and amending Directives [79/267/EEC](#)^{F54} and [90/619/EEC](#)^{F55}.]

and “the long term insurance Directives” means those Directives.]

^{F56}(1C) [Any reference in this Act to the first or third general insurance Directive, or to the first or third long term insurance Directive, is a reference to that Directive as amended by the Prudential Supervision Directive (within the meaning of the Financial Institutions (Prudential Supervision) Regulations 1996).]

^{F57}(2) [In this Act, in relation to an insurance company, ‘establishment’ means the head office or a branch of the company; and references to a company being established in a State mean that the company has its head office or a branch there.

Any permanent presence of an insurance company in a State other than that in which it has its head office shall be regarded as a single branch, whether that presence consists of a single office which, or two or more offices each of which—

- (a) is managed by the company’s own staff;
- (b) is an agency of the company; or
- (c) is managed by a person who is independent but has permanent authority to act for the company in the same way as an agency.]

(3) References in this Act to the member State where the risk is situated are—

- (a) where the insurance relates to buildings or to buildings and their contents (in so far as the contents are covered by the same policy), to the member State in which the property is situated;
- (b) where the insurance relates to vehicles of any type, to the member State of registration;
- (c) in the case of policies of a duration of four months or less covering travel or holiday risks (whatever the class concerned), to the member State where the policy holder took out the policy;
- (d) in a case not covered by paragraphs (a) to (c)—

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- (i) where the policy holder is an individual, to the member State where he has his habitual residence [^{F58}at the date when the contract is entered into];
- (ii) otherwise, to the member State where the establishment of the policy holder to which the policy relates is situated [^{F59}at that date].

[In this Act references to the provision of insurance in the United Kingdom or any other ^{F60}(3A) EEA State are references to either or both of the following—

- (a) the covering (otherwise than by way of reinsurance) of a risk situated there through an establishment in another EEA State (‘the provision of general insurance’); and
- (b) the covering (otherwise than by way of reinsurance) of a commitment situated there through an establishment in another EEA State (‘the provision of long term insurance’).]

(4) In this Act the “ECU” means the unit of account of that name defined in Council Regulation (EEC) No. 3180/78 as amended.

The exchange rates as between the ECU and the currencies of the member States to be applied for each year beginning on 31st December shall be the rates applicable on the last day of the preceding October for which rates for the currencies of all the member States were published in the Official Journal of the Communities.]

Textual Amendments

- F44 S. 96A inserted by S.I. 1990/1333, reg. 2(1)
- F45 Word in side-note omitted (20.5.1993) by virtue of S.I. 1993/174, reg. 6(3)
- F46 S. 96A(1)(c) inserted (1.7.1994) by S.I. 1994/1696, reg. 51(1)
- F47 O.J. L228, 11.8.92, page 1.
- F48 O.J. L228, 16.8.73, page 3.
- F49 O.J. L172, 4.7.88, page 1.
- F50 S. 96A(1B) substituted (20.5.1993) by S.I. 1993/174, reg. 6(4)
- F51 S. 96A(1A)(1B) inserted (19.11.1992) by S.I. 1992/2890, reg. 9(4)
- F52 S. 96A(1B)(c) inserted (1.7.1994) by S.I. 1994/1696, reg. 51(2)
- F53 O.J. L360, 9.12.92, page 1.
- F54 O.J. L63, 13.3.79, page 1.
- F55 O.J. L330, 29.11.90, page 50.
- F56 S. 96A(1C) inserted (18.7.1996) by S.I. 1996/1669, reg. 23, Sch. 5 para. 8
- F57 S. 96A(2) inserted (1.7.1994) by S.I. 1994/1696, reg. 51(3)
- F58 Words in s. 96A(3)(d)(i) inserted (30.12.1994) by S.I. 1994/3132, reg. 10(4)(a)
- F59 Words in s. 96A(3)(d)(ii) inserted (30.12.1994) by S.I. 1994/3132, reg. 10(4)(b)
- F60 S. 96A(3A) inserted (1.7.1994) by S.I. 1994/1696, reg. 51(4)

Modifications etc. (not altering text)

- C2 S. 96A(3) applied (3.5.1994) by S.I. 1994 c. 9, s. 73(2)

[^{F61}96B Meaning of “large risks”.

