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STATUTORY INSTRUMENTS

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**1994 No. 1516**

**The Insurance Companies Regulations 1994**

**PART I**  
**PRELIMINARY**

**Citation and commencement**

1. These Regulations may be cited as the Insurance Companies Regulations 1994 and shall come into force on 1st July 1994.

**Interpretation: general**

2.—(1) In these Regulations, unless the context otherwise requires—

“the Act” means the Insurance Companies Act 1982;

“cede” and “cession”, in relation to reinsurance, include retrocede and retrocession;

“credit insurance business” means all insurance business falling within general business class 14 of Part I of Schedule 2 to the Act that is not reinsurance;

“deposit back arrangement”, in relation to any contract of reinsurance, means an arrangement whereby an amount is deposited by the reinsurer with the cedant;

“EEA margin of solvency” shall be construed in accordance with section 32 of the Act<sup>(1)</sup>;

“equalisation reserve” has the meaning given in regulation 76(1) below;

“guarantee fund” has the meaning given in regulation 22(1) below;

“linked long term contract” means a contract of the kind described in section 78 of the Act;

“mathematical reserves” means the provision made by an insurer to cover liabilities (excluding liabilities which have fallen due and liabilities arising from deposit back arrangements) arising under or in connection with contracts for long term business;

“minimum guarantee fund” has the meaning given in regulation 22(2) below;

“mutual” means an insurance company which is—

- (a) a body corporate having no share capital (except a wholly owned subsidiary with no share capital but limited by guarantee), or
- (b) a registered society;

“pure reinsurer” means—

- (a) an insurance company whose head office is in the United Kingdom and whose business is restricted to reinsurance business; or
- (b) an insurance company whose head office is not in the United Kingdom and whose business in the United Kingdom is restricted to reinsurance business;

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<sup>(1)</sup> Section 32 was amended by [S.I. 1994/1696](#), reg. 14.

“Schedule” means Schedule to these Regulations;

“the Stock Exchange” means the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited;

“United Kingdom margin of solvency” shall be construed in accordance with section 32 of the Act;

“unit of account” means the unit of account known as the ECU;

and the words and expressions which are also used in the Act have the same meanings as in the Act.

(2) For the purposes of these Regulations, other than regulation 30, the rate of conversion from the ECU to the pound sterling shall, in the case of general business, be subject to a minimum of 41.66 pence per ECU.

## PART II

### AUTHORISATION ETC.

#### **Benefits in kind**

3.—(1) For the purposes of sections 2(5) and 15(6) of the Act, there is hereby prescribed any contract of insurance which—

- (a) is a contract under which the benefits provided by the insurer are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle, and
- (b) contains the terms specified in paragraph (2) below.

(2) The terms referred to in paragraph (1) above are—

- (a) that, subject to such restrictions as may be set out in the contract, the assistance shall normally be available on demand at least throughout the mainland of Great Britain; but in no case is assistance to be available outside the United Kingdom and the Republic of Ireland except where it is provided without the payment of additional premium by a body in the country concerned with whom the insurer has entered into a reciprocal agreement;
- (b) that assistance provided in the case of an accident or breakdown occurring within the United Kingdom or the Republic of Ireland shall normally be provided by the insurer’s servants or exceptionally by garages acting as the insurer’s agents or appointed by the insurer;
- (c) that the assistance shall take either or both of the forms of assistance specified in paragraph (3) below.

(3) The forms of assistance referred to in paragraph (2) above are—

- (a) repairs to the relevant vehicle at the place where the accident or breakdown has occurred; this assistance may also include the delivery of parts, fuel, oil, water or keys to the relevant vehicle;
- (b) removal of the relevant vehicle either to the nearest or most appropriate place at which repairs may be carried out, or to—
  - (i) the home, point of departure or original destination within the United Kingdom of the driver and passengers provided the accident or breakdown occurred within the United Kingdom; or

- (ii) the home, point of departure or original destination within the Republic of Ireland of the driver and passengers provided the accident or breakdown occurred within the Republic of Ireland or within Northern Ireland; or
- (iii) the home, point of departure or original destination within Northern Ireland of the driver and passengers provided the accident or breakdown occurred within the Republic of Ireland.

This form of assistance may include the conveyance of the driver or passengers of the relevant vehicle, with the vehicle, or, where the vehicle is to be conveyed only to the nearest or most appropriate place at which repairs may be carried out, the driver and passengers may alternatively be separately conveyed to the nearest location from which they may continue their journey by other means.

(4) Paragraph (1)(a) above shall not preclude the insurer from reimbursing the policy holder for all or part of any sums paid by him in respect of assistance either because he failed to identify himself as the policy holder or because he was unable to get in touch with the insurer in order to claim the assistance.

(5) In this regulation—

“the assistance” means the benefits to be provided under a contract of the kind prescribed in paragraph (1) above;

“breakdown” means an event—

- (a) which causes the driver of the relevant vehicle to be unable to start a journey in the vehicle or involuntarily to bring the vehicle to a halt on a journey because of some malfunction of the vehicle or failure of it to function, and
- (b) after which the journey cannot reasonably be commenced or continued in the relevant vehicle;

“the insurer” means the insurance company providing the assistance;

“the policy holder” means the person entitled to the assistance;

“the relevant vehicle” means the vehicle (including a trailer or caravan) in respect of which the assistance is required.

#### **Authorisation: submission of information**

4.—(1) The information to be submitted pursuant to section 5(1) of the Act shall be—

- (a) for long term business, the information specified in the appropriate Part of Schedule 1, and
- (b) for general business, the information specified in the appropriate Part of Schedule 2.

(2) In Schedules 1 and 2 (subject to the notes at the beginning of each Schedule)—

- (a) Part I is appropriate for insurance companies whose head office is in the United Kingdom,
- (b) Part II is appropriate for insurance companies, other than EC companies, whose head office is in an EEA State other than the United Kingdom in respect of—
  - (i) direct business, or
  - (ii) both direct business and reinsurance,
- (c) Subject to paragraph (3) below, Part III is appropriate for insurance companies whose head office is not in an EEA State in respect of—
  - (i) direct business, or
  - (ii) both direct business and reinsurance, and

- (d) Part IV is appropriate for insurance companies whose head office is not in the United Kingdom in respect of reinsurance only.
- (3) Notwithstanding sub-paragraph (2)(c) above, Part II of Schedule 2 is appropriate for Swiss general insurance companies.
- (4) For the purposes of this regulation—
- “classes of insurance business”, in Schedules 1 and 2, means the classes of insurance business specified in Schedules 1 and 2 to the Act;
  - “the company”, in Schedules 1 and 2, means an insurance company and includes a body that seeks to become an insurance company after authorisation;
  - “direct business”, in paragraph (2) above and in Schedules 1 and 2, means insurance business other than reinsurance business;
  - “information”, in paragraph (1) above and in Schedules 1 and 2, includes proposal and financial forecast.
- (5) References in Schedule 2 to general and special policy conditions do not include specific conditions intended to meet, in an individual case, the particular circumstances of the risk to be covered.

#### **Main agents: exceptions**

- 5.—(1) An unlimited agent shall not be regarded as a main agent of an applicant for the purposes of section 96E(1)(b) of the Act(2) if—
- (a) he was appointed before 1st April 1982, and
  - (b) for the base period and for every subsequent financial year for which a set of annual accounts has been deposited by the applicant under section 22 of the Act, the value of the agent’s business has been not more than 10 per cent. of the value of the applicant’s business.
- (2) In this regulation—
- “the base period” means the financial year covered by the last set of annual accounts deposited by the applicant under section 18 of the Insurance Companies Act 1974(3) before 1st April 1982;
  - “unlimited agent” means a person appointed by an applicant to be the applicant’s agent in respect of general business in the United Kingdom with authority to enter into contracts on behalf of the applicant without limit on the aggregate amount of premiums;
  - “the value of the agent’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom under contracts entered into by the agent on the applicant’s behalf;
  - “the value of the applicant’s business” means the aggregate of the amounts of gross premiums receivable by the applicant in respect of general business in the United Kingdom.

#### **Authorisation: UK assets of applicants from non-EEA States etc.**

6. For the purposes of section 9(1)(b) of the Act(4) (which provides that the Secretary of State shall not issue an authorisation under section 3 of the Act in respect of long term or general business to an applicant to which section 9 applies unless he is satisfied that the applicant has in the United Kingdom assets of such value as may be prescribed) there is hereby prescribed—

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(2) Section 96E(1)(b) was inserted by [S.I. 1994/1696](#), reg. 54.

(3) [1974 c. 49](#).

(4) Section 9(1) was amended by [S.I. 1994/1696](#), reg. 9.

- (a) a value at least equal to the minimum guarantee fund appropriate to the United Kingdom margin of solvency required by section 32(2)(b) of the Act, or
- (b) where in relation to an applicant seeking to carry on insurance business in the United Kingdom and one or more other EEA States the said section 9(1)(b) is (by virtue of section 9(2)(a) of the Act<sup>(5)</sup>) to have effect as if the reference to the United Kingdom were a reference to the EEA States concerned taken together, a value at least equal to—
  - (i) the minimum guarantee fund appropriate to the EEA margin of solvency required by section 32(3)(b) of the Act<sup>(6)</sup>, or
  - (ii) if the deposit is not made in the United Kingdom, half the minimum guarantee fund specified in paragraphs 1 to 6 of Schedule 5 as appropriate to the type of business to be carried on by the applicant.

## PART III

### DEPOSITS

#### **Interpretation: Part III**

7. In this Part of these Regulations—

“Accountant General” means the Accountant General of the Supreme Court;

“deposit” means the deposit mentioned in section 9(1)(c) of the Act and “depositor” means an insurance company making (or intending to make) such a deposit;

“the minimum”, in relation to a deposit, means one-half of the minimum guarantee fund appropriate to the margin of solvency which the depositor is required to maintain under section 32(2)(b) or (3)(b) of the Act;

“permitted securities” means securities in which cash under the control of or subject to the order of the Supreme Court may be invested pursuant to Order 22, rule 13, of the Rules of the Supreme Court 1965<sup>(7)</sup>.

#### **Making and amount of deposit**

8. Every deposit made pursuant to section 9(1)(c) of the Act shall (subject to section 9(2)(b) of the Act) be made with the Accountant General and shall be maintained by the depositor at a level equal to at least the minimum.

#### **Direction etc. by the Secretary of State**

9.—(1) The Secretary of State, where he is satisfied that a deposit is required to be made with the Accountant General pursuant to regulation 8 above or under an agreement of the kind mentioned in section 9(2)(b) of the Act, may (and on the application of the depositor shall)—

- (a) certify the fact of the requirement,
- (b) specify the minimum in pounds sterling, and
- (c) direct the Accountant General to receive the deposit.

(2) Where the minimum changes, the Secretary of State may (and on the application of the depositor shall)—

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(5) Section 9(2)(a) was amended by [S.I. 1994/1696](#), reg. 9.

(6) Section 32(3)(b) was amended by [S.I. 1994/1696](#), reg. 14.

(7) [S.I. 1965/1776](#) amended by [S.I. 1969/1894](#), rule 4 and by [S.I. 1982/1111](#), rule 113.

- (a) certify the fact of the change,
- (b) specify the changed minimum in pounds sterling, and
- (c) direct the Accountant General to receive any additional sum required to ensure that the deposit is maintained in accordance with regulation 8 above.

### **Permitted securities**

**10.**—(1) Subject to paragraph (2) below, any payment to be made by the depositor to the Accountant General in respect of the deposit may be partly or wholly effected by the lodgement of permitted securities instead of cash.

- (2) Paragraph (1) above shall not apply unless the depositor gives to the Accountant General—
  - (a) a valuation of the securities as on a day not more than two days before that on which the Accountant General receives the request for such a lodgement to be effected, and
  - (b) a report by a duly authorised person stating that in his opinion the valuation has been made in accordance with Part VIII of these Regulations.

(3) In paragraph (2) above “duly authorised person” means a member of the Stock Exchange or a person who is eligible for appointment as a company auditor under section 25 of the Companies Act 1989<sup>(8)</sup>.

### **Investment**

**11.**—(1) Subject to paragraph (2) below, the Accountant General may on the application of a depositor—

- (a) invest in permitted securities (to be specified by the applicant) any cash which constitutes or forms part of the deposit or will do so on the maturity of any security, or
- (b) realise any securities (to be specified by the applicant) constituting or forming part of the deposit and either reinvest the net proceeds in permitted securities (to be specified by the applicant) or retain the net proceeds as cash.

(2) No application may be made under paragraph (1) above unless at least twenty-eight days have elapsed since any previous application under that paragraph.

### **Disposal of surplus**

**12.**—(1) Subject to paragraphs (2) and (3) below, the Secretary of State on the application of a depositor may direct the Accountant General—

- (a) to transfer to the depositor any of the securities constituting or forming part of the deposit, or
- (b) to realise any of the securities constituting or forming part of the deposit and to pay the net proceeds to the depositor, or
- (c) to pay to the depositor any cash which constitutes or forms part of the deposit (or will do so on the maturity of any security).

(2) The Secretary of State shall not give a direction under paragraph (1) above unless it appears to him that the remaining cash and securities constituting the deposit after the dealing specified in the direction has been carried out will, if valued in accordance with Part VIII of these Regulations as on the day before the direction is given, be equal in value to at least the minimum.

(3) Nothing in paragraph (1) or (2) above shall relieve the depositor of the obligation imposed on him by regulation 8 above to maintain the deposit at a level equal to at least the minimum.

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<sup>(8)</sup> 1989 c. 40.

### **Cessation of business etc.**

13.—(1) Where the depositor has ceased to carry on in the United Kingdom the business in respect of which the deposit was made or has ceased to be a company to which section 9 of the Act applies, then, except in a case where paragraph (2) below applies, the depositor or any other person who is entitled to give a good discharge for the funds representing the deposit may apply to the Secretary of State for those funds to be released to the depositor or to that other person, as the case may be.

(2) In the event of the depositor becoming bankrupt, the amount of the deposit shall be paid to the trustee or assignees in bankruptcy; and if, in a case where the depositor is a corporation, the corporation is ordered to be wound up by or under the supervision of the court, the amount of the deposit shall be repaid to the corporation.

(3) The Secretary of State, on receipt of an application under paragraph (1) above accompanied by the appropriate declaration, may in relation to any cash or securities constituting the deposit or part of the deposit direct the Accountant General that—

- (a) the cash shall be paid to the applicant, or
- (b) the securities shall be realised and the net proceeds shall be paid to the applicant, or
- (c) the securities shall be transferred to the applicant.

(4) In paragraph (3) above “the appropriate declaration” means a statutory declaration by the applicant—

- (a) declaring that the applicant knows of no other person who has made or is entitled to make any claim to or on the relevant funds, and
- (b) if the applicant is not the depositor—
  - (i) declaring that the applicant is entitled to give a good discharge for the relevant funds, and
  - (ii) stating the circumstances in which the applicant is so entitled.

### **Effect of direction etc.**

14.—(1) A direction given by the Secretary of State pursuant to this Part of these Regulations shall be sufficient authority for the Accountant General to comply with it; and it shall be the duty of the Accountant General to act accordingly.

