

SCHEDULE 1

Regulation 5.

“[SCHEDULE 2A
TO 1982 ACT]

CRITERIA OF SOUND AND PRUDENT MANAGEMENT

Integrity and skill

1. The business of the insurance company is carried on with integrity, due care and the professional skills appropriate to the nature and scale of its activities.
2. Each director, controller, manager or main agent of the insurance company is a fit and proper person to hold that position.
3. In the case of a non-EC company whose head office is not in an EFTA State—
 - (a) the representative referred to in section 9(4) above; or
 - (b) where that representative is not an individual, the individual representative referred to in section 10(5) above,is a fit and proper person to hold that position.

Direction and management of the insurance company

4. The insurance company is directed and managed by a sufficient number of persons who are fit and proper persons to hold the positions which they hold.

Business to be conducted in a sound and prudent manner

5. The insurance company conducts its business in a sound and prudent manner.
 - (1) The insurance company shall not be regarded as conducting its business in a sound and prudent manner unless it maintains—
 - (a) adequate accounting and other records of its business; and
 - (b) adequate systems of control of its business and records.
 - (2) Accounting and other records and systems of control shall not be regarded as adequate unless they are such as—
 - (a) to enable the business of the company to be prudently managed; and
 - (b) to enable the company to comply with the obligations imposed on it by or under this Act and, in the case of a UK company, enactments in other EEA States which apply to its insurance business.
 - (3) In determining whether any systems of control are adequate the Secretary of State shall have regard to the functions and responsibilities for those systems which are held by the persons who are responsible for the direction and management of the company and to whom paragraph 2 above applies.
7. The insurance company shall not be regarded as conducting its business in a sound and prudent manner if it fails to conduct its business with due regard to the interests of policy holders and potential policy holders.
8. The insurance company shall not be regarded as conducting its business in a sound and prudent manner if—

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- (a) it fails to satisfy an obligation to which it is subject by virtue of this Act; or
 - (b) in the case of a UK company, it fails to satisfy an obligation to which it is subject by virtue of any provision of the law of another EEA State which applies to its insurance business in that State.
9. The insurance company shall not be regarded as conducting its business in a sound and prudent manner if it fails to supervise the activities of a subsidiary undertaking—
- (a) with due care and diligence; and
 - (b) without detriment to the company’s business.”

SCHEDULE 2

Regulation 26.

“[SCHEDULE 2B
TO 1982 ACT]

RESTRICTION ON DISCLOSURE OF INFORMATION

PART I

INFORMATION RELATING TO UK, EC AND NON-EC COMPANIES

Restriction on disclosure

- (1) Subject to the following provisions of this Part of this Schedule, information which—
- (a) is restricted information for the purposes of this paragraph; and
 - (b) relates to the business or other affairs of a relevant person,
- shall not be disclosed without the consent of the person from whom the information was obtained and, if different, the person to whom it relates.
- (2) Subject to sub-paragraph (3) below, information is restricted information for the purposes of this paragraph if it was obtained by the Secretary of State for the purposes of, or in the discharge of, functions under this Act or any rules or regulations made under this Act (whether or not by virtue of any requirement to supply it made under those provisions).
- (3) Information is not restricted information for the purposes of this paragraph if—
- (a) it has been made available to the public from other sources, or
 - (b) it is information in the form of a summary or is information so framed as not to enable information relating to any particular person to be ascertained from it.
- (4) The following are relevant persons for the purposes of this paragraph, namely—
- (a) any UK, EC or non-EC company; and
 - (b) any controller, manager, chief executive, general representative, agent or employee of such a company.
- (5) Any person who discloses information in contravention of this paragraph shall be guilty of an offence and liable—
- (a) on conviction or indictment, to imprisonment for a term not exceeding two years or to a fine or to both;

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- (b) on summary conviction, to imprisonment for a term not exceeding three months or to a fine not exceeding the statutory maximum or to both.

Disclosure for facilitating discharge of functions by Secretary of State

2. Paragraph 1 above does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Secretary of State to discharge his functions under this Act or any rules or regulations made under this Act (whether or not by virtue of any requirement to supply it made under those provisions).

