

Status: Point in time view as at 01/07/1998.

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SCHEDULES

[^{F1}SCHEDULE 2G]

RECOGNITION IN OTHER EEA STATES OF UK INSURERS

Textual Amendments

F1 Sch. 2G inserted (1.7.1994) by S.I. 1994/1696, reg. 46(2), Sch. 7

Modifications etc. (not altering text)

C1 Sch. 2G: Power to contract out functions conferred (18.11.1998) by S.I. 1998/2842, arts. 2, 3, Sch. Pt. I para. 61

PART I

UK INSURERS CARRYING ON BUSINESS ETC. IN OTHER MEMBER STATES

Requirements for carrying on direct insurance business

- 1 (1) A UK insurer shall not carry on direct insurance business of a class or part of a class through a branch in a member State other than the United Kingdom unless—
- (a) the insurer is authorised under section 3 or 4 of this Act to carry on insurance business of that class or part of a class or is a member of Lloyd's; and
 - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are—
- (a) that the insurer has given to the [^{F2}Treasury] a notice containing the requisite EC details and, in the case of a company, the requisite UK details;
 - (b) that the [^{F2}Treasury][^{F3}have] given to the supervisory authority of the member State in which the branch is to be established (“the member State of the branch”)—
 - (i) a notice which contains the requisite EC details; and
 - (ii) a certificate in accordance with sub-paragraph (3) below; and
 - (c) that either—
 - (i) that authority has informed the [^{F2}Treasury] of the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the [^{F2}Treasury] gave that authority the certificate mentioned in paragraph (b) above has elapsed.

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- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in the United Kingdom.
- (4) The [F²Treasury] shall, within the period of three months beginning with the date on which the insurer’s notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above; or
 - (b) refuse to give either or both of those documents.
- (5) The [Treasury] shall, within the period of three months referred to in sub-paragraph(4) above, notify the insurer—
- (a) that [F⁴they have] given the notice and certificate referred to in sub-paragraph (2)(b) above, stating the date on which [F⁵they did] so; or
 - (b) that [F⁴they have] refused to give either or both of those documents, stating the reasons for the refusal.
- (6) In the case of a UK company, the [F²Treasury] shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the business to be carried on through the branch, it appears to [F⁶them] that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.
- (7) Where the supervisory authority of the member State of the branch has informed the [F²Treasury] as mentioned in sub-paragraph (2)(c)(i) above, [F⁷the Treasury] shall forward the information to the insurer.

Textual Amendments

- F2** Word in *Sch. 2G para. 1* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 88* (with art. 7)
- F3** Word in *Sch. 2G para. 1(2)(b)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 89(a)* (with art. 7)
- F4** Words in *Sch. 2G para. 1(5)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 89(b)(i)*(with art. 7)
- F5** Words in *Sch. 2G para. 1(5)(a)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 89(b)(ii)*(with art. 7)
- F6** Word in *Sch. 2G para. 1(6)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 89(c)* (with art. 7)
- F7** Words in *Sch. 2G para. 1(7)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 89(d)* (with art. 7)

- 2 (1) A UK insurer shall not change the requisite EC details of a branch—
- (a) which has been established by it in a member State other than the United Kingdom (“the member State of the branch”); and
 - (b) through which it carries on direct insurance business,

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unless the requirements of this paragraph have been complied with in relation to its making of the change.

- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
- (a) that the insurer has given a notice to the [F8Treasury], and to the supervisory authority in the member State of the branch, stating the details of the proposed change not less than one month before the change is to take place;
 - (b) that the [F8Treasury][F9have] sent to that authority a notice in accordance with sub-paragraph (4)(a) below; and
 - (c) that either—
 - (i) that authority has informed the insurer of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the insurer gave that authority the notice of the proposed change in accordance with paragraph (a) above has elapsed.
- (3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable (whether before or after the change) give a notice to the [F8Treasury], and to the supervisory authority in the member State of the branch, stating the details of the change.
- (4) The [F8Treasury] shall, as soon as practicable after receiving a notice under sub-paragraph(2)(a) above—
- (a) give notice to the supervisory authority in the member State of the branch informing it of the proposed change; or
 - (b) refuse to give such notice.
- (5) The [F8Treasury] shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the insurer—
- (a) that [F10they have] given the notice referred to in that sub-paragraph, stating the date on which [F10they did] so; or
 - (b) that [F11they] refused to give the notice, stating the reasons for that refusal.
- (6) In the case of a UK company, the [F8Treasury] shall not refuse to give the notice referred to in sub-paragraph (4)(a) above unless, having regard to the proposed change, it appears to [F12them] that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

Textual Amendments

- F8** Word in Sch. 2G para. 2 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 88 (with art. 7)
- F9** Word in Sch. 2G para. 2(2)(b) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 90(a) (with art. 7)
- F10** Words in Sch. 2G para. 2(5)(a) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 90(b)(i) (with art. 7)
- F11** Word in Sch. 2G para. 2(5)(b) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 90(b)(ii) (with art. 7)

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F12 Word in *Sch. 2G para. 2(6)* substituted (5.1.1998) by *S.I. 1997/2781, arts. 2(1)(c), 8, Sch. Pt. I para. 90(c)* (with art. 7)

- 3 (1) A UK company shall not change the requisite UK details of a branch—
- (a) which has been established by it in a member State other than the United Kingdom; and
 - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the company has given a notice to the [^{F13}Treasury] stating the details of the proposed change at least one month before the change is effected.
- (3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or after the change) give a notice to the [^{F13}Treasury] stating the details of the change.