(2) A direction given under regulation 9(1) or (2) above shall be construed as authorising the Accountant General to receive any amount necessary to ensure the maintenance of the deposit at a level equal to at least the minimum or the changed minimum, as the case may be.

(3) The Secretary of State (without prejudice to his power to give a direction under regulation 9(1) or (2) above) may give a direction authorising the Accountant General to receive an amount which, either alone or when aggregated with sums already deposited, is less than the minimum or the changed minimum, as the case may be.

### **Application of rules under s.38(7) of the Administration of Justice Act 1982**

15.—(1) The funds rules (except in so far as they may be inconsistent with this Part of these Regulations) shall apply for the purposes of this Part of these Regulations, subject to the modification in paragraph (2) below.

(2) Any reference in the funds rules to cash, securities or funds lodged in court shall be taken to include any cash or securities deposited with the Accountant General pursuant to the Act and this Part of these Regulations.

(3) In paragraphs (1) and (2) above “the funds rules” means any rules for the time being in force under section 38(7) of the Administration of Justice Act 1982<sup>(9)</sup>.

## PART IV

### MARGINS OF SOLVENCY

#### **Interpretation: Part IV**

**16.** In this Part of these Regulations—

“first calculation” and “second calculation” have the meaning given in regulation 18(1) to (3) below;

“implicit items” has the meaning given by regulation 23(5) below and “implicit item” shall be construed accordingly;

“required margin of solvency” means a margin of solvency required by section 32 of the Act;

“zillmerising” means the method known by that name for modifying the net premium reserve method of valuing a long term policy by increasing the part of the future premiums for which credit is taken so as to allow for initial expenses.

#### **Margins of solvency: determination**

**17.**—(1) Subject to paragraphs (2) to (5) below, the margin of solvency to be maintained by an insurance company to which Part II of the Act applies shall be determined—

- (a) as regards long term business, in accordance with regulations 18 to 21 below, and
- (b) as regards general business, by taking the greater of the two sums resulting from the application of the two methods of calculation set out in Schedules 3 and 4 respectively.

(2) Where an insurance company is required to maintain a United Kingdom margin of solvency or an EEA margin of solvency—

- (a) the United Kingdom margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the United Kingdom, and
- (b) the EEA margin of solvency shall be determined by applying paragraph (1) above, but only to business carried on in the EEA States taken together.

(3) For a contract to which section 1(3) of the Act applies, the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying—

- (a) in the case of so much of the contract as is within any class of long term business, the appropriate method prescribed by this Part of these Regulations for that class, and
- (b) in the case of so much of the contract as is within general business class 1 or 2, the method of calculation set out in Schedule 3 (excluding paragraphs 7, 8 and 9).

(4) Where an insurance company carries on long term business and owing to the nature of that business more than one margin of solvency is produced in respect of that business by the operation of this Part of these Regulations, the margins in question shall be aggregated as regards the company in order to arrive at the company’s required margin of solvency for long term business.

(5) Where an insurance company carries on both long term and general business and is accordingly required to maintain separate margins of solvency in respect of the two kinds of business—

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(9) 1982 c. 53.



- (a) these Regulations shall apply for determining the margin of solvency for each kind of business separately, and
- (b) assets other than those representing the fund or funds maintained by the company in respect of its long term business, if they are not included among the assets covering the liabilities and the margin of solvency relating to the company's general business, may be included among the assets taken into account in covering the liabilities and the margin of solvency for the company's long term business.

### **Long term classes I, II and IX**

**18.**—(1) For long term business of class I, II or IX the required margin of solvency shall be determined by taking the aggregate of the results arrived at by applying the calculation described in paragraph (2) below (“the first calculation”) and the calculation described in paragraphs (3), (4), (5) and (6) below (“the second calculation”).

(2) For the first calculation—

- (a) there shall be taken a sum equal to 4 per cent. of the mathematical reserves for direct business and reinsurance acceptances without any deduction for reinsurance cessions,
- (b) the amount of the mathematical reserves at the end of the last preceding financial year after the deduction of reinsurance cessions shall be expressed as a percentage of the amount of those mathematical reserves before any such deduction, and
- (c) the sum mentioned in sub-paragraph (a) above shall be multiplied—
  - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 85 per cent. (or, in the case of a pure reinsurer, 50 per cent.), by that greater percentage, and
  - (ii) in any other case, by 85 per cent. (or, in the case of a pure reinsurer, 50 per cent.).

(3) For the second calculation—

- (a) there shall be taken, subject to paragraphs (4), (5) and (6) below, a sum equal to 0.3 per cent. of the capital at risk for contracts on which the capital at risk is not a negative figure,
- (b) the amount of the capital at risk at the end of the last preceding financial year for contracts on which the capital at risk is not a negative figure, after the deduction of reinsurance cessions, shall be expressed as a percentage of the amount of that capital at risk before any such deduction, and
- (c) the sum arrived at under sub-paragraph (a) above shall be multiplied—
  - (i) where the percentage arrived at under sub-paragraph (b) above is greater than 50 per cent., by that greater percentage, and
  - (ii) in any other case, by 50 per cent.

(4) Where, in a case other than that of a pure reinsurer, a contract provides for benefits payable only on death within a specified period and is valid for a period of not more than three years from the date when the contract was first made, the percentage to be taken for the purposes of paragraph (3) (a) above shall be 0.1 per cent.; and where the period of validity from that date is more than three years but not more than five years, the percentage to be so taken shall be 0.15 per cent.

(5) For the purposes of paragraph (4) above, the period of validity of the contract evidencing a group policy is the period from the date when the premium rates under the contract were last reviewed for which the premium rates are guaranteed.

(6) In the case of pure reinsurers, the percentage to be taken for the purposes of paragraph (3) (a) above shall be 0.1 per cent.

(7) For the purposes of the second calculation, the capital at risk is—

- (a) in any case in which an amount is payable in consequence of death other than a case falling within sub-paragraph (b) below, the amount payable on death, and
- (b) in any case in which the benefit under the contract in question consists of the making, in consequence of death, of the payment of an annuity, payment of a sum by instalments or any other kind of periodic payments, the present value of that benefit,

less in either case the mathematical reserves in respect of the relevant contracts.

(8) When the amount of the mathematical reserves referred to in paragraph (2)(a) above, or the amount of the capital at risk referred to in paragraph (3)(a) above, is to be calculated for the purposes of determining the required margin of solvency, the day as on which that amount is calculated shall be the same as that as on which the margin of solvency is determined; and the mathematical reserves referred to in paragraph (7) above shall also be calculated as on that day when the capital at risk in question is that referred to in paragraph (3)(a) above, but shall be calculated as at the end of the last preceding financial year when the capital at risk in question is that referred to in paragraph (3) (b) above.

### **Long term classes III, VII and VIII**

**19.**—(1) For long term business of class III, VII or VIII the required margin of solvency shall be determined in accordance with paragraphs (2) to (5) below.

(2) In so far as an insurance company bears an investment risk, the first calculation shall be applied.

(3) In so far as—

- (a) an insurance company bears no investment risk, and
- (b) the total expired and unexpired term of the relevant contract exceeds five years, and
- (c) the allocation to cover management expenses in the relevant contract has a fixed upper limit which is effective as a limit for a period exceeding five years,

the first calculation shall be applied, but as if regulation 18(2)(a) above contained a reference to 1 per cent. instead of 4 per cent.

(4) If neither paragraph (2) nor paragraph (3) above applies, then, subject to paragraph (5) below, the required margin of solvency is zero.

(5) Where an insurance company covers a death risk, a sum arrived at by applying the second calculation (regulation 18(4) and (5) above being disregarded) shall be added to any required margin of solvency, including a required margin of solvency of zero, arrived at under paragraph (2), (3) or (4) above.

### **Long term classes IV and VI**

**20.** For long term business of class IV or VI the required margin of solvency shall be determined by applying the first calculation.

### **Long term class V**

**21.** For long term business of class V the required margin of solvency shall be equal to 1 per cent. of the assets of the relevant tontine.

### **Guarantee fund and minimum guarantee fund**

**22.**—(1) Subject to paragraphs (2) and (3) below, one-third of a required margin of solvency (being, in the case of long term business, the required margin of solvency arrived at in accordance

with regulation 17(4) above) shall constitute the amount (“the guarantee fund”) to be prescribed or determined for the purposes of section 33 of the Act.

(2) The guarantee fund shall not be less than an amount (“the minimum guarantee fund”) arrived at in accordance with Schedule 5, whether the required margin of solvency is greater or less than that amount.

(3) In the case of long term business, items that are not implicit items must be at least large enough to cover either the minimum guarantee fund or 50 per cent. of the guarantee fund, whichever is the greater.

### **Valuation**

**23.**—(1) Where an insurance company has assets equal to or in excess of its liabilities, then, in addition to any other applicable valuation regulations, paragraphs (2) to (5) below shall have effect for determining the extent to which the value of the assets exceeds the amount of liabilities in connection with the required margin of solvency, the guarantee fund and the minimum guarantee fund.

(2) Where—

- (a) a company has issued shares some or all of which are not fully paid and the total paid-up value of all the shares is equal to or greater than one quarter of their nominal value or, in the case of shares issued at a premium, of the aggregate of their nominal value and the premium, or
- (b) at least one quarter of the fund of a mutual is paid up,

an amount not greater than half the total value of the amounts unpaid may be taken into account as an asset; and for the purposes of this paragraph a share shall not be regarded as fully paid if there are any amounts due but unpaid thereon.

(3) Where a company has issued cumulative preference shares, liabilities in respect of such shares shall (notwithstanding regulation 60(2) below) only be left out of account—

- (a) in the case of such shares which are redeemable shares for the purposes of section 159 of the Companies Act 1985<sup>(10)</sup>, up to 25 per cent. of the required margin of solvency; and
- (b) in the case of such shares which are not so redeemable, up to 50 per cent. of the required margin of solvency.

(4) In the case of a mutual carrying on general business, any claim which the mutual has against its members by way of a call for supplementary contributions for a financial year shall have its full value for that financial year, subject to the limitation that the value shall not exceed the lesser of—

- (a) 50 per cent. of the difference between the maximum contributions and the contributions called in, or
- (b) 50 per cent. of the required margin of solvency.

(5) The items mentioned in regulations 24 to 26 below (which relate to future profits, zillmerising and hidden reserves and shall be known as “implicit items”) shall have no value except in pursuance of an order under section 68 of the Act; but in pursuance of such an order—

- (a) any of the implicit items may be valued in accordance with the said regulations 24 to 26 as respects long term business, and
- (b) the implicit item relating to hidden reserves may be valued in accordance with regulation 26 below as respects general business.

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<sup>(10)</sup> 1985 c. 6.

### **Implicit items: future profits**

24.—(1) The implicit item relating to future profits may be valued at not more than 50 per cent. of the full amount of future profits.

(2) For the purposes of paragraph (1) above, the full amount of future profits shall be obtained by multiplying the estimated annual profit by a factor which shall as nearly as may be represent the average number of years remaining to run on policies but shall, if it exceeds 10, be reduced to 10.

(3) For the purposes of paragraph (2) above—

- (a) the estimated annual profit shall be taken to be one-fifth of the profits made in long term business over a period of five years (“the relevant period”) ending on the last day of the most recent financial year for which a valuation under section 18 of the Act has been carried out, substantial items of an exceptional nature being excluded, and
- (b) the average number of years remaining to run on policies shall be calculated—
  - (i) by multiplying the number of years to run on each policy by the actuarial value of the benefits payable under the policy, adding together the products so obtained and dividing the total by the aggregate of the actuarial values of the benefits payable under all the policies, or
  - (ii) by an approximation to this method of calculation suitable to the circumstances of the case, including, where appropriate, an approximation involving the grouping of contracts,

appropriate allowance being made in either case for premature termination of contracts.

(4) For the purposes of paragraph (3)(a) above—

- (a) where a valuation under section 18 of the Act has been carried out annually in relation to the relevant period, the profits made in long term business for any particular year of the relevant period shall be taken to be the surplus (if any) arising in the long term fund since the last such valuation, and the profits so made for that period shall be taken to be the aggregate of those surpluses less any deficiencies in the long term fund during that period;
- (b) where an insurance company has carried on long term business throughout the relevant period but valuations under section 18 of the Act have not been made annually in that period, the profits so made for that period shall be taken to be the aggregate of surpluses arising in the long term fund since the last valuation preceding the relevant period less any deficiencies in the long term fund since that last valuation, except that the surplus or deficiency arising in the period ending with the first valuation within the relevant period shall be proportionately reduced to allow for any period of time falling outside the relevant period;
- (c) where an insurance company has not carried on long term business throughout the relevant period, the profits made in long term business for the relevant period shall be taken to be the aggregate of any surpluses arising in the long term fund during that part of the relevant period for which long term business was carried on less any deficiencies in the long term fund during that part of that period.

### **Implicit items: zillmerising**

25.—(1) Where zillmerising is appropriate but either is not practised or is at a rate less than the loading for acquisition costs included in the premium, then, subject to paragraph (6) below, the implicit item relating to zillmerising may be valued at an amount not exceeding the difference between—

- (a) the non-zillmerised or partially zillmerised figure for mathematical reserves maintained by the company concerned, and

- (b) a figure for mathematical reserves (not less than those required by Part IX of these Regulations) zillmerised at a rate equal to the loading for acquisition costs included or allowed for in the premium.

(2) Where zillmerising is not practised, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums for long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(3) Where zillmerising is practised but is at a rate less than the loading for acquisition costs, then, subject to paragraph (6) below, the value given by paragraph (1) above (less any amount relating to temporary assurances) together with the difference between the partially zillmerised mathematical reserves and the non-zillmerised mathematical reserves shall not exceed 3.5 per cent. of the aggregate of the difference between—

- (a) the relevant capital sums of long term business activities, and
- (b) the mathematical reserves (excluding mathematical reserves for temporary assurances).

(4) In paragraphs (2) and (3) above “relevant capital sums” means—

- (a) for whole life assurances, the sum assured,
- (b) for policies where a sum is payable on maturity (including policies where a sum is also payable on earlier death), the sum payable on maturity,
- (c) for deferred annuities, the capitalised value of the annuity at the vesting date (or the cash option if it is greater),
- (d) for capital redemption contracts, the sums payable at the end of the contract period, and
- (e) for linked long term contracts, notwithstanding sub-paragraphs (a) to (d) above, the lesser of—
  - (i) the amount for the time being payable on death, and
  - (ii) the aggregate of the value for the time being of the units allocated to the contract (or, where entitlement is not denoted by means of units, the value for the time being of any other measure of entitlement under the contract equivalent to units) and the total amount of the premiums remaining to be paid during such of the term of the contract as is appropriate for zillmerising or, if such premiums are payable beyond the age of seventy-five, until that age,

excluding in all cases any vested reversionary bonus and any capital sums for temporary assurances.

(5) Where, under the contract relating to any such business as is mentioned in paragraph (4) above, the payment of premiums is to stop before the sum assured becomes due, then, notwithstanding the said paragraph (4), “relevant capital sums” in paragraphs (1) to (3) above shall be taken to mean the mathematical reserves appropriate for that contract at the end of the premium-paying term.