Disclosure for facilitating discharge of functions by other regulatory authorities

(1) Paragraph 1 above does not preclude the disclosure by the Secretary of State to any person specified in the first column of the following Table if the Secretary of State considers that the disclosure would enable or assist that person to discharge the functions specified in relation to him in the second column of that Table.

TABLE

Person	Functions
1 The Secretary of State.	Functions under the Companies Act, the Company Securities (Insider Dealing) Act 1985(1), the Insolvency Act 1986(2), the Company Directors Disqualification Act 1986(3), the Financial Services Act 1986(4), or Part II, III or VII of the Companies Act 1989(5).
2 The Treasury.	Functions under the Financial Services Act 1986 or under Part III or VII of the Companies Act 1989.
3 An inspector appointed under Part XIV of the Companies Act or section 94 or 177 of the Financial Services Act 1986.	Functions under that Part or that section.
4 A person authorised to exercise powers under section 43A or 44 above, section 447 of the Companies Act, section 106 of the Financial Services Act 1986 or section 84 of the Companies Act 1989.	Functions under that section.
5 The Friendly Societies Commission, the Registrar of Friendly Societies for Northern Ireland and the Assistant Registrar of Friendly Societies for Scotland.	Functions under the enactments relating to friendly societies or under the Financial Services Act 1986.
6 The Industrial Assurance Commissioner or the Industrial Assurance Commissioner for Northern Ireland.	Functions under the enactments relating to industrial assurance.

(1) 1985 c. 8.
 (2) 1986 c. 45.
 (3) 1986 c. 46.
 (4) 1986 c. 60.
 (5) 1989 c. 40.

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Person	Functions
7 The Building Societies Commission.	Functions under the Building Societies Act 1986 ⁽⁶⁾ and protecting the interests of the shareholders and depositors of building societies.
8 The Director General of Fair Trading.	Functions under the Fair Trading Act 1973 ⁽⁷⁾ except Part II, the Consumer Credit Act 1974 ⁽⁸⁾ , the Restrictive Trade Practices Act 1976 ⁽⁹⁾ , the Estate Agents Act 1979 ⁽¹⁰⁾ , the Competition Act 1980 ⁽¹¹⁾ or the Control of Misleading Advertisements Regulations 1988 ⁽¹²⁾ .
9 A designated agency (within the meaning of the Financial Services Act 1986).	Functions under that Act or Part VII of the Companies Act 1989.
10 A transferee body (within the meaning of the Financial Services Act 1986) or the competent authority (within the meaning of that Act).	Functions under that Act.
11 Any of the following (within the meaning of the Financial Services Act 1986), namely, a recognised self-regulating organisation, a recognised investment exchange, a recognised professional body and a recognised clearing house.	Functions in its capacity as a recognised self-regulating organisation, recognised investment exchange, recognised professional body or a recognised clearing house.
12 The Department of Economic Development in Northern Ireland.	Functions under enactments relating to companies or insolvency.
13 An inspector appointed by the Department of Economic Development in Northern Ireland under enactments relating to companies or insolvency.	Functions under those enactments.
14 A person authorised to exercise powers under Article 440 of the Companies (Northern Ireland) Order 1986 ⁽¹³⁾ or section 84 of the Companies Act 1989 ⁽¹⁴⁾ .	Functions under that Article or section.
15 An official receiver.	Functions under enactments relating to insolvency.
16 The Panel on Take-overs and Mergers.	All functions.
17 The Bank of England.	All functions.
18 A body administering a scheme under section 54 of the Financial Services Act 1986.	Functions under the scheme.
19 A body established by order under section 46 of the Companies Act 1989.	Functions under Part II of that Act.

⁽⁶⁾ 1986 c. 53.

⁽⁷⁾ 1973 c. 41.

⁽⁸⁾ 1974 c. 39.

⁽⁹⁾ 1976 c. 34.

⁽¹⁰⁾ 1979 c. 38.

⁽¹¹⁾ 1980 c. 21.

⁽¹²⁾ S.I. 1988/915.

⁽¹³⁾ S.I. 1986/1032 (N.I.6).

⁽¹⁴⁾ 1989 c. 40.