Textual Amendments

F13 Word in *Sch. 2G para. 3(2)(3)* substituted (5.1.1998) by *S.I. 1997/2781, art. 8, Sch. Pt. I para. 88* (with art. 7)

Requisite details for purposes of paragraphs 1 to 3

- 4 (1) The requisite EC details for the purposes of paragraphs 1 and 2 above are—
- (a) the member State in which the branch is to be or has been established (“the member State of the branch”);
 - (b) the address of the branch and confirmation that it is an address for service on the insurer's authorised agent;
 - (c) the name of the insurer's authorised agent and, in the case of a member of Lloyd's, confirmation that the authorised agent has power to accept service of proceedings on behalf of Lloyd's;
 - (d) the classes or parts of classes of business to be carried on, and nature of the risks or commitments to be covered, in the member State of the branch;
 - (e) details of the structural organisation of the branch;
 - (f) the guiding principles as to reinsurance of business to be carried on in the member State of the branch, including the insurer's maximum retention per risk or event after all reinsurance ceded;
 - (g) estimates of the following, namely—
 - (i) the costs of installing administrative services and the organisation for securing business in the member State of the branch;
 - (ii) the resources available to cover those costs; and
 - (iii) if risks within class 18 of Schedule 2 to this Act are to be covered, the resources available for providing assistance;

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- (h) for each of the first three financial years following the establishment of the branch—
 - (i) estimates of the insurer's margin of solvency and the margin of solvency required, and a statement showing how both have been calculated;
 - (ii) in the case of an insurer which intends to carry on long term business, the details mentioned in sub-paragraph (2) below as respects the business to be carried on in the member State of the branch; and
 - (iii) in the case of an insurer which intends to carry on general business, the details mentioned in sub-paragraph (3) below as respects the business to be so carried on;
 - (i) in the case of an insurer which intends to cover relevant motor vehicle risks, confirmation that it has become a member of the national bureau and the national guarantee fund in the member State of the branch; and
 - (j) in the case of an insurer which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.
- (2) The details referred to in sub-paragraph (1)(h)(ii) above are—
- (a) a statement showing, on both optimistic and pessimistic bases, for each type of contract or treaty—
 - (i) the number of contracts or treaties expected to be issued;
 - (ii) the total premium income, both gross and net of reinsurance ceded;
 - (iii) the total sums assured or the total amounts payable each year by way of annuity;
 - (b) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions; and
 - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (3) The details referred to in sub-paragraph (1)(h)(iii) above are—
- (a) estimates relating to expenses of management (other than costs of installation), and in particular those relating to current general expenses and commissions;
 - (b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries); and
 - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (4) The requisite UK details for the purposes of paragraphs 1 and 3 above are—
- (a) the names of the company's managers and main agents in the member State of the branch;
 - (b) particulars of any association which exists or is proposed to exist between—
 - (i) the directors and the controllers of the company; and
 - (ii) any person who will act as an insurance broker, agent, loss adjuster or reinsurer for the company in the member State of the branch;
 - (c) the names of the principal reinsurers of business to be carried on in the member State of the branch;

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- (d) the sources of business in the member State of the branch (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of those sources;
 - (e) copies or drafts of the following, namely—
 - (i) any separate reinsurance treaties covering business to be written in the member State of the branch;
 - (ii) any standard agreements which the company will enter into with brokers or agents in the member State of the branch;
 - (iii) any agreements which the company will enter into with persons (other than employees of the company) who will manage the business to be carried on in the member State of the branch;
 - (f) in the case of a company which intends to carry on long term business—
 - (i) the technical bases which the actuary appointed in accordance with section 19 above proposes to use for each class of business to be carried on in the member State of the branch, including the bases needed for calculating premium rates and mathematical reserves;
 - (ii) a statement by the actuary so appointed as to whether he considers that the premium rates which will be used in the member State of the branch are suitable;
 - (iii) a statement by that actuary as to whether he agrees with the information provided under sub-paragraphs (1)(f) and (2)(b) and (c) above; and
 - (iv) the technical bases used to calculate the statements and estimates referred to in sub-paragraph (2) above; and
 - (g) in the case of a company which intends to carry on general business, copies or drafts of any agreements which the company will have with main agents in the member State of the branch.
- (5) In this paragraph “authorised agent” means an agent or employee of the insurer who has authority—
- (a) to bind the insurer in its relations with third parties; and
 - (b) to represent the insurer in its relations with supervisory authorities and courts in the member State of the branch.