(6) For the purposes of this regulation—

- (a) reserves for vested reversionary bonuses shall not be regarded as mathematical reserves, and
- (b) the result given by paragraph (1), (2) or (3) above shall be reduced by the amount of any undepreciated acquisition costs brought into account as an asset.

### **Implicit items: hidden reserves**

**26.** The implicit item relating to hidden reserves, if it consists of hidden reserves resulting from the underestimation of assets and overestimation of liabilities (other than mathematical reserves),

may, in so far as the hidden reserves in question are not of an exceptional nature, be given its full value.

## PART V

### CURRENCY MATCHING, LOCALISATION

#### **Matching: general requirement**

27.—(1) Where in the case of an insurance company to which Part II of the Act applies the company's liabilities in any particular currency exceed 5 per cent. of its total liabilities, the company shall hold sufficient assets in that currency to cover at least 80 per cent. of the company's liabilities in that currency.

(2) Where an insurance company carries on both long term and general business, the requirements of paragraph (1) above apply to the assets and liabilities of each kind of business separately.

(3) Where the contract of insurance expresses any liability in terms of a particular currency, that liability shall be regarded as a liability in that currency.

(4) For the purposes of this regulation—

“assets”, except in the case of assets of the kind referred to in regulation 45(2) below, means assets valued in accordance with Part VIII of these Regulations; and

“liabilities” means provision by an insurance company to cover liabilities arising under or in connection with contracts of insurance (not being liabilities relating to insurance business excluded by regulation 32 below).

(5) For the purposes of this regulation references to assets in a currency shall be construed as references to assets expressed in or capable of being realised (without exchange risk) in that currency; and an asset is capable of being realised (without exchange risk) in a currency if it is reasonably capable of being realised in that currency without risk that changes in exchange rates would reduce the cover of liabilities in that currency.

(6) The provisions of this regulation have effect subject to regulations 28 to 30 below.

#### **Matching: property linked benefits**

28.—(1) In so far as the liabilities for property linked benefits and index linked benefits are covered by assets which determine the benefits payable under a linked long term contract, regulation 27 above does not apply.

(2) In so far as the liabilities for property linked benefits are determined by reference to assets in a currency other than that in which the company's obligations to the policy holder are expressed, those liabilities shall for the purposes of regulation 27 be deemed to be liabilities in the first-mentioned currency.

(3) In this regulation “property linked benefits” and “index linked benefits” have the meanings given by regulation 44(1) below.

#### **Matching: currency of general business liabilities**

29.—(1) The currency of an insurance company's general business liabilities shall, for the purposes of regulation 27 above, be determined as follows.

(2) Where the liabilities are not expressed as liabilities in terms of a particular currency, they shall be regarded as liabilities in the currency of the country in which the risk is situated or, if the

company on reasonable grounds so determines, in the currency in which the premium payable under the contract is expressed.

(3) However, the company may regard its liabilities as liabilities in the currency which it will use in accordance with past experience or, in the absence of such experience, in the currency of the country in which it is established—

- (a) for contracts covering risks falling within general business classes 4, 5, 6, 7, 11, 12 and 13 (producer's liability only);
- (b) for contracts covering risks falling within any other general business class where, in accordance with the nature of the risks, the company's liabilities are liabilities in a currency other than that determined in accordance with paragraph (2).

(4) Where a claim has been notified to an insurance company and the company's liability in respect of that claim is payable in a currency other than one which would result from the application of the above provisions, the liability shall be regarded as a liability in the currency in which the company is actually obliged to pay it.

(5) Where a claim is assessed in a currency which is known to the company in advance but which is different from a currency determined in accordance with the above provisions, the company may regard its liabilities as liabilities in that currency.

#### **Matching: exception for certain liabilities**

**30.**—(1) Subject to paragraphs (2) and (3) below, an insurance company need not cover its liabilities by assets in a particular currency if those assets would amount to 7 per cent. or less of the remainder of its assets in other currencies.

(2) Until 31st December 1998, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Greek drachmas, Irish pounds or Portuguese escudos as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

(3) Until 31st December 1996, paragraph (1) has effect in relation to general business liabilities required to be covered by assets in Belgian francs, Luxembourg francs or Spanish pesetas as if the amount of 2 million ECU, if less than the percentage mentioned in that paragraph, were substituted for that percentage.

#### **Localisation**

**31.**—(1) Subject to paragraph (2) below, assets held pursuant to regulation 27 above shall be held—

- (a) if they cover liabilities in sterling, in the European Community;
- (b) if they cover liabilities in any other currency, in the European Community or in the country of that currency.

(2) In the case of a relevant co-insurance operation and a relevant company, assets held pursuant to regulation 27 above shall be held in the European Community or, if the head office or branch through which the leading insurer participates in the operation is established in an EFTA State, in that State.

(3) For the purpose of applying paragraphs (1) and (2) above to tangible assets and assets consisting of a claim against a debtor or a listed or unlisted investment, the following provisions shall have effect—

- (a) a tangible asset shall be regarded as held in the place where it is situated;
- (b) an asset consisting of a claim against a debtor shall be regarded as held in any place where it can be enforced by legal action;

- (c) an asset consisting of a listed investment shall be regarded as held in any place where—
    - (i) there is a stock exchange (of the kind described in paragraph (a) of the definition of “listed” in regulation 44(1) below) where it is listed, or
    - (ii) there is a regulated market as defined in regulation 44(1) below where it is dealt in;
  - (d) an asset consisting of an unlisted investment issued by an incorporated company shall be regarded as held in the place where the head office of that company is situated.
- (4) In this regulation—
- “assets” and “liabilities” have the same meaning as in regulation 27 above;
  - “leading insurer”, “relevant co-insurance operation” and “relevant company” have the same meaning as in regulation 63 below;
  - “listed” and “unlisted” have the meaning given in regulation 44(1) below.

#### **Exclusions from regulations 27 to 31**

- 32.**—(1) Nothing in regulations 27 to 31 above shall apply to—
- (a) insurance business carried on by a UK company outside the European Community; or
  - (b) insurance business carried on by any other company to which Part II of the Act applies outside the United Kingdom; or
  - (c) reinsurance business (unless it is facultative reinsurance written by an insurance company who also carries on insurance business that is not reinsurance).
- (2) Nothing in regulation 31 above shall apply to insurance business of groups 3 and 4 (within the meaning of Part II of Schedule 2 to the Act).

#### **Margin of solvency of non-EC company whose head office is not in an EFTA State etc.: location of assets**

- 33.** Without prejudice to regulation 31 above—
- (a) the assets representing a United Kingdom margin of solvency maintained under section 32(2)(b) of the Act by a non-EC company whose head office is not in an EFTA State and which is not a Swiss general insurance company shall be kept—
    - (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater), within the United Kingdom, and
    - (ii) as to the remainder, within the United Kingdom and the other EEA States, and
  - (b) the assets representing an EEA margin of solvency maintained under section 32(3)(b) of the Act by a non-EC company whose head office is not in an EFTA State and which is not a Swiss general insurance company shall be kept—
    - (i) up to an amount at least equal to the appropriate guarantee fund or minimum guarantee fund (whichever is the greater) within the EEA States where the company carries on business (or in any one or more of them), and
    - (ii) as to the remainder, within the United Kingdom and the other EEA States.



## PART VI

### CHANGE OF CONTROL

#### **Particulars of changes of director, controller or manager, etc.**

**34.** The particulars prescribed for the purposes of sections 60(1), 61(1) and 62(1) of the Act<sup>(11)</sup> shall be those set out in Schedule 6 to these Regulations.

## PART VII

### CONDUCT OF BUSINESS

#### **Contents of advertisements: overseas insurers**

**35.**—(1) Subject to regulation 37 below, paragraphs (2) and (3) of this regulation apply to any insurance advertisement which relates to a contract of insurance with an insurance company which, at the time when the advertisement is issued—

- (a) does not have its head office in an EEA State; and
- (b) is not authorised to carry on insurance business in the United Kingdom by virtue of section 3 or 4 of the Act.

(2) An advertisement to which this paragraph applies shall include the following statement—

“This advertisement relates to an insurance company which is not authorised to carry on insurance business in the United Kingdom. This means that the management and solvency of the company are not supervised by Her Majesty’s Government and you will not be protected by the Policyholders Protection Act 1975 if the company should be unable to meet its liabilities to you.”

(3) An advertisement to which this paragraph applies and in which an insurer is named (whether by his full name or by a name under which he ordinarily carries on business) shall include the full name of the insurance company, the country where the insurance company is registered and the country where the principal office is situated (if different).

(4) Subject to regulation 37 below, any insurance advertisement in respect of long term business which either does not relate to a contract of insurance, or relates to such a contract but does not name the insurance company, shall include a statement that the advertisement is about insurance if that advertisement is issued by or on behalf of an insurance company which, at the time when the advertisement is issued—

- (a) does not have its head office in an EEA State; and
- (b) is not authorised to carry on long term business in the United Kingdom by virtue of section 3 or 4 of the Act.

#### **Contents of advertisements: statement of capital**

**36.** Any insurance advertisement which contains the name of an insurance company to which Part II of the Act applies, or of an EC company carrying on insurance business in the United Kingdom, being a company incorporated with a share capital, and which states the amount of the authorised capital of the company shall also state the amount of that capital which has been subscribed and the amount thereof which has been paid up at the time the advertisement is issued.

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(11) Section 62(1) was substituted by [S.I. 1994/1696](#), reg. 36.

### **Interpretation of and provisions supplemental to regulations 35 and 36**

**37.**—(1) For the purposes of regulations 35 and 36 above, “insurance advertisement” means an insurance advertisement which invites any person to enter into or offer to enter into, or which contains information calculated to lead directly or indirectly to any person entering into or offering to enter into, any contract of insurance other than a contract of reinsurance.

(2) The matters required to be included in an advertisement pursuant to regulation 35 above shall be shown prominently, clearly and legibly.

(3) The words specified in regulation 35(2) above shall appear prominently and shall, if the insurer is named, appear—

- (a) immediately after or alongside the statement of the full name of the insurer, or
  - (b) if the name (whether the full name or any other name) of the insurer is stated more than once in the advertisement, immediately after or alongside the most prominent statement of the name; and, for this purpose, if two or more statements of the name are equally prominent, that which appears first in the advertisement shall be treated as the most prominent.
- (4) Regulations 35 and 36 above shall not apply to insurance advertisements which—
- (a) relate to a contract which will cover large risks only; or
  - (b) are investment advertisements approved by an authorised person under section 57 of the Financial Services Act 1986<sup>(12)</sup>.

### **Intermediaries: connected persons**

**38.**—(1) For the purposes of regulation 39 below a person is connected with an insurance company if—

- (a) that person, or any partner, director, controller or manager of that person, is a partner, director, controller or manager of the insurance company or of any controller thereof;
- (b) the insurance company, or any partner, director, controller or manager of the insurance company, is a partner, director, controller or manager of that person or of any controller thereof;
- (c) that person or any controller thereof has an interest in 10 per cent. or more of the shares of the insurance company or of any controller thereof;
- (d) the insurance company or any controller thereof has an interest in 10 per cent. or more of the shares of that person or of any controller thereof;
- (e) that person, under any contract, not being a contract of employment, or under any other arrangement (whether legally enforceable or not) with the insurance company or with any associated company, undertakes not to perform any services relating to any class or part of a class of insurance business for any insurance company other than the insurance company and, where the undertaking also relates to any associated company, the associated company: Provided that an individual who gives an undertaking of the kind referred to above to any registered society shall not, by virtue of such undertaking, be a person connected with the society or with any company which is, within the meaning of section 736(2) Companies Act 1985<sup>(13)</sup> or Article 4(5)(b) of the Companies (Northern Ireland) Order 1986<sup>(14)</sup>, a wholly owned subsidiary of the society.

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<sup>(12)</sup> 1986 c. 60.

<sup>(13)</sup> Section 736 was substituted by the Companies Act 1989 (c. 40), section 144(1).

<sup>(14)</sup> S.I. 1986/1032 (N.I.6.).

(2) For the purposes of paragraph (1)(c) and (d) above, a person shall be treated as having an interest in shares of a company if, by virtue of Part I of Schedule 13 to the Companies Act 1985 (other than paragraph (4)(b)), he would be so treated for the purposes of sections 324 to 328 of that Act.

(3) A person who issues an invitation of the kind mentioned in regulation 39(1) below in respect of a contract of insurance which will be underwritten at Lloyd's shall, in respect of that contract of insurance, be connected with the insurance company to which that contract relates if that person or any partner, director, controller or manager of that person will take a share in the contract as a member of Lloyd's.

(4) In this regulation—

“associated company”, in relation to a body corporate, means a subsidiary or holding company or subsidiary of the holding company of that body;

“controller”, in relation to a body corporate which is not an insurance company, means a person who is or would be, if he were a company, a holding company of that body;

“manager”, in relation to a body corporate which is not an insurance company, means a person who directly or indirectly takes part in or is concerned in the management of the affairs of that body.

### **Invitation by intermediary**

**39.**—(1) Subject to regulation 40 below, any person who invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company shall, if he is connected with that company at the time the invitation is issued, provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating the circumstances of his connection with that company.

(2) Subject to regulation 40 below, any person who, in the course of carrying on any business or profession, invites another person who is ordinarily resident in the United Kingdom to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company which is not an authorised or permitted insurer shall provide the person to whom the invitation is issued, in the manner specified in paragraph (3) below, with information indicating that the insurance company to which the invitation relates is not an authorised or permitted insurer in respect of the contract in question.

(3) An intermediary shall provide the information required under paragraph (1) or (2) above in the following manner—

(a) where the invitation is issued in writing and is sent or delivered, by sending or (as the case may be) by delivering with the invitation a written statement containing that information;

(b) where the invitation is issued orally, by supplying that person with the information orally, and—

(i) if the person is present when the invitation is issued, by delivering to him immediately thereafter a written statement containing that information; or

(ii) if the person is not so present, by sending by post or causing to be delivered to him as soon as reasonably practicable, at the address supplied by him for the purpose or at his last known address, a written statement containing that information.

(4) The requirement of the written statement referred to in paragraph (3) above shall be deemed to have been complied with where the invitation issued by the intermediary under paragraph (1) above is issued on stationery having printed upon it, in prominent positions, on the side on which the invitation is contained, the name of the intermediary, the name of the insurance company and a clear statement of the relationship between them and which contains in the body of the invitation a

clear indication of the name of the insurance company to which the invitation relates, expressed in the same style as in the printed statement:

Provided that where the intermediary is a Lloyd's broker or a member of Lloyd's and it is clearly indicated in the invitation that the contract will be underwritten at Lloyd's there may be inserted, in place of the statement of relationship referred to above, the expression "Lloyd's Brokers" or (as the case may be) "Mr. \_\_\_\_\_ is a member of Lloyd's" without a reference to the names of the underwriters concerned.

(5) In this regulation—

"authorised", in relation to an insurer, means authorised to carry on insurance business in the United Kingdom by virtue of section 3 or 4 of the Act;

"contract of insurance" does not include a contract of reinsurance or a contract of insurance the effecting and carrying out of which constitutes the carrying on of industrial assurance business or insurance business of groups 3 and 4 as specified in Part II of Schedule 2 to the Act;

"intermediary" means a person to whom the requirements of paragraph (1) or (2) above apply in respect of an invitation issued by him;

"permitted", in relation to an insurer, means permitted to carry on insurance business in the United Kingdom otherwise than by virtue of section 3 or 4 of the Act.