- (1) In this Act “large risks” means—
- (a) risks falling within classes 4, 5, 6, 7, 11 and 12 of Part I of Schedule 2;
 - (b) risks falling within classes 14 and 15 of that Part which relate to a business carried on by the policy holder;

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- (c) risks falling within [^{F62}classes 3, 8, 9, 10, 13 and 16] of that Part where the policy holder carries on a business in respect of which the condition specified in subsection (2) below is met.
- (2) The condition referred to in subsection (1)(c) is that at least two of the three following criteria were exceeded in the most recent financial year for which the information is available:
- First stage: until 31st December 1992—
balance sheet total: 12.4 million ECU
net turnover: 24 million ECU
number of employees: 500;
- Second stage: from 1st January 1993—
balance sheet total: 6.2 million ECU
net turnover: 12.8 million ECU
number of employees: 250.
- (3) For the purposes of subsection (2) as it applies to a company within the meaning of section 735(1) of the Companies Act 1985 or Article 3 of the Companies (Northern Ireland) Order 1986—
- (a) “balance sheet total” has the meaning given by section 247(5) of that Act or Article 255(5) of that Order,
- (b) “net turnover” has the meaning given to “turnover” by section 262(1) of that Act or Article 270(1) of that Order, and
- (c) “number of employees” has the meaning given by section 247(6) of that Act or Article 255(6) of that Order;
- and for a financial year which is a company’s financial year but not in fact a year, the net turnover of the company shall be proportionately adjusted.
- (4) Where the policy holder is a member of a group for which consolidated accounts (within the meaning of Directive 83/349/EEC) are drawn up, the question whether the condition in subsection (2) is met shall be determined by reference to those accounts.
- (5) For the purposes of subsection (1)(c) as it applies where the policy holder is a professional association, joint venture or temporary grouping, the question whether the condition in subsection (2) is met shall be determined by reference to the aggregate of the relevant figures for all the members of the professional association, joint venture or temporary grouping.
- (6) In this section “business” includes a trade or profession and, for the purposes of subsection (1)(c), any activity of a professional association, joint venture or temporary grouping.]

Textual Amendments

F61 S. 96B inserted by S.I. 1990/1333, reg. 4

F62 Words in s. 96B(1)(c) substituted (19.11.1992) by S.I. 1992/2890, reg. 9(5)

[96C ^{F63}Meaning of 'controller' etc.

- (1) In this Act 'controller', in relation to an insurance company, means—

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- (a) a managing director of the company or of a body corporate of which the company is a subsidiary;
 - (b) a chief executive of the company or of a body corporate, being an insurance company, of which the company is a subsidiary;
 - (c) a person in accordance with whose directions or instructions the directors of the company or of a body corporate of which it is a subsidiary are accustomed to act;
 - (d) in the case of UK company, a person who satisfies the requirements of subsection (2) below; or
 - (e) except in the case of a UK company, a person who either alone or with any associate or associates is entitled to exercise, or control the exercise of, 15 per cent. or more of the voting power at any general meeting of the company or of a body corporate of which it is a subsidiary.
- (2) A person satisfies the requirements of this subsection in relation to a UK company if, either alone or with any associate or associates—
- (a) he holds 10 per cent. or more of the shares in the company or another company of which it is a subsidiary undertaking;
 - (b) he is entitled to exercise, or control the exercise of, 10 per cent. or more of the voting power at any general meeting of the company or another company of which it is a subsidiary undertaking; or
 - (c) he is able to exercise a significant influence over the management of the company or another company of which it is such an undertaking by virtue of—
 - (i) a holding of shares in; or
 - (ii) an entitlement to exercise, or to control the exercise of, the voting power at any general meeting of,the company or, as the case may be, that other company.
- (3) In this Act—
- 'shareholder controller' means a person who is a controller of a UK company by virtue of subsection (2) above;
- '10 per cent. shareholder controller' means a shareholder controller in whose case the percentage referred to in subsection (2) above is 10 or more but less than 20;
- '20 per cent. shareholder controller' means a shareholder controller in whose case that percentage is 20 or more but less than 33;
- '33 per cent. shareholder controller' means a shareholder controller in whose case that percentage is 33 or more but less than 50;
- '50 per cent. shareholder controller' means a shareholder controller in whose case that percentage is 50;
- 'majority shareholder controller' means a shareholder controller whose shareholding is such that the UK company is his subsidiary undertaking.
- (4) For the purpose of determining for the purposes of this Act whether any person is a controller of an insurance company or is a shareholder controller, or a shareholder controller of any particular description, of a UK company, 'associate' means, subject to subsection (5) below—
- (a) the wife or husband or minor son or daughter of that person;

