

Status: Point in time view as at 05/01/1998. This version of this provision has been superseded.

Changes to legislation: Insurance Companies Act 1982 (repealed), Paragraph 3 is up to date with all changes known to be in force on or before 02 August 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

[^{F1}SCHEDULE 2C]

TRANSFERS OF INSURANCE BUSINESS

Textual Amendments

F1 Sch. 2C inserted (1.7.1994) by S.I. 1994/1696, reg. 28(2), Sch. 3

Modifications etc. (not altering text)

C1 Sch. 2C: Power to contract out functions conferred (18.11.1998) by S.I. 1998/2842, arts. 2, 3, Sch. Pt. I para. 58

PART I

TRANSFERS OF LONG TERM BUSINESS

Determination of applications

- 3 (1) Where the transferor company is a UK or non-EC company and any policy included in the proposed transfer evidences a contract of direct insurance, the court shall not make an order sanctioning the scheme unless—
- (a) it is satisfied that the transferee company is, or will be immediately after the making of the order—
 - (i) authorised under section 3 or 4 above to carry on, or
 - (ii) authorised in accordance with Article 6 of the first long-term insurance Directive to carry on in an EEA State other than the United Kingdom,long term business of the class or classes to be transferred under the scheme;
 - (b) the relevant authority certifies that the transferee company possesses the necessary margin of solvency after taking the proposed transfer into account; and
 - (c) where the transferor company is a UK company and the establishment from which the policies are to be transferred is situated in a member State other than the United Kingdom, the [^{F2}Treasury][^{F3}certify]—
 - (i) that the supervisory authority in that member State has been consulted about the proposed scheme; and
 - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.
- (2) Where sub-paragraph (1) above applies and, as regards any policy (other than an EFTA policy) which is included in the proposed transfer and evidences a contract of

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direct insurance, a member State other than the United Kingdom is the State of the commitment, the court shall not make an order sanctioning the scheme unless the [F²Treasury][F³certify]—

- (a) that the supervisory authority in that member State has been notified of the proposed scheme; and
- (b) either that the authority has consented to the scheme or that the authority has not refused its consent to the scheme within the period of three months beginning with the notification.

(3) Where sub-paragraph (1) above applies, the establishment of the transferee company to which the policies are to be transferred is situated in the United Kingdom and, as regards any ETFA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State of the commitment, the court shall not make an order sanctioning the scheme unless the [F²Treasury][F³certify] that—

- (a) the transferee company fulfils the conditions in Articles 11, 12, 14 and 16 of the second long term insurance Directive in that EEA State; and
- (b) the supervisory authority in that EEA State agrees to the transfer.

(4) Where sub-paragraph (1) above applies, the establishment of the transferee company to which the policies are to be transferred is situated in an EEA State other than the United Kingdom and, as regards any ETFA policy included in the proposed transfer, an EEA State is the State of the commitment, the court shall not make an order sanctioning the scheme unless—

- (a) where the EEA State in which the establishment is situated is also the State of the commitment, the [F²Treasury][F³certify] that the supervisory authority in that EEA State agrees to the transfer;

[F⁴(b) where the United Kingdom is the State of the commitment the [F²Treasury][F³certify] that—

- (i) the transferee company is not precluded by Schedule 2F to this Act from covering the commitment; and
- (ii) the supervisory authority in the EEA State in which the establishment is situated agrees to the transfer;]

- (c) where an EEA State other than the United Kingdom or the EEA State in which the establishment is situated is the State of the commitment, the [F²Treasury][F³certify]that—

- (i) the transferee company fulfils the conditions in Articles 11, 12, 14 and 16 of the second long term insurance Directive in the EEA State which is the State of the commitment;
- (ii) the law of that State provides for the possibility of such a transfer; and
- (iii) the supervisory authority in that State agrees to the transfer.

(5) Where the transferor company is not a UK or non-EC company or any policy included in the proposed transfer evidences a contract of reinsurance, the court shall not make an order sanctioning the scheme unless it is satisfied that the transferee company is, or will be immediately after the making of the order—

- (a) authorised under section 3 or 4 above to carry on, or
- (b) an EC company which is not precluded by Part I of Schedule 2F to this Act from carrying on,

long term business of the class or classes to be transferred under the scheme.

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- (6) In this paragraph “the relevant authority” means—
- (a) if the transferee company is a UK company, the [^{F2}Treasury];
 - (b) if the transferee company is an EC company, the supervisory authority in its home State;
 - (c) if the transferee company is a non-EC company whose head office is in an EFTA State, the supervisory authority in that EFTA State;
 - (d) if the transferee company does not fall within paragraphs (a) to (c) above, the [^{F2}Treasury] or other authority which, in accordance with Article 29 or 30 of the first long term insurance Directive, is responsible for supervising the company’s margin of solvency.
- (7) Where the transferee company is an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992—
- (a) sub-paragraphs (1)(a) and (5)(a) above shall have effect as if the reference to section 3 or 4 above were a reference to that Part of that Act; and
 - (b) sub-paragraph (1)(b) above shall have effect as if the relevant authority for the purposes of this paragraph were the Friendly Societies Commission.

Textual Amendments

- F2** Words in Sch. 2C para. 3 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 59 (with art. 7)
- F3** Words in Sch. 2C para. 3 substituted (5.1.1998) by S.I. 1997/2781, art. 8, Sch. Pt. I para. 60 (with art. 7)
- F4** Sch. 2C para. 3(4)(b) substituted (30.12.1994) by S.I. 1994/3132, reg. 7(2)

Modifications etc. (not altering text)

- C2** Sch. 2C para. 3(1)(6) continued (with modifications) (1.12.2001) by S.I. 2001/3639, art. 3(5) (with art. 2)

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