Person	Functions
20 A supervisory body (as defined in section 30 of the Companies Act 1989) or a qualifying body (as defined in section 32 of that Act).	Functions under that Act.
21 The Occupational Pensions Board.	Functions in respect of insurance companies or other credit and financial institutions.
22 The Council of Lloyd's, the Committee of Lloyd's or the Disciplinary Committee or Appeal Tribunal established under the Lloyd's Act 1982 ⁽¹⁵⁾ .	Functions under the Lloyd's Acts 1871 to 1982 and functions under bye-laws made under those Acts.
23 The Tribunal under the Prevention of Fraud (Investments) Act 1958 ⁽¹⁶⁾ .	Functions under that Act.
24 The Monopolies and Mergers Commission.	Functions under the Fair Trading Act 1973 and the Competition Act 1980.
25 An auditor appointed under rules made under section 107 of the Financial Services Act 1986 or a person approved under section 108 of that Act.	All functions.

(2) Paragraph 1 above does not preclude the disclosure by any person specified in the first column of the Table in sub-paragraph (1) above of information obtained by him by virtue of that sub-paragraph if he makes the disclosure—

- (a) with the consent of the Secretary of State; and
- (b) for the purpose of enabling or assisting him to discharge any functions specified in relation to him in the second column of that Table;

and before deciding whether to give consent to such a disclosure by any person the Secretary of State shall take account of any representations made by that person as to the desirability of or the necessity for the disclosure.

(3) Paragraph 1 above does not preclude—

- (a) the disclosure of information to the Treasury; or
- (b) the disclosure of information to the Secretary of State for purposes other than those specified in relation to him in sub-paragraph (1) above,

if (in either case) disclosure is in accordance with Article 16(6) of the third general insurance Directive, or Article 15(6) of the third long term insurance Directive.

(4) Paragraph 1 above does not preclude the disclosure of information for the purpose of enabling or assisting any public or other authority not specified in the first column of the Table in sub-paragraph (1) above to discharge any functions if disclosure is in accordance with Article 16 of the third general insurance Directive, or Article 15 of the third long term insurance Directive.

(5) Paragraph 1 above does not preclude the disclosure of information for the purpose of enabling or assisting an authority in a country or territory outside the United Kingdom to exercise functions corresponding to those of—

- (a) the Bank of England;
- (b) the Secretary of State under this Act or the Financial Services Act 1986;
- (c) the designated agency under that Act or rules or regulations made under that Act; or
- (d) the competent authority under Part IV of that Act.

⁽¹⁵⁾ 1982 c.xiv.

⁽¹⁶⁾ 1958 c. 45.

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(6) Sub-paragraph (5) above does not apply in relation to disclosure to an authority which is not an authority in another member State unless the Secretary of State is satisfied that the authority is subject to restrictions on further disclosures at least equivalent to those imposed by this Part of this Schedule.

(7) Information which is disclosed to a person in pursuance of sub-paragraph (1) or (2) above shall not be used otherwise than for the purpose mentioned in that sub-paragraph.

(8) Any person who uses information in contravention of sub-paragraph (7) above shall be liable on summary conviction to imprisonment for a term not exceeding three months or to a fine not exceeding level 5 on the standard scale or to both.

(9) Any reference in this paragraph to enabling or assisting any person to discharge or exercise any functions is a reference to enabling or assisting that person to discharge or exercise those functions in relation to—

- (a) a financial market; or
- (b) persons carrying on the business of banking or insurance, Consumer Credit Act businesses or the business of providing other financial services;

and in this sub-paragraph “Consumer Credit Act business” has the same meaning as in the Banking Coordination (Second Council Directive) Regulations 1992(17).

Other permitted disclosures

(1) Paragraph 1 above does not preclude the disclosure of information—

- (a) for the purpose of enabling or assisting the Deposit Protection Board to discharge its functions under the Banking Act 1987(18);
- (b) with a view to the institution of, or otherwise for the purposes of, any criminal proceedings, whether under this Act or otherwise;
- (c) for the purpose of enabling or assisting the Council of the Stock Exchange to discharge its functions in relation to insurance companies;
- (d) with a view to the institution of, or otherwise for the purposes of, proceedings under section 6, 7 or 8 of the Company Directors Disqualification Act 1986(19) in respect of a director or former director of an insurance company;
- (e) with a view to the institution of, or otherwise for the purposes of, any civil proceedings arising under or by virtue of the Financial Services Act 1986 or proceedings before the Financial Services Tribunal, if those proceedings relate to an insurance company;
- (f) with a view to the institution of, or otherwise for the purposes of, any disciplinary proceedings relating to the exercise by an auditor or actuary of his professional duties;
- (g) in pursuance of a Community obligation.