### **Cases excepted from regulation 39**

**40.**—(1) Regulation 39 above shall not apply to—

- (a) an invitation for the renewal or amendment of the terms of any contract of insurance effected before 11th October 1976;
- (b) an invitation for the renewal or amendment of the terms of a contract of insurance effected as a result of an invitation issued by an intermediary in accordance with regulation 39 above where there has been no significant change in the circumstances relevant to the information provided when the contract was first effected;
- (c) an amendment of an invitation issued by an intermediary in accordance with regulation 39 above where there has been no significant change in the circumstances relevant to the information provided when the invitation was first issued;
- (d) an invitation for the effecting of a contract of insurance in respect of general business where—
  - (i) the contract relates to business of group 2 or 5 as specified in Part II of Schedule 2 to the Act and the initial premium to be paid in respect of that contract exceeds £5,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into other contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £5,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation in question is made; or
  - (ii) the contract relates to any other class of insurance business and the initial premium to be paid exceeds £1,000; or where the person to whom the invitation is made has, through the intermediary, prior to that invitation entered into contracts of insurance of the class to which the contract relates and has paid premiums in respect thereof which in the aggregate either exceed £1,000 in the previous calendar year or exceed that figure in the calendar year during which the invitation is made;
- (e) an invitation for the effecting of a contract of insurance with such persons as are mentioned in section 2(2)(b) or (c) of the Act.

(2) Regulation 39(1) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company, or the share in the aggregate to be taken by two or more companies, with which the intermediary is connected, does not exceed one-quarter of the total.

(3) Regulation 39(2) above shall not apply to an invitation for the effecting of a contract of insurance the carrying out of which is to be shared between two or more insurance companies where the share to be taken by any company which is not an authorised or permitted insurer, or the share in the aggregate to be taken by two or more companies which are not authorised or permitted insurers, does not exceed one-quarter of the total.

(4) In this regulation “authorised”, “contract of insurance”, “intermediary” and “permitted” have the same meaning as in regulation 39 above.

### **Notice of long-term contract**

**41.**—(1) Subject to the following provisions of this regulation—

- (a) a statutory notice in relation to a long-term contract which is not an investment agreement shall have the contents and be in the form set out in Schedule 7;
- (b) a statutory notice in relation to a long-term contract which is an investment agreement shall have the contents and be in the form set out in Schedule 8; and
- (c) the notice of cancellation annexed to a statutory notice shall have the contents and be in the form set out in Schedule 9.

(2) A statutory notice shall be printed on a single sheet of paper.

(3) The lettering of statutory notices and notices of cancellation shall be easily legible; and capital letters and figures shall be used in all the places in which they are shown in the form as set out in each Schedule.

(4) In statutory notices the lettering of the words “IMPORTANT! YOU SHOULD READ THIS CAREFULLY” shall be set out in larger printing than all other lettering and in bolder printing than all other lettering except that of main headings and sub-headings.

(5) In statutory notices and notices of cancellation the lettering of all main headings and sub-headings shall be set out in bolder printing than all other lettering except (in the case of a statutory notice) that of the words “IMPORTANT! YOU SHOULD READ THIS CAREFULLY”.

(6) In statutory notices and notices of cancellation there shall be substituted for words contained within square brackets in the appropriate Schedule and for the square brackets containing them the information or wording which, as indicated by those words, should be inserted there.

(7) For the purposes of this regulation and Schedules 7, 8 and 9—

- “EC contract” has the same meaning as in section 75(5B)(15) of the Act;
- “investment agreement” has the same meaning as in section 44(9) of the Financial Services Act 1986;
- “long-term contract” means a contract for long-term insurance;
- “non-EC contract” has the same meaning as in section 75(5B) of the Act;
- “notice of cancellation” means a notice of the kind mentioned in section 75(2)(b) of the Act;
- “statutory notice” means a notice of the kind mentioned in section 75(2) of the Act;

and in the paragraphs in the forms set out in Schedules 7 and 8 headed “Your right to withdraw from the transaction” the description or title of the person to whom the notice of cancellation should be sent may be substituted for or included with the name of that person.

## Exemptions from regulation 41

42. Section 75(1) of the Act<sup>(16)</sup> and regulation 41 above shall not apply to—
- (a) contracts where none of the proposers or policy holders is an individual;
  - (b) contracts of term assurance effected for periods of six months or less;
  - (c) contracts of reinsurance;
  - (d) contracts which insure a policy holder's obligations to make payments under a personal credit agreement of the kind mentioned in section 8(1) of the Consumer Credit Act 1974<sup>(17)</sup> or a consumer hire agreement of the kind mentioned in section 15(1) of that Act<sup>(17)</sup> where the terms of that personal credit agreement or consumer hire agreement have been entered into on the understanding that the long-term contract will remain in force.

## Linked contracts

43.—(1) Benefits payable under any contract to which this regulation applies shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of, property of any description other than property of any of the descriptions specified in Part I of Schedule 10 which, where appropriate, comply with the provisions of paragraph 16 of that Schedule.

(2) Benefits payable under any contract to which this regulation applies shall not be determined, whether directly or indirectly, either wholly or partly by reference to fluctuations in any index of the value of property other than an index described in Part II of Schedule 10.

(3) This regulation applies to ordinary long-term contracts which are—

- (a) contracts entered into by—
  - (i) insurance companies to which Part II of the Act applies;
  - (ii) EC companies the effecting of which constitutes the carrying on of ordinary long-term insurance business in the United Kingdom; or
  - (iii) members of Lloyd's,
 or have been entered into by any such insurance company or other person at any time before 1st July 1975 and are still in force;
- (b) contracts under which the benefits payable to the policy holder are wholly or partly to be 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); and
- (c) not contracts specified in paragraph (4) below as being contracts to which this regulation does not apply.

(4) The contracts referred to in paragraph (3)(c) above to which this regulation does not apply are—

- (a) contracts entered into before, or in pursuance of a contract subsisting at the date of, the coming into force of these Regulations to the extent that they provide for benefits to be determined by reference to the value of, or the income from, or fluctuations in property of any description to which benefits were permitted to be determined before the coming into force of these Regulations;

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<sup>(16)</sup> Section 75(1) was substituted by S.I. 1993/1327, reg. 2(1) and further substituted by S.I. 1994/1696, reg. 43.

<sup>(17)</sup> 1974 c. 39; as amended by S.I. 1983/1878, article 4, Schedule Part II.

<sup>(17)</sup> 1974 c. 39; as amended by S.I. 1983/1878, article 4, Schedule Part II.

- (b) contracts with any policy holder who is a person not ordinarily resident in the United Kingdom;
  - (c) contracts entered into by an insurance company to which Part II of the Act applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 30(4) of the Act;
  - (d) contracts entered into by an EC company by reason only that the policy holder is eligible to participate in an excess of assets representing the whole or a particular part of the fund or funds maintained by the company in respect of its long term business over the liabilities, or a particular part of the liabilities, of the company attributable to that business as determined in accordance with the law of the member State in which the head office of the company is situated;
  - (e) subject to paragraph (5) below, contracts to manage the investments of pension funds that are not combined with contracts of insurance covering either conservation of capital or payment of a minimum interest;
    - (f) contracts entered into before 30th June 1995 to the extent that they provide for benefits to be determined by reference to a collective investment scheme within the meaning of the Financial Services Act 1986 which was a listed security immediately before the coming into force of these Regulations.
- (5) Benefits payable under contracts referred to in paragraph (4)(e) above shall not be determined, either wholly or partly, by reference to the value of, or the income from, or fluctuations in the value of derivative contracts other than permitted derivative contracts as defined in paragraph 15 of Schedule 10.
- (6) In this regulation, “ordinary long-term contract” means a contract for ordinary long-term insurance business.
- (7) Any reference in this regulation to contracts of a similar description to any specified contract is a reference to contracts which correspond with that contract in both the following respects—
- (a) the provisions defining the descriptions of property or indices by reference to which the benefits payable thereunder are to be determined are the same as in that contract; and
  - (b) the insurance company or other person undertaking to pay the benefits provided for thereunder is the same as in that contract.
- (8) This regulation does not apply in relation to contracts linked to property of the description in paragraph 11(b) of Schedule 10 entered into before 1st February 1992 save to the extent that responsibility as mentioned in that paragraph extends at least to acts or omissions after that date.

## PART VIII

### VALUATION OF ASSETS

#### **Interpretation: Part VIII**

- 44.**—(1) In this Part of these Regulations, unless the context otherwise requires—
- “approved counterparty” means any of the following—
- (a) an approved credit institution;
  - (b) a person who is exempt pursuant to section 43 of the Financial Services Act 1986; or

- (c) a person who is an authorised person within the meaning of section 207(1) of the Financial Services Act 1986<sup>(18)</sup> in respect of investment business of a kind which includes entering into unlisted derivative contracts as principal;

“approved credit institution” means an institution recognised or permitted under the law of an EEA State to carry on any of the activities set out in Annex 1 to Council Directive 89/646/EEC of 15 December 1989 on the co-ordination of laws, regulations and administrative provisions relating to the taking up and pursuit of the business of credit institutions<sup>(19)</sup>;

“approved financial institution” means any of the following—

- the central bank of an EEA State;
- the International Bank for Reconstruction and Development;
- the International Finance Corporation;
- the International Monetary Fund;
- the Inter-American Development Bank;
- the African Development Bank;
- the Asian Development Bank;
- the Caribbean Development Bank;
- the European Investment Bank;
- the European Community;
- the European Atomic Energy Community; and
- the European Coal and Steel Community;

“approved investment firm” means an investment firm as defined in article 2 of Council Directive 93/22/EEC of 10 May 1993 on investment services in the securities field<sup>(20)</sup>;

“approved securities” means any of the following—

- (a) any securities issued or guaranteed by, or the repayment of the principal of which, or the interest on which is guaranteed by, and any loans to or deposits with, any of the following, namely, any government, public or local authority or nationalised industry or undertaking, which belongs to Zone A as defined in Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions<sup>(21)</sup>;
- (b) any loan to, or deposit with, an approved financial institution; and
- (c) debentures issued by the Agricultural Mortgage Corporation Limited or the Scottish Agricultural Securities Corporation Limited;

“asset” includes part of an asset;

“building society” means a building society within the meaning of the Building Societies Act 1986<sup>(22)</sup>;

“company” includes any body corporate;

“contract for differences” means a contract which falls within paragraph 9 of Part I of Schedule 1 to the Financial Services Act 1986<sup>(23)</sup>;

“debenture” includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

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<sup>(18)</sup> 1986 c. 60.

<sup>(19)</sup> O.J. No. L386, 30.12.89, p.1.

<sup>(20)</sup> O.J. No. L141, 11.6.93, p.27.

<sup>(21)</sup> O.J. No. L386, 30.12.89, p.14.

<sup>(22)</sup> 1986 c. 53.

<sup>(23)</sup> Paragraph 9 of Part I of Schedule 1 was amended by S.I. 1990/349, art. 2(2).



- “debt” includes an obligation to pay a sum of money under a negotiable instrument;
- “derivative contract” means a contract for differences, a futures contract or an option;
- “enactment” includes an enactment of the Parliament of Northern Ireland;
- “equity share” means a share of equity share capital;
- “equity share capital” means, in relation to a company, its issued share capital excluding any part thereof which, neither as respects dividends nor as respects capital, carries any right to participate beyond a specified amount in a distribution;
- “fixed interest securities” means securities which under their terms of issue provide for fixed amounts of interest;
- “futures contract” means a contract which falls within paragraph 8 of Part I of Schedule 1 to the Financial Services Act 1986;
- “general business amount” has the meaning given in regulation 57(9) below;
- “general business assets” and “general business liabilities” mean respectively assets and liabilities of an insurance company which are not long term business assets or long term business liabilities;
- “general premium income” means, in relation to any body in any year, the net amount, after deduction of any premiums payable for reinsurance, of the premiums receivable by the body in that year in respect of all insurance business other than long term business;
- “index linked benefits” means benefits—
- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long-term insurance business; and
  - (b) determined by reference to fluctuations in any index of the value of property (whether specified in the contract or not);
- “industrial and provident society” means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act 1965<sup>(24)</sup> or the Industrial and Provident Societies Act (Northern Ireland) 1969<sup>(25)</sup>;
- “insurance liabilities” means, in relation to an insurance company, any debt due from or other liabilities of the company under any contract of insurance to which it is a party;
- “intermediary” means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurance company, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;
- “linked assets” means, in relation to an insurance company, long term business assets of the company which are, for the time being, identified in the records of the company as being assets by reference to the value of which property linked benefits are to be determined;
- “listed” means, in relation to an investment—
- (a) that there has been granted and not withdrawn a listing in respect of that investment on any stock exchange in a member State which is a stock exchange within the meaning of the law of that member State and that dealings in the investment are effected regularly on such stock exchange; or
  - (b) that dealings in that investment are effected regularly on a regulated market;
- and “unlisted” shall be construed accordingly;
- “long term business amount” has the meaning assigned to it in regulation 57(9) below;

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<sup>(24)</sup> 1965 c. 12.

<sup>(25)</sup> 1969 c. 24 (N.I.).

“long term business assets” and “long term business liabilities” mean respectively assets of an insurance company which are, for the time being, identified as representing the long term fund or funds maintained by the company in respect of its long term business and liabilities of the company which are attributable to its long term business;

“middle market quotation” means—

- (a) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (b) in relation to an investment for which one price is quoted in the official list published for the relevant market, the price so quoted for the relevant date or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and
- (c) in any other case, the nearest equivalent to the average referred to in paragraph (a) above which is published or can be reasonably ascertained from information which is published;

“option” means an option which falls within paragraph 7 of Part I of Schedule 1 to the Financial Services Act 1986(26) or a warrant;

“price earnings ratio” means the price earnings ratio (net) estimated in respect of the non-financial index of the Financial Times-Stock Exchange-Actuaries Share Indices jointly compiled by the Financial Times, the Stock Exchange, the Institute of Actuaries and the Faculty of Actuaries;

“proper valuation” means, in relation to land, a valuation made by a qualified valuer not more than three years before the relevant date which determined the amount which would be realised at the time of the valuation on an open market sale of the land free from any mortgage or charge;

“property linked benefits” means benefits other than index linked benefits—

- (a) provided for under any contract the effecting of which constitutes the carrying on of ordinary long-term insurance business, and
- (b) determined by reference to the value of, or the income from, property of any description (whether specified in the contract or not);

“qualified valuer”, in relation to any particular type of land in any particular area, means—

- (a) a person who is a fellow or professional associate of the Royal Institution of Chartered Surveyors or a fellow or associate of the Incorporated Society of Valuers and Auctioneers or a fellow or associate of the Rating and Valuation Association and either—
  - (i) has knowledge of and experience in the valuation of that particular type of land in that particular area, or
  - (ii) has knowledge of and experience in the valuation of land and has taken advice from a valuer who he is satisfied has knowledge of and experience in the valuation of that particular type of land in that particular area, or
- (b) a person who conforms with paragraph (a)(i) or (ii) above and immediately before 15th June 1981 was recognised as a qualified valuer by virtue of an approval by the Secretary of State under the Insurance Companies (Valuation of Assets) Regulations 1976(27) (and for these purposes an approval given under the Insurance Companies (Valuation of Assets) Regulations 1974(28) shall be deemed to have been given under the said Regulations of 1976);

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(26) Paragraph 7 of Part I of Schedule 1 was amended by S.I. 1988/496, art. 2.