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- (b) the trustees of any settlement under which that person has a life interest in possession, or, in Scotland, a life interest;
 - (c) any company of which that person is a director;
 - (d) any person who is an employee or partner of that person;
 - (e) if that person is a company—
 - (i) any director of that company;
 - (ii) any subsidiary undertaking of that company;
 - (iii) any director or employee of any such subsidiary undertaking; and
 - (f) if that person has made an agreement or arrangement with any other person—
 - (i) with respect to the acquisition, holding or disposal of shares or other interests in the company concerned or another company of which it is a subsidiary undertaking; or
 - (ii) under which they undertake to act together in exercising their voting power in relation to the company concerned or another company of which it is such an undertaking, that other person.
- (5) For the purpose of determining for the purposes of this Act whether any person is a controller of an insurance company other than a UK company, subsection (4) above shall have effect as if—
- (a) paragraphs (b) and (f) were omitted; and
 - (b) in paragraph (e), for the words 'subsidiary undertaking', in both places where they occur, there were substituted the word 'subsidiary'.
- (6) In this section—
- 'settlement' includes any disposition or arrangement under which property is held in trust;
- 'share' has the same meaning as in Part VII of the Companies Act or Part VIII of the Companies (Northern Ireland) Order 1986^{F64};
- 'son' includes stepson and 'daughter' includes stepdaughter.
- (7) Any reference in this section to a UK or non-EC company includes a reference to a company which, if any authorisation sought by it were issued, would be such a company.]

Textual Amendments

F63 S. 96C inserted (1.7.1994) by S.I. 1994/1696, reg. 52 (with reg. 68(3))

F64 S.I. 1986/1032 (N.I.6).

[96D ^{F65}Meanings of 'manager' and 'chief executive'.

- (1) In this Act 'manager'—
- (a) in relation to a UK company, means any person (other than an employee of the company) appointed by the company to manage any part of its business, or any employee of the company (other than a chief executive) who, under the immediate authority of a director or chief executive of the company—
 - (i) exercises managerial functions, or is responsible for maintaining accounts or other records of the company; and

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- (ii) is not a person whose functions relate exclusively to business conducted from a place of business which is not in a member State;
 - (b) in relation to an insurance company which is not a UK company, means an employee of the company (other than a chief executive) who, under the immediate authority of a director or chief executive of the company—
 - (i) exercises managerial functions, or is responsible for maintaining accounts or other records of the company; and
 - (ii) is not a person whose functions relate exclusively to business conducted from a place of business outside the United Kingdom.
- (2) In this Act 'chief executive', in relation to an insurance company or body corporate, means an employee of that company or body corporate, who, either alone or jointly with others, is responsible under the immediate authority of the directors for the conduct of the whole of the insurance business of that company or body corporate.]