(2) Paragraph 1 above does not preclude the disclosure by the Secretary of State to the Director of Public Prosecutions, the Director of Public Prosecutions for Northern Ireland, the Lord Advocate, a procurator fiscal or a constable of—

- (a) information obtained by virtue of section 43A, 44 or 44A above; or
- (b) information in the possession of the Secretary of State as to any suspected contravention in relation to which the powers conferred by those sections are exercisable.

(17) S.I. 1992/3218.

(18) 1987 c. 22.

(19) 1986 c. 46.

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Information supplied by a supervisory authority

- (1) Paragraph 1 above applies also to information which—
 - (a) has been supplied to the Secretary of State for the purposes of any relevant functions by a supervisory authority in a member State other than the United Kingdom; or
 - (b) has been obtained for those purposes by the Secretary of State, or by a person acting on his behalf, in another member State.
- (2) Subject to sub-paragraphs (3) and (4) below, information supplied or obtained as mentioned in sub-paragraph (1)(a) or (b) above shall not be disclosed except as provided by paragraph 1 above or—
 - (a) for the purpose of enabling or assisting the Secretary of State to discharge any relevant functions; or
 - (b) with a view to the institution of, or otherwise for the purposes of, criminal proceedings, whether under this Act or otherwise.
- (3) Information supplied as mentioned in sub-paragraph (1)(a) above may be disclosed—
 - (a) to a relevant recipient, if the supervisory authority which supplied the information consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(1) above; or
 - (b) to the Treasury or the Secretary of State, if that authority consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(3) above.
- (4) Information obtained as mentioned in sub-paragraph (1)(b) above may be disclosed—
 - (a) to a relevant recipient, if the supervisory authority in the member State concerned consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(1) above; or
 - (b) to the Treasury or the Secretary of State, if that authority consents to its disclosure and the case is one in which information to which paragraph 1 above applies could be so disclosed by virtue of paragraph 3(3) above.
- (5) In this paragraph—

“relevant functions”, in relation to the Secretary of State, means his functions under this Act;
“relevant recipient” means a person specified in any of entries 1 to 7, 12, 13 and 17 in the Table in paragraph 3(1) above.

PART II

INFORMATION RELATING TO OTHER PERSONS

Restriction on disclosure

- (1) Subject to paragraph 7 below, no information which—
 - (a) has been obtained under section 44(2) to (4)(**20**) or 44A(**21**) above; and
 - (b) relates to the business or other affairs of a person who is not a relevant person for the purposes of paragraph 1 above,

(20) Subsections (2) to (4) have been amended by the Companies Act 1989 (c. 40), section 77(2).

(21) Section 44A was inserted by the Companies Act 1989 (c. 40), section 77(3).

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shall be disclosed without the consent of the person from whom the information was obtained and, if different, the person to whom it relates.

(2) A person who discloses any information in contravention of this paragraph shall be guilty of an offence under section 449 of the Companies Act or Article 442 of the Companies (Northern Ireland) Order 1986 and liable accordingly.

Permitted disclosures

(1) Paragraph 6 above does not preclude the disclosure of information to any person who is a competent authority for the purposes of section 449 of the Companies Act or Article 442(1)(a) to (e) of the Companies (Northern Ireland) Order 1986.

(2) Paragraph 6 above does not preclude the disclosure of information as mentioned in any of the paragraphs except (m) of subsection (1) of section 180 of the Financial Services Act 1986 or in subsection (3) or (4) of that section or as mentioned in section 449(1) of the Companies Act or Article 442 of that Order.