(27) S.I. 1976/87; revoked by S.I. 1981/1654.

(28) S.I. 1974/2203; revoked by S.I. 1976/87.

“regulated institution” means any of the following—

- (a) an EC company, a UK company or an EFTA company;
- (b) an approved credit institution;
- (c) a body which is registered under the enactments relating to friendly societies and which is authorised to carry on insurance business; and
- (d) an approved investment firm;

“regulated market” means a market which is characterised by—

- (a) regular operation;
- (b) the fact that regulations issued or approved by the appropriate authority of the state where the market is situated—
  - (i) define the conditions for the operation of and access to the market;
  - (ii) define the conditions to be satisfied by a financial instrument in order for it to be effectively dealt in on the market; and
  - (iii) require compliance with reporting and transparency requirements comparable to those laid down in articles 20 and 21 of Council Directive [93/22/EEC](#) of 10 May 1993 on investment services in the securities field; and
- (c) in the case of a market situated outside the European Community, the fact that the financial instruments dealt in are of a quality comparable to those in a regulated market in the United Kingdom;

“regulated subordinated debt” means any debt which is due or to become due from a regulated institution and which satisfies the following conditions—

- (a) in the event of liquidation of the regulated institution the debt ranks after all claims of all other creditors and is not to be repaid until all other debts outstanding at the time have been settled;
- (b) for debts with a fixed maturity date the original term is at least five years;
- (c) subject to sub-paragraph (d) below, the terms for repayment of the debt are such that the debt will not become repayable before the agreed payment date in any circumstances other than the bankruptcy or winding up of the debtor;
- (d) early repayment of the debt may only be made with the prior consent of the supervisory authority for the relevant regulated institution; and
- (e) the terms of the debt may only be amended with the prior consent of the supervisory authority for the relevant regulated institution;

“related company” means, in relation to an insurance company—

- (a) a dependant of the insurance company, or
- (b) a company of which the insurance company is a dependant, or
- (c) a dependant of a company of which the insurance company is a dependant;

“relevant date” means, in relation to the valuation of any asset for any purpose for which this Part of these Regulations applies, the date when the asset falls to be valued for that purpose;

“salvage right” means any right of an insurance company under a contract of insurance to take possession of and to dispose of property by virtue of the fact that the company has made a payment or has become liable to make a payment in respect of a loss thereof;

“securities” includes shares, debentures, Treasury Bills, Tax Reserve Certificates and Certificates of Tax Deposit;

“settlement date” means any date on which the fulfilment of an obligation under a derivative contract is or may be required;

“share” includes stock;

“stock lending transaction” means an agreement under which title to securities is transferred from one party to the agreement, described in the agreement as the lender, to another, described as the borrower, on terms which provide for redelivery of identical securities from the borrower to the lender on demand or at an agreed date;

“Talisman short term certificate” means a short term certificate provided by the Stock Exchange to Talisman trading account holders which have been endorsed by such account holders and passed to lenders as security under stock lending transactions;

“Treasury Bills” includes bills issued by Her Majesty’s Government in the United Kingdom and Northern Ireland Treasury Bills;

“warrant” means an instrument which falls within paragraph 4 of Part I of Schedule 1 to the Financial Services Act 1986.

(2) For the purposes of these Regulations, a company is a dependant of another company if it is a subsidiary undertaking of that other company and “subsidiary undertaking” shall be construed in accordance with section 258 of the Companies Act 1985<sup>(29)</sup> or Article 266 of the Companies (Northern Ireland) Order 1986<sup>(30)</sup>.

(3) For the purposes of these Regulations, a debt owed to an insurance company shall be regarded as being secured only to the extent that—

- (a) it is a debt in respect of the full amount of which a letter of credit has been established with an approved credit institution; or
- (b) it is a debt the payment in full of which is guaranteed by an approved credit institution; or
- (c) it is fully secured by a Talisman short term certificate; or
- (d) it is fully secured on an asset or assets for the valuation of which provision is made in this Part of these Regulations; and—
  - (i) the value of the asset or assets providing the security (after deducting reasonable expenses of sale) is sufficient to enable the debt to be discharged in full; and
  - (ii) subject to paragraph (4) below, the value of the asset or assets providing the security for the debt when added to the aggregate exposure (as defined in regulation 57(3)) to assets of the same description does not exceed the maximum admissible value (as defined in regulation 57(4)) for assets of that description; and
  - (iii) there is no other obligation secured on the asset or assets which has priority to or ranks equally with the debt.

(4) A debt arising under a stock lending transaction shall not be deemed to be unsecured by reason only that the conditions set out in sub-paragraph (3)(d)(ii) above is not satisfied if the total value of the assets providing security for the debt is not dependant on fluctuations in the value of any individual asset.

### **Application: Part VIII**

**45.**—(1) Subject to paragraph (2) below, this Part of these Regulations applies with respect to the determination of the value of assets of insurance companies for the purposes of—

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<sup>(29)</sup> Section 258 was substituted by the Companies Act 1989, c. 40, reg. 21.

<sup>(30)</sup> S.I. 1986/1032 (N.I. 6), Art. 266 was substituted by Companies (N.I.) Order 1990 (N.I. 15), Art. 3(a), 23(1).

- (a) sections 29(7), 31, 32, 34, 35, 38, 39 and 45 of the Act(31),
- (b) any investigation to which section 18 of the Act applies, and
- (c) any investigation made in pursuance of a requirement under section 42 of the Act.

(2) Where an insurance company has entered into any contracts providing for the payment of property linked benefits, this Part of these Regulations shall not apply with respect to the determination of the value of the linked assets to the extent that they are held in compliance with section 35A of the Act(32) to match liabilities in respect of such benefits.

(3) Any asset to which this Part of these Regulations applies (other than cash) for the valuation of which no provision is made in this Part of these Regulations shall be left out of account for the purposes specified in paragraph (1) above.

(4) Where in accordance with this Part of these Regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

(5) For the purposes of paragraph (4) above, in determining whether it appears that an asset is of a lesser value than a specified amount, regard shall be had to the underlying security and, in the case of bonds, debt securities and other money and capital market instruments, the credit rating of the issuer, including whether the issuer belongs to Zone A as defined in Council Directive 89/647/EEC of 18 December 1989 on a solvency ratio for credit institutions and, where the issuer is an international organisation, whether it includes at least one EEA State among its members.

(6) Notwithstanding paragraph (1) above (but subject to the conditions set out in paragraph (7) below), an insurance company may, for the purposes of an investigation to which section 18 of the Act applies or an investigation made in pursuance of a requirement under section 42 of the Act, elect to assign to any of its assets the value given to the asset in question in the books or other records of the company.

(7) The conditions referred to in paragraph (6) above are—

- (a) that the election shall not enable the company to bring into account any asset for the valuation of which no provision is made in this Part of these Regulations;
- (b) that the value assigned to the aggregate of the assets shall not be higher than the aggregate of the value of those assets as determined in accordance with regulations 46 to 57 of these Regulations.

### **Shares in and debts due or to become due from dependants**

**46.**—(1) Subject to paragraph (2) below, the value of any share in a dependant of an insurance company shall be not greater than that part of the net asset value of the dependant which would be payable in respect of the share if the dependant were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) In valuing an asset of an insurance company which consists of shares in another company which is a dependant, any part of that value which arises from an interest by that other company, direct or indirect, in the shares of the insurance company shall be left out of account.

(3) In this regulation, “net asset value” means, in relation to a dependant, the amount by which the value of its assets, as determined in accordance with regulation 47 below, exceeds the amount of

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(31) Section 32 was amended by S.I. 1993/3127, reg. 3(3) and further amended by S.I. 1994/1696, reg. 14; section 34 was amended by S.I. 1993/3127, reg. 3(4) and further amended by S.I. 1994/1696, reg. 15; section 35 was amended by S.I. 1993/3127, reg. 3(5) and further amended by S.I. 1994/1696, reg. 16; section 38 was amended by S.I. 1993/3127, reg. 3(7) and further amended by S.I. 1994/1696, reg. 20; section 39 was amended by S.I. 1994/1696, reg. 21; section 45 was amended by S.I. 1994/1696, reg. 25.

(32) Section 35A was inserted by S.I. 1994/1696, reg. 17.

its liabilities as determined in the case of a dependant which is an insurance company, in accordance with the said regulation 47.

(4) The value of any debt due, or to become due, to an insurance company from a dependant (other than a debt to which regulation 48(2), (3) or (6) below applies) shall be the amount which would reasonably be expected to be recovered in respect of that debt (due account being taken of any security held in respect thereof and of the terms and conditions for payment) if the dependant were in liquidation and—

- (a) in the case of a dependant which is an insurance company, the amount realised from its assets and the amount of its liabilities in the liquidation were equal to the value of those assets and the amount of those liabilities, as determined in accordance with regulation 47 below, and
- (b) in the case of a dependant which is not an insurance company, the amount realised from its assets in the liquidation were equal to the value of those assets, as determined in accordance with the said regulation 47.

(5) Any share in a dependant—

- (a) in which there is no excess of assets over liabilities as is mentioned in paragraph (3) above, or
- (b) in relation to which an insurance company cannot reasonably ascertain the amount of the liabilities of the dependant for the purposes of the said paragraph (3),

shall be left out of account for the purposes for which this Part of these Regulations applies.

(6) Where an insurance company is unable to determine the value of any debt due, or to become due, to the company from a dependant because it cannot reasonably ascertain the amount of the liabilities of the dependant for the purpose of ascertaining what would reasonably be expected to be recovered in respect of that debt in accordance with paragraph (4) above, the debt shall be left out of account for the purposes for which this Part of these Regulations applies.

#### **Valuation of assets and liabilities of dependants for the purposes of regulation 46**

**47.—**(1) This regulation shall apply with respect to the determination of the value of the assets and the amount of the liabilities of a dependant for the purposes of regulation 46 above.

(2) In the case of a dependant which is an insurance company, whether or not it is a company to which Part II of the Act applies—

- (a) subject to paragraph (4) below and paragraph 3 of Schedule 11, the value of its assets shall be determined in accordance with this Part of these Regulations;
- (b) subject to paragraphs (c), (d), (e) and (f) below, the amount of its liabilities shall be determined in accordance with Part IX of these Regulations;
- (c) where the dependant carries on general business, its general business liabilities shall be deemed to include an amount equal to whichever is the greater of 400,000 units of account or 20 per cent. of the general premium income;
- (d) where the dependant carries on long term business, its long term business liabilities shall be deemed to include whichever is the greatest of the following three amounts—
  - (i) an amount (“the first amount”) which is one-sixth of the required margin of solvency that would be arrived at by regarding the dependant as having its head office in the United Kingdom (whether it has or not) and applying regulations 18 to 21 above;
  - (ii) an amount which is six times the first amount, reduced by the implicit figure within the meaning of sub-paragraph (e) below;
  - (iii) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 5, 200,000 units of account;

- (e) for the purposes of sub-paragraph (d)(ii) above the implicit figure is—
  - (i) in the case of a dependant having its head office in the United Kingdom, the amount of any implicit items relating to future profits, zillmerising or hidden reserves which the dependant is permitted to count by virtue of an order under section 68 of the Act of the kind mentioned in regulation 23(5) above and the application of regulations 23(5), 24, 25 and 26 above, and
  - (ii) in the case of a dependant having its head office elsewhere than in the United Kingdom, the amount of any implicit items relating to future profits or zillmerising which would be arrived at by regarding the dependant as having its head office in the United Kingdom and as having received an order under section 68 of the Act of the kind mentioned in regulation 23(5) above and by applying regulations 23(5), 24 and 25 above accordingly;
  - (f) in any case where the dependant is required to establish a long term business fund or funds under section 28 of the Act, its long term business liabilities shall be deemed to be not less than the value of the assets representing that fund or funds.
- (3) In the case of a dependant which is not an insurance company—
  - (a) the value of its assets shall be determined in accordance with this Part of these Regulations, subject to the provisions of and the modifications provided for in paragraphs 3 and 4 of Schedule 11;
  - (b) subject to paragraph (4) below, assets of the dependant which are of a relevant description shall be taken into account only to the extent that their value does not exceed the permitted limit applicable to the dependant in relation to those assets; and
  - (c) any equipment leased by the dependant exclusively to any person other than its subsidiary or holding company or a subsidiary of its holding company shall be valued as a debt for the purposes of this Part of these Regulations.
- (4) Where—
  - (a) the dependant is an insurance company and has general business assets of a relevant description or is not an insurance company and has assets of a relevant description,
  - (b) the value of such assets exceeds the permitted limit applicable to the dependant in relation to those assets, and
  - (c) the insurance company has no assets of the same description of the relevant class, or has assets of the same description of the relevant class and their value is less than the permitted limit applicable to the insurance company in relation to those assets,

then, for the purpose of determining the value of the assets of the dependant, there shall be added to the permitted limit applicable to the dependant in relation to the assets referred to in sub-paragraph (a) above an amount equal to the supplementary amount determined in accordance with Part I of Schedule 11.

- (5) In this regulation and Schedule 11—
  - “assets of a relevant description” means assets of a description specified in Part I of Schedule 12 or, in the case of a dependant which is not an insurance company, assets which would be of such a description if it were an insurance company;
  - “the insurance company” means the company the value of whose shares in or debt due or to become due from the dependant is being determined in accordance with regulation 46 above;
  - “permitted limit” means, in relation to assets of a relevant description—
    - (a) in the case of the insurance company, or a dependant which is an insurance company, an amount equal to the percentage of the general business amount or, as the case may be, the long term business amount applicable in relation to assets of that description in

accordance with regulation 57 below (as applied in the case of a dependant pursuant to paragraph (2) above); and

- (b) in the case of a dependant which is not an insurance company, an amount equal to the percentage specified in Schedule 12, with respect to assets of that description, of the liabilities of the dependant, other than liabilities to the insurance company or any other related company of the insurance company;

and references to assets held by any company being of the same description as assets held by a dependant mean—

- (i) in relation to land of the dependant of a description specified in paragraph 1 of Schedule 12, any interest of that other company in that land, and
- (ii) in relation to assets of the dependant of a description specified in paragraphs 2 to 17 of Schedule 12, assets of that other company which, if held by the dependant, would be assets of that description.

(6) Save as otherwise provided in paragraph 3(5) of Schedule 11, references in this regulation and in Schedule 11 to assets of the insurance company being of a relevant class mean—

- (a) where this regulation and Schedule 11 are being applied for the purpose of determining the value of a long term business asset of the insurance company, assets of the insurance company which are long term business assets, and
- (b) in any other case, assets of the insurance company which are general business assets.