Textual Amendments

F65 S. 96D inserted (1.7.1994) by S.I. 1994/1696, reg. 53

[96E ^{F66}Meaning of 'main agent'.

- (1) In this Act 'main agent'—
- (a) in relation to a UK company, means a person appointed by the company to be its agent in respect of general business in one or more member States, with authority to enter into contracts on behalf of the company in any financial year—
 - (i) without limit on the aggregate amount of premiums; or
 - (ii) with a limit in excess of 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below;
 - (b) in relation to an insurance company which is not a UK company, means, subject to such exceptions as may be prescribed, a person appointed by the company to be its agent in respect of general business in the United Kingdom, with authority to enter into contracts on behalf of the company in any financial year—
 - (i) without limit on the aggregate amount of premiums; or
 - (ii) with a limit in excess of 10 per cent. of that premium limit.
- (2) A person shall not be regarded as falling within subsection (1)(a)(i) above in relation to a financial year unless—
- (a) the company is of the opinion that the aggregate amount of premiums, on contracts entered into by him on behalf of the company in that year in respect of general business in the member State or States concerned, will be in excess of 10 per cent. of the premium limit as determined in accordance with subsections (3) to (6) below; or
 - (b) the aggregate amount of premiums, on contracts so entered into, actually is in excess of 10 per cent. of that premium limit.
- (3) Subject to subsections (4) and (5) below, the premium limit for the purposes of this section is the aggregate of the amounts of gross premiums shown in the annual accounts relating to the company's business last deposited under section 22 above as

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receivable in respect of general business in the financial year to which the accounts relate.

- (4) If the accounts so deposited relate to a financial year which is not a period of 12 months, the aggregate of the amounts of gross premiums shown in the accounts as receivable in that financial year shall be divided by the number of months in that financial year and multiplied by twelve.
- (5) If no accounts have been deposited under section 22 above the aggregate amount of gross premiums shall be the amount or, if more than one amount, the lower or lowest amount, shown in respect of gross premiums relating to the company's business in the financial forecast last submitted by the company in accordance with regulations made for the purposes of section 5(1)(a) above.
- (6) Any reference in subsection (3) or (5) above to the company's business is, in the case of an insurance company which is not a UK company, a reference to its business in the United Kingdom.]

Textual Amendments

F66 S. 96E inserted (1.7.1994) by S.I. 1994/1696, reg. 54

[96F ^{F67}Meaning of 'claims representative'.

- (1) In this Act 'claims representative', in relation to an insurance company and an EEA State, means a person who—
 - (a) has been designated as the company's representative in that EEA State ('the EEA State concerned'); and
 - (b) satisfies the requirements mentioned in subsections (2) to (5) below.
- (2) The claims representative must be authorised—
 - (a) to act on behalf of the company and to represent, or to instruct others to represent, the company in relation to any matters giving rise to relevant claims;
 - (b) to pay sums in settlement of relevant claims;
 - (c) to accept service on behalf of the company of proceedings in respect of relevant claims;

but the authority must not extend to the settlement of relevant claims.
- (3) The claims representative must be authorised to represent the company in any proceedings or enquiry to establish the existence or validity of a policy issued by the company which covers or purports to cover relevant motor vehicle risks in the EEA State concerned.
- (4) Without prejudice to subsection (2) above, the claims representative must not act on behalf of the company in the carrying on in the EEA State concerned of its general business (other than its reinsurance business, if any).
- (5) The claims representative must—
 - (a) in the case of an individual, be resident in the EEA State concerned;
 - (b) in the case of a corporation, have a place of business in that EEA State.
- (6) In this section 'relevant claim' means any claim which may be made against a policy issued by the company to the extent that it covers relevant motor vehicle risks situated

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in the EEA State concerned, whether or not submitted to the company and whether by a policy holder or by a third party having rights of action against the company or a policy holder or by both.]

Textual Amendments

F67 S. 96F inserted (1.7.1994) by S.I. 1994/1696, reg. 55

Status:

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