(3) Paragraph 6 above does not preclude the disclosure of any such information as is mentioned in section 180(5) of the Financial Services Act 1986 by any person who by virtue of that section is not precluded by section 179 of that Act from disclosing it.”

SCHEDULE 3

Regulation 28.

“[SCHEDULE 2C
TO 1982 ACT]

TRANSFERS OF INSURANCE BUSINESS

PART I

TRANSFERS OF LONG TERM BUSINESS

Sanction of court required

(1) Where it is proposed to carry out a scheme under which the whole or part of the long term business carried on by an insurance company to which this Part of this Act applies (“the transferor company”) is to be transferred to another body whether incorporated or not (“the transferee company”) and—

- (a) where the transferor company is a UK company, the business proposed to be transferred is business carried on in one or more member States;
- (b) where that company is not a UK company, the business proposed to be transferred is business carried on in the United Kingdom,

the transferor company or the transferee company may apply to the court, by petition, for an order sanctioning the scheme.

(2) If any such scheme involves a compromise or arrangement falling within section 427A(1) of the Companies Act(22) or Article 420A(1) of the Companies (Northern Ireland) Order 1986(23)

(22) Section 427A was inserted by S.I. 1987/1991, reg 2(a) and Schedule, Part I and amended by the Companies Act 1989 (c. 40), section 114(2).

(application of provisions about compromises and arrangements to mergers and divisions of public companies), the following provisions, namely—

- (a) sections 425 to 427 of that Act, or
- (b) Articles 418 to 420 of that Order,

shall have effect, as regards that compromise or arrangement, as provided by section 427A(1) or Article 420A(1) (as the case may be), but without prejudice to the operation of the provisions of this Part of this Schedule in relation to the scheme.

(3) No such transfer as is mentioned in sub-paragraph (1) above shall be carried out unless the scheme relating to the transfer has been sanctioned by the court in accordance with this Part of this Schedule; and, except in the case of any such scheme as is mentioned in sub-paragraph (2) above, no order shall be made under any of the provisions specified in paragraph (a) or (b) of that sub-paragraph in respect of so much of any compromise or arrangement as involves any such transfer.

(4) In this Part of this Schedule—

“the court” means the High Court of Justice in England except that it means—

- (a) the Court of Session if the transferor company and the transferee company are both registered or both have their head offices in Scotland;
- (b) the High Court of Justice in Northern Ireland if the transferor company and the transferee company are both registered or both have their head offices in Northern Ireland;
- (c) either the High Court of Justice in England or the Court of Session if either the transferor company or the transferee company is registered or has its head office in Scotland;
- (d) either the High Court of Justice in England or the High Court of Justice in Northern Ireland if either the transferor company or the transferee company is registered or has its head office in Northern Ireland; and
- (e) either the Court of Session or the High Court of Justice in Northern Ireland if the transferor company or the transferee company is registered or has its head office in Scotland and the other such company is registered or has its head office in Northern Ireland;

“direct insurance” means insurance other than reinsurance.

Procedure with respect to applications

(1) The court shall not determine an application under paragraph 1 above unless the petition is accompanied by a report on the terms of the scheme by an independent actuary and the court is satisfied that the requirements of sub-paragraph (2) below have been complied with.

(2) The said requirements are—

- (a) that a notice stating that the application has been made and giving the address of the offices at which, and the period for which, copies of the documents mentioned in paragraph (d) below will be available as required by that paragraph has been published—
 - (i) in the London, Edinburgh and Belfast Gazettes and, except where the court has otherwise directed, in two national newspapers in the United Kingdom;
 - (ii) where the transferor company is a UK or non-EC company and, as regards any policy included in the proposed transfer which evidences a contract of direct insurance, a member State other than the United Kingdom is the State of the commitment, in two national newspapers in that member State; and

(23) S.I. 1986/1032 (N.I.6); Article 420A was inserted by S.R. 1987/422, reg 3 and Schedule, Part I.