(7) Where the insurance company cannot reasonably ascertain in accordance with the provisions of this regulation—

- (a) the value of any asset of the dependant, or
- (b) the amount of the permitted limit applicable in relation to any asset of the dependant,

that asset shall be left out of account in determining the value of the assets of the dependant under this regulation.

### **Debts and other rights**

**48.**—(1) The value of any secured debt due, or to become due, to an insurance company, other than a debt to which regulation 46(4) above or paragraph (2), (3) or (6) of this regulation applies, shall be the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of the nature and quality of the security).

(2) Any debt due, or to become due, to an insurance company under a letter of credit shall be left out of account for the purposes of this Part of these Regulations.

(3) In the case of long term business carried on by a company, the value of any debt due, or to become due, to the company which is secured on a policy of insurance issued by the company and which (together with any other debt secured on that policy) does not exceed the amount payable on a surrender of that policy at the relevant date shall be the amount of that debt.

(4) The value of any unsecured debt due, or to become due, to an insurance company, other than a debt to which regulation 46(4) above, paragraph (5) or (6) of this regulation or regulation 53 or 56 applies, shall be—

- (a) in the case of any such debt which is due, or will become due, within twelve months of the relevant date (including any debt which would become due within that period if the company were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of the terms and conditions for payment thereof); and



(b) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt (due account being taken of the terms and conditions for payment thereof).

(5) The value of any debt due to, or other rights of, the company under any contract of reinsurance to which the company is a party (other than a debt to which regulation 46(4) above applies) shall be the amount which can reasonably be expected to be recovered in respect of that debt or right.

(6) Any debt due, or to become due, to the company—

(a) from an intermediary in respect of money advanced on account of commission to which that intermediary is not absolutely entitled at the relevant date, or

(b) in respect of unpaid share capital of the company, or

(c) from its holding company where such debt is regulated subordinated debt, or

(d) which is a debt to which paragraph (7) or (8) below applies,

shall be left out of account for the purposes for which this Part of these Regulations applies.

(7) This paragraph shall apply to a debt which is a debt owed in respect of premiums (due account being taken of rebates, refunds and commissions payable) which is recorded in the company's accounting records as due and payable and has been outstanding for more than three months.

(8) This paragraph shall apply to a debt arising under a contract which, wholly or in part, has the equivalent effect to a derivative contract to which regulation 55(3) does not apply.

(9) In the case of general business carried on by a company, the value of any salvage right of the company shall be the amount which can reasonably be expected to be recovered by virtue of the exercise of that right.

(10) The value of any right of an insurance company to have identical securities transferred to it under to a stock lending transaction shall be calculated as if the right was a debt owed to the insurance company in respect of the value of the securities to be transferred to it.

## **Land**

**49.**—(1) The value of any land of an insurance company (other than land held by the company as security for a debt or to which paragraph (2) of this regulation or regulation 54 below applies) shall be not greater than the amount which (after deduction of the reasonable expenses of sale) would be realised if the land were sold at a price equal to the most recent proper valuation of that land which has been provided to the company and any such land of which there is no proper valuation shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any interest in land which is determinable upon the death of any person or upon the happening of some other future event or at some future time shall be the amount which would reasonably be paid by way of consideration for an immediate transfer thereof.

## **Equipment**

**50.**—(1) The value of any computer equipment of an insurance company—

(a) in the financial year of the company in which it is purchased, shall be not greater than three-quarters of the cost thereof to the company;

(b) in the first financial year thereafter, shall be not greater than one-half of that cost;

(c) in the second financial year thereafter, shall be not greater than one-quarter of that cost; and

(d) in any subsequent financial year, shall be left out of account for the purposes for which this Part of these Regulations applies.

(2) The value of any office machinery (other than computer equipment), furniture, motor vehicles and other equipment of an insurance company, shall be, in the financial year of the company in which it is purchased, not greater than one-half of the cost thereof and shall be, in any subsequent financial year, left out of account for the purposes for which this Part of these Regulations applies.

### **Unlisted securities**

**51.**—(1) This regulation does not apply to the valuation of shares in a dependant of an insurance company.

(2) The value of any unlisted security which is dealt in on a regulated market shall be an amount not greater than the middle market quotation.

(3) The value of any unlisted equity share, other than a share to which paragraph (2) above applies, shall be not greater than—

(a) where the company in which the share is held has been carrying on business for more than three financial years, the multiple of the price earnings ratio for the relevant date (or, if no price earnings ratio has been published for that date, for the most recent date prior to that date for which a price earnings ratio has been published) and the proportionate amount attributable to that share of the average amount of the profits of the company for the last three financial years; and

(b) where the company has been carrying on business for less than three but more than one financial year, the multiple of such price earnings ratio and the proportionate amount attributable to that share of the average amount of the profits of the company for its two financial years or the profits of the company in its only financial year (as the case may be).

(4) For the purposes of this regulation, the average amount of the profits of a company for any specified years shall be the amount represented by the formula—

$$\frac{P-L}{Y}$$

where—

(a) P is the aggregate amount of the profits of the company after provision for taxation in each of the specified years,

(b) L is the aggregate amount of any losses made by the company after provision for taxation in any of the specified years in which there were no profits, and

(c) Y is the number of years specified,

no account being taken of any profit or loss brought forward from any year preceding the specified years.

(5) In this regulation, the proportionate amount attributable to any share of the average amount or the amount of any profits of the company in which the share is held for any specified years shall be the amount which could reasonably be expected to be received in respect of that share if the average amount or the amount (as the case may be) of the profits in question were available for distribution by the company among its shareholders.

(6) Where the value of any share would otherwise be determined in accordance with the provisions of paragraph (3) above but cannot be so determined because the amount of the profits of, or the amount of losses incurred by, the company in the last financial year cannot be reasonably ascertained, then the value of that share shall be determined—

(a) in the case of a company which has been carrying on business for not less than four financial years, by reference to the average amount of the profits of the company for the three financial years preceding the last financial year; and

- (b) in the case of a company which has been carrying on business for less than four but more than two financial years, by reference to the average amount or the amount (as the case may be) of the profits of the company in any specified years other than the last financial year.

(7) Any share to be valued in accordance with paragraphs (3) to (6) above shall be left out of account for the purposes for which this Part of these Regulations applies if—

- (a) no amount is attributable thereto in accordance with paragraph (3) above; or
- (b) the company in which the share is held has been carrying on business for less than one financial year; or
- (c) the value of the share cannot be ascertained in accordance with paragraphs (3) to (6) above because the amount of the profits of, or the amount of the losses incurred by, the company in any of the specified years cannot reasonably be ascertained and no provision is made for its valuation in paragraph (6) above; or
- (d) no amount is realisable in the short term.

(8) The value of any unlisted share other than one to which paragraph (2) or (3) above applies shall be the amount which would reasonably be paid by way of consideration for an immediate transfer of that share.

### **Unit trusts**

**52.** The value of any holding of units, or other beneficial interest, under an authorised unit trust scheme or a recognised scheme within the meaning of the Financial Services Act 1986 shall be the price at which the managers under the scheme would purchase the holding of units or other beneficial interest if required to do so.

### **Listed investments**

**53.—**(1) The value of any listed debenture which is not a debenture issued by a dependant of the insurance company, and of any listed share which is not a share in such a dependant nor a share in any body specified in regulation 56(2) below, shall be the middle market quotation.

(2) Where the listing of any listed debenture or listed share, the value of which falls to be determined in accordance with this regulation, was suspended at a relevant date, then for the purpose or purposes for which that date was the relevant date—

- (a) if that suspension was in force for a period in excess of ten days, that debenture or share shall be left out of account, and
- (b) if that suspension was in force for a period not exceeding ten days, the value of that debenture or share shall be the lower of—
  - (i) the middle market quotation on the day before the day the suspension came into force, and
  - (ii) the middle market quotation on the day after the day the suspension was terminated.

(3) For the purposes of paragraph (2) above, a day which is a Saturday or a Sunday or a bank holiday in any part of the United Kingdom shall be disregarded.

### **Reversionary interests etc.**

**54.** The value of any long term business asset of a company consisting of an interest in property which is a remainder, reversionary interest, right of fee subject to a liferent or other future interest, whether vested or contingent, shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

### **Derivative contracts**

**55.**—(1) Subject to paragraph (2) below, the value of rights under a derivative contract to which this regulation applies shall be—

- (a) in the case of a listed derivative contract, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof; or
- (b) in the case of an unlisted derivative contract which the insurance company—
  - (i) has entered into with an approved counterparty, and
  - (ii) reasonably believes may be readily closed out by entering into a further approved derivative contract with an approved counterparty,
 the amount which would reasonably be paid by way of consideration for closing out that contract.

(2) There shall be deducted from the amount calculated in accordance with paragraph (1) above the amount of any cash or other assets as shall at the relevant date have been paid or transferred to the company in respect of that contract.

(3) This regulation applies to an approved derivative contract—

- (a) which is held for the purposes of reduction of investment risks or efficient portfolio management, and which—
  - (i) is held in connection with assets to which this Part of these Regulations applies for such purposes; or
  - (ii) has the equivalent effect to such a contract held in connection with such assets for such purposes; and
- (b) in respect of which, having regard to its assets and liabilities, the insurance company will have, so far as can reasonably be foreseen and (if applicable) in the appropriate fund maintained by it, assets at the settlement date which match its obligations under that contract and from which it will fulfil those obligations.

(4) In this regulation “approved derivative contract” means—

- (a) a contract for differences under which the amount payable by either party is calculated by reference to fluctuations in the value of—
  - (i) an asset for the valuation of which provision is made in this Part of these Regulations; or
  - (ii) income from such an asset; or
  - (iii) an index of such assets, or income therefrom, the value of which is determined on the basis of an arithmetic average of the value of the assets which comprise the index; or
  - (iv) an index in respect of which a derivative contract is listed; or
- (b) a futures contract or an option, in each case providing for the acquisition or disposal of assets for the valuation of all of which provision is made in this Part of these Regulations.

### **Other assets**

**56.**—(1) The value of any approved securities shall be—

- (a) in the case of listed securities, the middle market quotation;
- (b) in the case of securities which are not transferable, the amount payable on a surrender or redemption of such securities at the relevant date; and
- (c) in any other case, the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

(2) The value of shares in any building society or industrial and provident society shall be the amount which would reasonably be paid by way of consideration for an immediate transfer or assignment thereof.

**Assets to be taken into account only to a specified extent**

57.—(1) The extent to which assets of an insurance company shall be taken into account shall be determined on the basis of the company’s aggregate exposure to such assets.

(2) Where the aggregate exposure of the company to assets of any one description exceeds the maximum admissible value for assets of that description, there shall be left out of account assets equal in value to the excess comprising—

- (a) assets of that description; and
- (b) where there are insufficient assets of that description held, any other assets.

(3) In this regulation, “aggregate exposure” means the value of such assets held by the company (if any) adjusted—

- (a) to take account of the value of assets of that description which the company is deemed to have acquired or disposed of by the application of paragraphs (6) to (8) below; and
- (b) to include the value of assets of that description which have been transferred to another party by the company under a stock lending transaction.

(4) In this regulation, the “maximum admissible value” means—

- (a) for a company carrying on general business, whether or not also carrying on long term business, in the case of general business assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the general business amount specified in Schedule 12 for assets of that description;
- (b) for a company carrying on only long term business, for all assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the long term business amount specified in Schedule 12 for assets of that description; and
- (c) for a company carrying on general business and long term business, in the case of long term business assets of a description specified in Part I of Schedule 12, an amount equal to the percentage of the long term business amount specified in Schedule 12 for assets of that description; and
- (d) for any company, in the case of assets of any other description, no value.

(5) For the purposes of determining whether, in pursuance of paragraphs 6, 8, 9, 10, 12, 13 and 14 of Schedule 12, assets should be left out of account by reason that the aggregate exposure exceeds the maximum admissible value, account may be taken of any amount which has already been left out of account in respect of assets of any of the descriptions in those paragraphs.

(6) Where the company is a party to a contract which is (wholly or in part) a futures contract which—

- (a) provides for the acquisition of assets by the company; or
- (b) is listed and provides for the disposal of assets by the company; or
- (c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date,

for the purposes of calculating its aggregate exposure the company shall be deemed at the relevant date to have acquired or disposed of such assets.

(7) Where the company is a party to a contract which is (wholly or in part) an option which—

- (a) provides for the acquisition of assets by the company; or

- (b) is listed and provides for the disposal of assets by the company; or
- (c) is not listed but provides for the disposal of assets by the company to an approved counterparty within one year of the relevant date,

and it is prudent at the relevant date to assume that such option will be exercised, for the purposes of calculating its aggregate exposure to such assets, the company shall be deemed to have acquired or disposed of such assets at that date.

(8) Where the company is a party to a contract which (wholly or in part) is or has the equivalent effect to a contract for differences, the value of which depends to a significant extent upon fluctuations in the value of, or income from, particular assets, for the purposes of calculating its aggregate exposure the company shall be deemed to have achieved the effect of such contract for differences by entering into appropriate options or futures contracts in respect of those assets, and such options or futures contracts shall be dealt with in accordance with paragraphs (6) and (7) above.

(9) In this regulation—

“general business amount” means the aggregate of the company’s general business liabilities and in the case of a company which carries on general business an amount equal to whichever is the greater of 400,000 units of account or 20 per cent. of the general premium income less the amount of the deduction specified in paragraph (10) below;

“long term business amount” means the aggregate of the company’s long term business liabilities and whichever is the greater of—

- (a) one-sixth of the margin of solvency which the company—
  - (i) if its head office is in the United Kingdom, is required to maintain, or
  - (ii) if its head office is elsewhere, would be required to maintain if its head office were in the United Kingdom, and
- (b) 800,000 units of account or, in the case described in paragraph 1(a) of Schedule 5, 200,000 units of account,

less the amount of the deduction specified in paragraph (10) below.

(10) The deduction to be made in determining the general business amount or the long term business amount in accordance with paragraph (9) above shall be the aggregate of the following—

- (a) the amount of any general business or, as the case may be, long term business liabilities of the company to related companies, other than insurance liabilities, and
- (b) the value of the debts due, or to become due, to and other rights of the company under contracts of reinsurance ceded by it (but excluding any rights of recovery in respect of insurance liabilities already discharged by the company) which are general business or, as the case may be, long term business assets of the company, and
- (c) in the case of the long term business amount, the amount of any liabilities of the company in respect of property linked benefits.

(11) Where an asset (or a group of assets) of a company carrying on only long term business is attributed by the company partly to its long term business assets and partly to its other assets, any asset or assets required to be left out of account shall be left out of account in the same proportion as such attribution.

(12) For the purposes of this regulation, the amount of the liabilities of an insurance company shall be determined in accordance with Part IX of these Regulations.

(13) Until 1st January 1995, paragraphs 12 and 14 of Schedule 12 shall have effect as if the words “and any of its connected companies (not being a dependant of the insurance company)” were omitted.

(14) Where a company has entered into any contracts providing for the payment of index linked benefits, this regulation shall not apply to assets of any of the descriptions specified in paragraphs 1 to 11 and 15 to 17 of Schedule 12 to the extent that they are held in compliance with section 35A of the Act<sup>(33)</sup> to match liabilities in respect of such benefits.