Requirements for providing insurance

- 5 (1) A UK insurer shall not provide insurance of any class or part of a class in a member State other than the United Kingdom unless the insurer is authorised under section 3 or 4 above to carry on insurance of that class or part of a class or is a member of Lloyd’s and either—
- (a) the requirements of this paragraph have been complied with in relation to the provision of the insurance in that member State; or
 - (b) the insurance is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer.
- (2) The requirements of this paragraph are—
- (a) that the insurer has given to the [F14Treasury] a notice containing the requisite details; and

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- (b) that the [^{F14}Treasury][^{F15}have] given to the supervisory authority in the member State in which the insurance is to be provided—
- (i) a notice which contains the requisite details; and
 - (ii) a certificate in accordance with sub-paragraph (3) below.
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in the United Kingdom.
- (4) Where the insurer intends to provide insurance in more than one member State, the requisite details may be contained in a single notification but must be set out separately in relation to each member State.
- (5) The [^{F14}Treasury] shall, within the period of one month beginning with the date on which the insurer's notice was received—
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the insurer intends to provide insurance; or
 - (b) refuse to give either or both of those documents.
- (6) The [^{F14}Treasury] shall, within the period of one month referred to in sub-paragraph (5) above, notify the insurer—
- (a) that [^{F16}they have] given the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the insurer intends to provide insurance, stating the date on which [^{F16}they did] so; or
 - (b) that [^{F17}they have] refused to give either or both those documents, stating the reasons for the refusal.
- (7) In the case of a UK company, the [^{F14}Treasury] shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the insurance to be provided in the member State, it appears to [^{F18}them] that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

Textual Amendments

- F14** Word in Sch. 2G para. 5 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 88 (with art. 7)
- F15** Word in Sch. 2G para. 5(2)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 91(a) (with art. 7)
- F16** Words in Sch. 2G para. 5(6)(a) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 91(b) (i) (with art. 7)
- F17** Words in Sch. 2G para. 5(6)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 91(b) (ii) (with art. 7)
- F18** Word in Sch. 2G para. 5(7) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 91(c) (with art. 7)

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- 6 (1) A UK insurer shall not change the requisite details of the provision of insurance in a member State other than the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) The requirements of this paragraph are—
- (a) that the insurer has given a notice to the [^{F19}Treasury] stating the details of the proposed change;
 - (b) that the [^{F19}Treasury][^{F20}have] sent to the supervisory authority in the member State in which the insurance is provided a notice in accordance with sub-paragraph (4)(a) below.
- (3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable give a notice to the [^{F19}Treasury] stating the details of the change.
- (4) The [^{F19}Treasury] shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above either—
- (a) give notice to the supervisory authority in the member State in which the insurance is provided informing it of the proposed change; or
 - (b) refuse to give such notice.
- (5) The [^{F19}Treasury] shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the insurer—
- (a) that [^{F21}they have]given the notice referred to in that sub-paragraph, stating the date on which [^{F21}they did] so; or
 - (b) that [^{F22}they have] refused to give the notice, stating the reasons for the refusal.
- (6) In the case of a UK company, the [^{F19}Treasury] shall not refuse to give the notice referred to in sub-paragraph (4)(a) above unless, having regard to the proposed change, it appears to [^{F23}them] that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

Textual Amendments

- F19** Word in Sch. 2G para. 6 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 88 (with art. 7)
- F20** Word in Sch. 2G para. 6(2)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 92(a) (with art. 7)
- F21** Words in Sch. 2G para. 6(5)(a) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 92(b) (i)(with art. 7)
- F22** Words in Sch. 2G para. 6(5)(b) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 92(b) (ii) (with art. 7)
- F23** Word in Sch. 2G para. 6(6) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 92(c) (with art. 7)

Requisite details for purposes of paragraphs 5 and 6

- 7 The requisite details for the purposes of paragraphs 5 and 6 above are—
- (a) the member State in which the insurance is to be provided;

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- (b) the nature of the risks or commitments which the insurer proposes to cover in that State;
- (c) in the case of an insurer 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 insurer has become a member of the national bureau and the national guarantee fund in that State; and
- (d) in the case of an insurer which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.

Requirement to notify cessation of insurance business etc.

- 8 (1) A UK insurer which has ceased—
- (a) to carry on direct insurance business through a branch in a member State other than the United Kingdom; or
 - (b) to provide insurance in such a member State,
- shall as soon as practicable notify the [^{F24}Treasury] in writing that it has done so.
- (2) Any insurance which is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

Textual Amendments

F24 Word in Sch. 2G para. 8(1) substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 88 (with art. 7)

Status:

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Changes to legislation:

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