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- (iii) where, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State of the commitment, in two national newspapers in that EEA State;
 - (b) except where the court has otherwise directed, that a statement—
 - (i) setting out the terms of the scheme; and
 - (ii) containing a summary of the report mentioned in sub-paragraph (1) above sufficient to indicate the opinion of the actuary on the likely effects of the scheme on the long term policy holders of the companies concerned, has been sent to each of those policy holders and to every member of those companies;
 - (c) that a copy of the petition, of the report mentioned in sub-paragraph (1) above and of any statement sent out under paragraph (b) above has been served on the Secretary of State and that a period of not less than twenty-one days has elapsed since the date of service;
 - (d) that copies of the petition and of the report mentioned in sub-paragraph (1) above have been open to inspection—
 - (i) at offices in the United Kingdom of the companies concerned;
 - (ii) where the transferor company is a UK or non-EC company and, as regards any policy included in the proposed transfer which evidences a contract of direct insurance, a member State other than the United Kingdom is the State of the commitment, at such place in that member State as the court has directed; and
 - (iii) where, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State of the commitment, at such place in that EEA State as the court has directed,for a period of not less than twenty-one days beginning with the date of the first publication of a notice in accordance with paragraph (a) above;
 - (e) in the case of any such scheme as is mentioned in paragraph 1(2) above, that copies of the documents listed in paragraph 6(1) of Schedule 15B to the Companies Act(24) or in paragraph 6(1) of Schedule 15B to the Companies (Northern Ireland) Order 1986(25) had been served on the Secretary of State by the beginning of the period referred to in paragraph 3(e) of that Schedule.
- (3) Each of the companies concerned shall, on payment of such fee as may be prescribed by rules of court, furnish a copy of the petition and of the report mentioned in sub-paragraph (1) above to any person who asks for one at any time before an order sanctioning the scheme is made on the petition.
- (4) On any petition under paragraph 1 above, the following shall be entitled to be heard, namely—
- (a) the Secretary of State, and
 - (b) any person (including any employee of the transferor company or the transferee company) who alleges that he would be adversely affected by the carrying out of the scheme.
- (5) A policy which evidences a contract of direct insurance is an “EFTA policy” for the purposes of this Part of this Schedule if—
- (a) it covers a commitment situated in an EFTA State and the transferee company is a UK or EC company or a non-EC company whose head office is in an EFTA State; or
 - (b) it covers a commitment situated in a member State and the transferor company or the transferee company is a non-EC company whose head office is in an EFTA State.

(24) Schedule 15B was inserted by S.I. 1987/1991, reg 2(c) and Schedule, Part II and amended and renumbered by the Companies Act 1989 (c. 40), sections 23 and 114(2) and Schedule 10, Part I, para 22.

(25) Schedule 15B was inserted by S.R. 1987/442, reg 3(c) and renumbered by the Companies (No.2) (Northern Ireland) Order 1990 (N.I.10), Article 49(2).

(6) Where the transferee company is an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992(26), sub-paragraphs (2)(c) and (e) and (4)(a) above shall have effect as if the reference to the Secretary of State included a reference to the Friendly Societies Commission.

Determination of applications

(1) Where the transferor company is a UK or non-EC company and any policy included in the proposed transfer evidences a contract of direct insurance, the court shall not make an order sanctioning the scheme unless—

- (a) it is satisfied that the transferee company is, or will be immediately after the making of the order—
 - (i) authorised under section 3 or 4 above to carry on, or
 - (ii) authorised in accordance with Article 6 of the first long-term insurance Directive to carry on in an EEA State other than the United Kingdom, long term business of the class or classes to be transferred under the scheme;
- (b) the relevant authority certifies that the transferee company possesses the necessary margin of solvency after taking the proposed transfer into account; and
- (c) where the transferor company is a UK company and the establishment from which the policies are to be transferred is situated in a member State other than the United Kingdom, the Secretary of State certifies—
 - (i) that the supervisory authority in that member State has been consulted about the proposed scheme; and
 - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.

(2) Where sub-paragraph (1) above applies and, as regards any policy (other than an EFTA policy) which is included in the proposed transfer and evidences a contract of direct insurance, a member State other than the United Kingdom is the State of the commitment, the court shall not make an order sanctioning the scheme unless the Secretary of State certifies—

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

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

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

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

(26) 1992 c. 40.