(15) This regulation shall not apply to—

- (a) any approved securities or to any interest accrued thereon; or
- (b) debts of the descriptions specified in regulation 48(5) or (9); or
- (c) debts in respect of premiums; or
- (d) moneys due from the Crown or any public body.

## PART IX

### DETERMINATION OF LIABILITIES

#### **Interpretation: Part IX**

**58.** In this Part of these Regulations—

“derivative contract” has the meaning given in regulation 44(1) of these Regulations;

“general business liabilities” means liabilities of an insurance company arising under or in connection with contracts for general business;

“long term liabilities” means liabilities of an insurance company arising under or in connection with contracts for long term business, including liabilities arising from deposit back arrangements;

“the valuation date”, in relation to an actuarial investigation, means the date to which the investigation relates.

#### **Application: Part IX**

**59.** This Part of these Regulations applies with respect to the determination of the amount of liabilities of insurance companies for the purposes of—

- (a) sections 29(7), 31, 32, 34, 35, 37(3), 38, 39 and 45 of the Act;
- (b) an investigation to which section 18 of the Act applies; and
- (c) any investigation made in pursuance of a requirement under section 42 of the Act.

#### **Long term and general business**

**60.**—(1) Subject to this Part of these Regulations, the amount of liabilities of an insurance company in respect of long term and general business shall be determined in accordance with generally accepted accounting concepts, bases and policies or other generally accepted methods appropriate for insurance companies.

(2) In determining under paragraph (1) above the amount of liabilities of an insurance company, all contingent and prospective liabilities shall be taken into account but save as provided in regulation 23(3) of these Regulations not liabilities in respect of share capital.

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(33) Section 35A was inserted by [S.I. 1994/1696](#), reg. 17.

### **Provision for adverse changes**

**61.**—(1) An insurance company which has or may have (following the exercise of any right by a third party) an obligation under a derivative contract or a contract to which regulation 48(8) applies shall make such provision as shall be sufficient, on prudent assumptions, to allow for the effect of possible adverse changes in—

- (a) the current value of the assets or indices of assets to which that contract relates; and
- (b) the current value of any assets held by the company,

on the ability of the company to meet its obligations under that contract.

(2) For the purposes of paragraph (1) above, the company shall have regard to—

- (a) past volatility in the value of such assets or indices of assets (and in the value of assets or indices of a similar nature); and
- (b) the possibility of adverse changes in the volatility of the value of such assets or indices in the future.

### **General business liabilities**

**62.** The amount of the general business liabilities shall be determined in compliance with the rules laid down in Section D of Schedule 9A to the Companies Act 1985<sup>(34)</sup>.

### **Relevant co-insurance operations: general business**

**63.**—(1) Where a relevant company determines the amount of a liability in order to make provision for outstanding claims arising under a relevant co-insurance operation, then, if the leading insurer has informed the company of the amount of the provision made by the leading insurer for such claims, the amount determined by the company—

- (a) shall be at least as great as the amount of the provision made by the leading insurer, or
- (b) in a case where it is not the practice in the United Kingdom to make such provision separately, shall be sufficient, when all liabilities are taken into account, to include provision at least as great as that made by the leading insurer for such claims,

due regard being had in either case to the proportion of the risk covered by the company and by the leading insurer respectively.

(2) In paragraph (1) above—

“leading insurer”, in relation to a relevant co-insurance operation, means an insurer who—

- (a) is recognised as the leading insurer by the other insurers involved in the operation, and
- (b) determines the terms and conditions of insurance for the operation;

“relevant co-insurance operation” has the meaning given by Schedule 13;

“relevant company”, in relation to a relevant co-insurance operation, means an insurance company which is concerned in the operation but is not the leading insurer.

### **Long term liabilities**

**64.**—(1) The determination of the amount of long term liabilities (other than liabilities which have fallen due for payment before the valuation date) shall be made on actuarial principles which have due regard to the reasonable expectations of policy holders and shall make proper provision for all liabilities on prudent assumptions that shall include appropriate margins for adverse deviation of the relevant factors.

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(34) 1985 c. 6; Schedule 9A was substituted by S.I. 1993/3246, reg. 4.



(2) The determination shall take account of all prospective liabilities as determined by the policy conditions for each existing contract, taking credit for premiums payable after the valuation date.

(3) Without prejudice to the generality of paragraph (1) above, the amount of the long term liabilities shall be determined in compliance with each of regulations 65 to 75 below and shall take into account, inter alia, the following factors:

- (a) all guaranteed benefits, including guaranteed surrender values;
- (b) vested, declared or allotted bonuses to which policy holders are already either collectively or individually contractually entitled;
- (c) all options available to the policy holder under the terms of the contract;
- (d) expenses, including commissions.

### **Method of calculation**

**65.**—(1) Subject to paragraphs (2), (3) and (4) below, the amount of the long term liabilities shall be determined separately for each contract by a prospective calculation.

(2) A retrospective calculation may be applied to determine the liabilities where a prospective method cannot be applied to a particular type of contract or benefit, or where it can be demonstrated that the resulting amount of the liabilities would be no lower than would be required by a prudent prospective calculation.

(3) Appropriate approximations or generalisations may be made where they are likely to provide the same, or a higher, result than individual calculations of the same amount of the liabilities in respect of each contract.

(4) Where necessary, additional amounts shall be set aside on an aggregated basis for general risks which are not individualised.

(5) The method of calculation of the amount of the liabilities and the assumptions used shall not be subject to discontinuities from year to year arising from arbitrary changes and shall be such as to recognise the distribution of profits in an appropriate way over the duration of each policy.

(6) The liabilities for contracts under which the policy holder is eligible to participate in any established surplus as defined in section 30(4) of the Act shall have regard to the level of the premiums under the contracts, to the assets held in respect of those liabilities, and to the custom and practice of the company in the manner and timing of the distribution of profits or the granting of discretionary additions, as the case may be.

### **Avoidance of future valuation strain**

**66.** The amount of the liability determined in respect of a group of contracts shall not be less than such amount as, if the assumptions adopted for the valuation were to remain unaltered and were fulfilled in practice, would enable liabilities similarly determined at all times in the future to be covered from resources arising solely from the contracts and the assets covering the amount of the liability determined at the current valuation.

### **Valuation of future premiums**

**67.**—(1) Where further specified premiums are payable by the policy holder under a contract (not being a linked long term contract) under which benefits (other than benefits arising from a distribution of profits) are determined from the outset in relation to the total premiums payable thereunder, then, subject to paragraph (4) and regulation 68 below—

- (a) where the premiums under the contract are at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such level premiums as, if payable for the same period as the actual premiums under the contract and

calculated according to the rates of interest and rates of mortality or disability which are to be employed in calculating the liability under the contract, would have been sufficient at the outset to provide for the benefits under the contract according to the contingencies upon which they are payable, exclusive of any additions for profits, expenses or other charges;

- (b) where the premiums under the contract are not at a uniform rate throughout the period for which they are payable, the premiums to be valued shall be not greater than such premiums as would be determined on the principles set out in sub-paragraph (a) above modified as appropriate to take account of the variations in the premiums payable by the policy holder in each year;

save that a premium to be valued shall in no year be greater than the amount of the premium payable by the policy holder.

(2) Where the terms of the contract have changed since the contract was first made (the terms of the contract being taken to change for the purposes of this paragraph if the change is indicated in an endorsement on the policy but not if a new policy is issued), then, for the purposes of paragraph (1) above it shall be assumed that those changes from the time they occurred were provided for in the contract at the time it was made.

(3) Where under a contract (not being a linked long term contract)—

- (a) each premium paid increases the benefits (other than benefits arising from a distribution of profits) provided under the contract, or

(b) the amount of a premium payable in future is not determinable until it comes to be paid, future premiums and the corresponding liability may be left out of account so long as adequate provision is made against any risk that the increase in the liabilities of the company resulting from the payment of future premiums might exceed the amount of the premiums.

(4) An alternative valuation method to that described in paragraphs (1) to (3) above may be used where it can be demonstrated that the alternative method results in reserves no less, in aggregate, than would result from the use of the method described in those paragraphs.

### **Acquisition expenses**

**68.**—(1) In order to take account of acquisition expenses, the maximum annual premium to be valued under regulation 67 above may (subject to paragraph (2) below) be increased by an amount not greater than the equivalent, taken over the whole period of premium payments and calculated according to the rates of interest and rates of mortality or disability employed in valuing the contract, of 3.5 per cent. (or the defined percentage, if it is lower than 3.5 per cent.) of the relevant capital sum under the contract.

(2) For the purposes of paragraph (1) above “the defined percentage” is the percentage arrived at by taking (for all contracts of the same type as the contract in question for which an adjustment is made) the average of the percentages of the relevant capital sum under each such contract that represent the acquisition costs incurred which, after allowing for the effects of taxation, might reasonably be expected to be recovered from the premiums payable under the contract.

(3) The increase permitted by paragraph (1) above shall be subject to the limitation that the amount of a future premium valued shall not in any event be greater than the amount of the premium actually payable by the policy holder.

(4) For the purposes of this regulation—

- (a) for contracts other than temporary assurances, the relevant capital sum under a contract shall be arrived at in accordance with regulation 25(4) above, and
- (b) for temporary assurances, the relevant capital sum shall be the sum assured on the valuation date.

## Rates of interest

69.—(1) The rates of interest to be used in calculating the present value of future payments by or to an insurance company shall be no greater than the rates of interest determined from a prudent assessment of the yields on existing assets attributed to the long term business and, to the extent appropriate, the yields which it is expected will be obtained on sums to be invested in the future.

(2) For the purposes of paragraph (1) above, the assumed yield on an asset attributed to the long term business, before any adjustment to take account of the effect of taxation, shall not exceed the yield on that asset calculated in accordance with paragraphs (3) to (7) below, reduced by 2.5 per cent. of that yield.

(3) For the purpose of calculating the yield on an asset—

- (a) the asset shall be valued in accordance with Part VIII of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 18 of the Act applies or any investigation made in pursuance of a requirement under section 42 of the Act, and
- (b) where a particular asset is required to be taken into account only to a specified extent by the operation of regulation 57 above, the future income to be taken into account (whether interest, dividends or repayments of capital) shall be correspondingly reduced.

(4) For fixed interest investments (that is to say, investments which are fixed interest securities as defined in regulation 44(1) above) the yield on an asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest before the deduction of tax and the present value of repayments of capital, would result in the sum of those amounts being equal to the value of the asset.

(5) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 44(1) above) that are equity shares or land, the yield on an asset, subject to paragraph (7) below, shall be the ratio to the value of the asset of the income before deduction of tax which would be received in the period of twelve months following the valuation date on the assumption that the asset will be held throughout that period and that the factors which affect income will remain unchanged, so however that account shall be taken of any changes in those factors known to have occurred by the valuation date and in particular, without prejudice to the generality of the foregoing, of—

- (a) any known changes in the rental income from property or in dividends on equity shares,
- (b) any forecast changes in dividends which have been publicly announced by the valuation date,
- (c) the effect of any alterations in capital structure, and
- (d) the value (at the most recent date for which it is known at the valuation date) of any determinant of the amount of any future interest payment, the said value being deemed to remain unaltered for all subsequent dates.

(6) For variable interest investments (that is to say, investments which are not fixed interest securities as defined in regulation 44(1) above) other than equity shares or land, the yield on an asset, subject to paragraph (7) below, shall be that annual rate of interest which, if used to calculate the present value of future payments of interest, before deduction of tax, and the present value of repayments of capital, where applicable, would result in the sum of these amounts being equal to the value of the asset, on the assumption that—

- (a) the value of any determinant of the amount of the next interest rate payment and capital repayment made during the following twelve months will be the value of that determinant at the most recent date for which it is known at the valuation date;
- (b) the amount of future interest payments and capital repayments will take account, where appropriate, of—

- (i) the right of either party to have the investment repaid, and
  - (ii) an assumed yield on other comparable investments made in the future not exceeding an amount determined in accordance with paragraphs (8) to (10) below; and
  - (c) indices and all other factors which affect future income payments or capital repayments will remain unchanged after the valuation date.
- (7) In calculating the yield on an asset under this regulation—
- (a) if the asset does not consist of equity shares or land—
    - (i) a prudent adjustment shall be made to exclude that part of the yield estimated to represent compensation for the risk that the income from the asset might not be maintained or that capital repayments might not be received as they fall due, and
    - (ii) in making that adjustment, regard shall be had wherever possible to the yields on risk-free investments of a similar term in the same currency;
  - (b) for assets which are equity shares or land, adjustments to yields shall be made as appropriate to exclude that part, if any, of the yield from each category of asset that is needed to compensate for the risk that the aggregate income from that category of asset, taking one year with another, might not be maintained: for the purposes of this sub-paragraph, a “category of asset” comprises assets of a similar nature, type and degree of risk.
- (8) To the extent that it is necessary to make an assumption about the yields which will be obtained on sums to be invested in future, the yield shall be determined in accordance with paragraphs (9) and (10) below.
- (9) Where the liabilities are denominated in sterling, the yield assumed, before any adjustment to take account of the effect of taxation—
- (a) on any investment to be made more than three years after the valuation date shall not exceed the lowest of—
    - (i) the long term gilt yield current on the valuation date; or
    - (ii) 6 per cent. per annum, increased by one quarter of the excess, if any, of the long term gilt yield current on the valuation date over 6 per cent. per annum; or
    - (iii) 7.5 per cent. per annum,
 where “the long term gilt yield” means the annualised equivalent of the 15 year medium coupon yield for United Kingdom Government fixed-interest securities jointly compiled by the Financial Times, the Institute of Actuaries and the Faculty of Actuaries;
  - (b) on any investment to be made at any time not more than three years after the valuation date shall not exceed the assumed yield determined under paragraph (2) above adjusted linearly over the said three years to the yield determined in accordance with sub-paragraph (a) above.
- (10) Where the liabilities are denominated in currencies other than sterling, the yield shall be determined on assumptions that are as prudent as those made under paragraph (9) above.
- (11) In no case shall a rate of interest determined for the purposes of paragraph (1) above exceed the adjusted overall yield on assets calculated as the weighted average of the reduced yields on the individual assets arrived at under paragraph (2) above; and when that weighted average is calculated—
- (a) the weight given to each investment shall be its value as an asset determined in accordance with Part VIII of these Regulations, excluding any provision under which assets may be taken at lower book values for the purposes of any investigation to which section 18 of

the Act applies or any investigation made in pursuance of a requirement under section 42 of the Act, and

- (b) except in relation to the rate of interest used in valuing payments of property linked benefits (as defined in regulation 44(1) above), both the yield and the value of any linked assets (as so defined) shall be omitted from the calculation.

(12) For the purpose of determining the rates of interest to be used in valuing a particular category of contracts the assets may, where appropriate, be notionally apportioned between different categories of contracts.

### **Rates of mortality and disability**

70. The amount of the liability in respect of any category of contract shall, where relevant, be determined on the basis of prudent rates of mortality and disability that have regard to the State of the commitment.

### **Expenses**

71.—(1) Provision for expenses, whether implicit or explicit, shall be not less than the amount required, on prudent assumptions, to meet the total net cost, after taking account of the effect of taxation, that would be likely to be incurred in fulfilling existing contracts if the company were to cease to transact new business twelve months after the valuation date.

(2) The provision mentioned in paragraph (1) above shall have regard to, among other things, the company's actual expenses in the last twelve months before the valuation date and to the effects of inflation on future expenses on prudent assumptions as to the future rates of increase in prices and earnings.

### **Options**

72.—(1) Provision shall be made on prudent assumptions to cover any increase in liabilities caused by policy holders exercising options under their contracts.

(2) Where a contract includes an option whereby the policy holder could secure a guaranteed cash payment within twelve months following the valuation date, the provision for that option shall be such as to ensure that the value placed on the contract is not less than the amount required to provide for the payments that would have to be made if the option were exercised.

### **Contracts not to be treated as assets**

73. No contract for long term business shall be treated as an asset.

### **No credit for profits from voluntary discontinuance**

74. Allowance shall not be made in the valuation for the voluntary discontinuance of any contract if the amount of the liability so determined would thereby be reduced.

### **Nature and term of assets**

75. The determination of the amount of long term liabilities shall take into account the nature and term of the assets representing those liabilities and the value placed upon them and shall include prudent provision against the effects of possible future changes in the value of the assets on—

- (a) the ability of the company to meet its obligations arising under contracts for long term business as they arise, and

- (b) the adequacy of the assets to meet the liabilities as determined in accordance with regulations 65 to 74 above.

## PART X

### CREDIT INSURANCE BUSINESS

#### **Credit insurance business: equalisation reserve**

**76.**—(1) Subject to regulation 77 below—

(a) every UK company which carries on credit insurance business; and

(b) every non-EC company which carries on credit insurance business in the United Kingdom, shall maintain a reserve (in these Regulations referred to as an “equalisation reserve”) in respect of that business, determined (at the option of the company) in accordance with one of the four methods set out in Schedule 14.

(2) In applying section 32(5) of the Act<sup>(35)</sup> the value of the company’s liabilities shall be treated as being increased by the amount of the equalisation reserve.

#### **Exemption from regulation 76**

**77.**—(1) Regulation 76 shall not apply—

(a) in the case of a UK company, where the premiums or contributions receivable in any financial year in respect of its credit insurance business are less than 4 per cent. of the total premiums or contributions receivable by it in that financial year and less than 2,500,000 units of account; and

(b) in the case of a non-EC company, where the premiums or contributions receivable in any financial year in respect of its credit insurance business carried on through a branch in the United Kingdom are less than 4 per cent. of the total premiums or contributions receivable by it in that financial year in respect of business carried on through that branch and less than 2,500,000 units of account.

(2) For the purposes of paragraph (1) above “premiums or contributions receivable” in any financial year in respect of any business means the premiums or contributions recorded in the company’s books as due to it in respect of contracts relating to that business commencing in that year or commencing in earlier financial years but not accounted for in the company’s revenue account prior to that financial year, whether or not received by the company during that financial year, after deducting discounts, refunds and rebates of premiums as recorded in respect of the same period and after deducting premiums for reinsurance ceded in respect of that period; and for the purpose of determining whether a premium is due no account shall be taken of any credit arrangements made in respect thereof.

#### **Default in complying with regulation 76(1)**

**78.** A UK or non-EC company commits an offence if it makes default in complying with regulation 76(1) above and is liable, on summary conviction in England and Wales and Scotland, to a fine not exceeding level 5 on the standard scale and, on summary conviction in Northern Ireland, to a fine not exceeding £2,000.

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<sup>(35)</sup> Section 32(5) was amended by [S.I. 1994/1696](#), reg. 14(2).

## PART XI

### STATISTICAL INFORMATION

#### **Interpretation : Part XI**

**79.** In this Part of these Regulations—

- (a) references to insurance business, general business and long term business do not include reinsurance business;
- (b) “gross premiums” means premiums after deduction of discounts, refunds, rebates of premium and any taxes or levies that are related to those premiums but before deduction of premiums for reinsurance ceded and before deduction of commission payable by the company;
- (c) other expressions which are also used in the Insurance Companies (Accounts and Statements) Regulations 1983(36) have the same meanings as in those Regulations.

#### **Insurance statistics: EFTA States and EFTA companies**

**80.**—(1) Every company which—

- (a) being a UK company, in any calendar year provides general insurance in an EFTA State through an establishment in the United Kingdom; or
- (b) being an EFTA company, in any calendar year provides general insurance in an EEA State through an establishment in the United Kingdom,

shall prepare in respect of general insurance so provided by it a statement in Form 82 (analysis of gross premiums receivable by groups of classes) in accordance with the requirements of Schedule 15.

(2) Where in any calendar year the gross premiums so earned in any one State by an establishment in the United Kingdom exceed 2,500,000 ECU, the company shall also prepare an underwriting account in Form 83 or Form 84 as set out in Schedule 15 (or both if appropriate).

(3) Every company which—

- (a) being a UK company, in any calendar year provides long term insurance in an EFTA State through an establishment in the United Kingdom; or
- (b) being an EFTA company, in any calendar year provides long term insurance in an EEA State through an establishment in the United Kingdom,

shall prepare in respect of long term insurance so provided by it a statement in Form 85 (analysis of gross premiums receivable by each of classes I to VI) in accordance with the requirements of Schedule 15.

(4) The forms mentioned in paragraphs (1), (2) and (3) above shall be prepared separately in respect of each State in which the company provides the insurance.

(5) Where paragraph (1) applies and the conditions specified in paragraph (6) below are met in respect of the provision of general insurance in any one State, the Secretary of State may by notice in writing direct the company in future to prepare an underwriting account in Form 83 or Form 84 as set out in Schedule 15 (or both if appropriate) in respect of the provision of general insurance in that State through its establishment in the United Kingdom.

(6) The conditions referred to in paragraph (5) above are that—

- (a) in that calendar year the company earned through all its establishments (in the United Kingdom and elsewhere) gross premiums in excess of 2,500,000 ECU in respect of the provision of general insurance in the State concerned, and
- (b) the supervisory authorities of the State in which insurance is provided or, if the head office of the company is situated in an EFTA State, the supervisory authorities of that EFTA State, ask the Secretary of State that an underwriting account be kept by the company's establishment in the United Kingdom for the operations effected in the State where the insurance is provided.

(7) The statements and any underwriting account required by this regulation shall be printed, and three copies shall be deposited with the Secretary of State within nine months after the end of the calendar year to which they relate; but if in any case it is made to appear to the Secretary of State that the circumstances are such that a longer period than nine months should be allowed, the Secretary of State may extend that period by such period not exceeding three months as he thinks fit.

(8) One of the copies of any document deposited under paragraph (7) above shall be a copy signed by a director, a chief executive or the secretary of the company.

(9) Subject to paragraph 10 below, where—

- (a) a UK company which has notified the Secretary of State, in accordance with paragraph 9 of Schedule 2G to the Act(37), of its intention to provide insurance in an EEA State through an establishment in the United Kingdom; or
- (b) an EFTA company which has notified the Secretary of State, in accordance with paragraph 23 of Schedule 2F to the Act(38), of its intention to provide insurance in an EEA State through an establishment in the United Kingdom,

does not in any calendar year provide insurance in that State, it shall send to the Secretary of State a notification of that fact within nine months after the end of the calendar year to which the notification relates, signed by a director, a chief executive or the secretary of the company.

(10) Paragraph (9) above shall not apply if the company has, before the beginning of the calendar year, informed the Secretary of State that it no longer intends to provide insurance in the State in question.

(11) The Secretary of State shall consider the documents deposited under paragraph (7) above or the notification given under paragraph (9) and, if any such document or notification appears to him to be inaccurate or incomplete in any respect, he shall communicate with the company with a view to the correction of any such inaccuracies and the supply of deficiencies.

### **Insurance statistics: other member States**

**81.—**(1) Every UK company which in any calendar year—

- (a) carries on general business in a member State other than the United Kingdom through a branch in that State; or
- (b) provides general insurance in such a State through an establishment in the United Kingdom or another member State,

shall prepare in respect of general business so carried on by it a statement in Form 91 (analysis of financial particulars - branches), or general insurance so provided by it a statement in Form 92 (analysis of financial particulars - provision of insurance), in accordance with the requirements of Schedule 16.

(2) Every UK company which in any calendar year—

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(37) Schedule 2G was inserted by S.I. 1994/1696, reg. 46 and Schedule 7.

(38) Schedule 2F was inserted by S.I. 1994/1696, reg. 45 and Schedule 6.



- (a) carries on long term business in a member State other than the United Kingdom through a branch in that State; or
- (b) provides long term insurance in such a State through an establishment in the United Kingdom or another member State,

shall prepare in respect of long term business so carried on by it a statement in Form 93 (analysis of financial particulars - branches), or long term insurance so provided by it a statement in Form 94 (analysis of financial particulars - provision of insurance), in accordance with the requirements of Schedule 16.

(3) The forms mentioned in paragraphs (1) and (2) above shall be prepared separately in respect of each member State in which the company carries on the insurance business or provides the insurance.

(4) The statements required by this regulation shall be printed, and three copies shall be deposited with the Secretary of State within nine months after the end of the calendar year to which they relate; but if in any case it is made to appear to the Secretary of State that the circumstances are such that a longer period than nine months should be allowed, the Secretary of State may extend that period by such period not exceeding three months as he thinks fit.

(5) One of the copies of any statement deposited under paragraph (4) above shall be a copy signed by a director, a chief executive or the secretary of the company.

(6) Subject to paragraph (7) below, where a UK company which has notified the Secretary of State—

- (a) in accordance with paragraph 1 of Schedule 2G to the Act, of its intention to establish a branch in a member State other than the United Kingdom; or
- (b) in accordance with paragraph 5 of that Schedule, of its intention to provide insurance in such a State,

does not in any calendar year carry on insurance business or, as the case may be, provide insurance in that State, it shall send to the Secretary of State a notification of that fact within nine months after the end of the calendar year to which the notification relates, signed by a director, a chief executive or the secretary of the company.

(7) Paragraph (6) above shall not apply if the company has, before the beginning of the calendar year, informed the Secretary of State, in accordance with paragraph 8 of Schedule 2G to the Act, that it has ceased to carry on insurance business or, as the case may be, to provide insurance in the member State in question.

(8) The Secretary of State shall consider any statements deposited under paragraph (4) above and any notification given under paragraph (6) above and, if any such statement or notification appears to him to be inaccurate or incomplete in any respect, he shall communicate with the company with a view to the correction of any such inaccuracies and the supply of deficiencies.

### **Default in complying with regulation 80 or 81**

**82.**—(1) A UK company commits an offence if it makes default in complying with regulation 80 or 81 above.

(2) An EFTA company commits an offence if it makes default in complying with regulation 80 above.

(3) A person commits an offence if he causes or permits to be included in a form required by regulation 80 or 81 above to be deposited with the Secretary of State 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.

(4) A person committing an offence under this regulation is liable, on summary conviction in England and Wales and Scotland, to a fine not exceeding level 5 on the standard scale and, on summary conviction in Northern Ireland, to a fine not exceeding £2,000.

#### **Application of regulations 80 to 82 to Lloyd's**

**83.**—(1) Subject to paragraphs (2) and (3) below, regulations 80 to 82 above apply in relation to Lloyd's as they apply in relation to a UK company.

(2) The information required in the case of Lloyd's to be included in—

- (a) the statements and underwriting account referred to in regulation 80(7) or the notification referred to in regulation 80(9); or
- (b) the statement referred to in regulation 81(4) or the notification referred to in regulation 81(6),

is that relating to the members of Lloyd's taken together.

(3) Any such statements, underwriting account or notification shall be signed by the Chairman or a Deputy Chairman, for and on behalf of the Council of Lloyd's.

## **PART XII**

### **MISCELLANEOUS PROVISIONS**

#### **Transitory provision**

**84.**—(1) This regulation applies if in any member State (“the defaulting State”) the third general insurance Directive and the third long term insurance Directive are not fully or substantially implemented on or before 1st July 1994.

(2) Until such date as those Directives are fully or substantially implemented in the defaulting State, these Regulations shall have effect in relation to an insurance company whose head office is in that State as if that State were an EFTA State rather than a member State.

#### **Consequential amendments**

**85.**—(1) In paragraph 50 of Schedule 9A to the Companies Act 1985(**39**), for the words “the Insurance Companies (Credit Insurance) Regulations 1990” there shall be substituted the words “Part X of the Insurance Companies Regulations 1994”.

(2) In the Insurance (Lloyd's) Regulations 1983(**40**)—

- (a) in regulation 2(1), for the words “9(2) of the Insurance Companies Regulations 1981” substitute “22(2) of the Insurance Companies Regulations 1994” and for the words “Part II of the Insurance Companies Regulations 1981” substitute the words “Part IV of the Insurance Companies Regulations 1994”;
- (b) in regulation 2(2), for the words “Regulation 2(2) of the Insurance Companies Regulations 1981” substitute the words “Regulation 2(2) of the Insurance Companies Regulations 1994”;

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**(39)** Parts I and II of Schedule 9 to the Companies Act 1985 were formed into a new Schedule 9A by the Companies Act 1985 (Bank Accounts) Regulations 1991 (S.I. 1991/2705), reg. 5(1); Schedule 9A was substituted by S.I. 1993/3246, reg. 4 and Schedule 1.

**(40)** S.I. 1983/224.

- (c) in regulation 3(1)(a), for the words “regulation 53 of, and Schedule 9 to, the Insurance Companies Regulations 1981” substitute the words “regulation 63 of, and Schedule 13 to, the Insurance Companies Regulations 1994”;
  - (d) in regulation 3(1)(b), replace the comma after the word “reserves)” with a full stop;
  - (e) in regulation 3(1) full out, omit the words from “and accordingly” to the end;
  - (f) in regulation 3(2)(b), for the words “Schedules 1 and 2 to the Insurance Companies Regulations 1981” substitute the words “Schedules 3 and 4 to the Insurance Companies Regulations 1994”;
  - (g) in Schedule 1, for the words “Schedule 1”, “Schedule 2”, “Schedules 1 and 2” and “Insurance Companies Regulations 1981” respectively, substitute the words “Schedule 3”, “Schedule 4”, “Schedules 3 and 4” and “the Insurance Companies Regulations 1994” wherever they occur;
  - (h) in Schedule 3, paragraph 4, for the words “regulations 25 and 26 of the Insurance Companies Regulations 1981” substitute the words “regulations 27 to 31 of the Insurance Companies Regulations 1994” and after the words “Insurance (Lloyds) Regulations 1983” insert the words “as amended by the Insurance Companies Regulations 1994”;
  - (i) in Schedule 3, paragraph 5, for the words “regulation 53 (which relates to co-insurance) of the Insurance Companies Regulations 1981” substitute the words “regulation 63 (which relates to co-insurance) of the Insurance Companies Regulations 1994”.
- (3) In the Insurance Companies (Amendment) Regulations 1992(41) regulations 13 to 15 (which are superseded by regulations 79 to 83 above) shall cease to have effect.

### **Revocations**

- 86.** The regulations mentioned in Schedule 17 are hereby revoked.

7th June 1994

*Neil Hamilton,*  
Parliamentary Under-Secretary of State,  
Department of Trade and Industry