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- (a) where the EEA State in which the establishment is situated is also the State of the commitment, the Secretary of State certifies that the supervisory authority in that EEA State agrees to the transfer;
 - (b) where the United Kingdom is the State of the commitment, the Secretary of State certifies that the transferee company is not precluded by Schedule 2F to this Act from covering the commitment; and
 - (c) where an EEA State other than the United Kingdom or the EEA State in which the establishment is situated is the State of the commitment, the Secretary of State certifies that—
 - (i) the transferee company fulfils the conditions in Articles 11, 12, 14 and 16 of the second long term insurance Directive in the EEA State which is the State of the commitment;
 - (ii) the law of that State provides for the possibility of such a transfer; and
 - (iii) the supervisory authority in that State agrees to the transfer.
- (5) Where the transferor company is not a UK or non-EC company or any policy included in the proposed transfer evidences a contract of reinsurance, the court shall not make an order sanctioning the scheme unless it is satisfied that the transferee company is, or will be immediately after the making of the order—
- (a) authorised under section 3 or 4 above to carry on, or
 - (b) an EC company which is not precluded by Part I of Schedule 2F to this Act from carrying on,

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

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

Rights of policy holders

- (1) This paragraph applies where the court makes an order under this Part of this Schedule sanctioning a scheme and either—
- (a) the transferor company is a UK or non-EC company and, as regards any policy included in the transfer which evidences a contract of direct insurance, a member State other than the United Kingdom is the State of the commitment; or
 - (b) as regards any EFTA policy included in the transfer, an EEA State other than the United Kingdom is the State of the commitment.

(2) The court shall direct that—

- (a) notice of the making of any order, or the execution of any instrument, giving effect to the transfer shall be published in the member State or, as the case may be, the EEA State which is the State of the commitment; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;

and the instrument or order shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.

(3) The law of the member State or, as the case may be, the EEA State which is the State of the commitment shall determine—

- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.

Supplementary provisions

(1) Where the court makes an order under this Part of this Schedule sanctioning a scheme the court may, either by that order or by any subsequent order, make provision for all or any of the following matters—

- (a) the transfer to the transferee company of the whole or any part of the undertaking and of the property or liabilities of the transferor company;
- (b) the allotting or appropriation by the transferee company of any shares, debentures, policies or other like interests in that company which under the scheme are to be allotted or appropriated by that company to or for any person;
- (c) the continuation by or against the transferee company of any legal proceedings pending by or against the transferor company;
- (d) the dissolution, without winding up, of the transferor company;
- (e) such incidental, consequential and supplementary matters as are necessary to secure that the scheme shall be fully and effectively carried out.

(2) Where any such order provides for the transfer of property or liabilities, that property shall, by virtue of the order, be transferred to and vest in, and those liabilities shall, by virtue of the order, be transferred to and become the liabilities of, the transferee company, and in the case of any property, if the order so directs, freed from any mortgage or charge which is by virtue of the scheme to cease to have effect.

(3) Where the transferor company is a UK or non-EC company, it is immaterial for the purposes of sub-paragraphs (1)(a), (c) and (e) and (2) above that the law applicable to any of the contracts of direct insurance included in the transfer is the law of an EEA State other than the United Kingdom.

(4) For the purposes of any provision requiring the delivery of an instrument of transfer as a condition for the registration of a transfer of any property, including in particular—

- (a) section 183(1) of the Companies Act and section 56(4) of the Finance Act 1946⁽²⁷⁾; and
- (b) Article 193(1) and (2) of the Companies (Northern Ireland) Order 1986 and section 27(4) of the Finance (No 2) Act (Northern Ireland) 1946⁽²⁸⁾,

an order which by virtue of this paragraph operates to transfer any property shall be treated as an instrument of transfer.

⁽²⁷⁾ 1946 c. 64.

⁽²⁸⁾ 1946 c. 17 (N.I.).

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(5) Where a scheme is sanctioned by an order of the court under this Part of this Schedule, the transferee company shall, within ten days from the date on which the order is made or such longer period as the Secretary of State may allow, deposit two office copies of the order with the Secretary of State.

(6) In this paragraph “property” includes property, rights and powers of every description, “liabilities” includes duties and “shares” and “debentures” have the same meaning as in the Companies Act or the Companies (Northern Ireland) Order 1986.

PART II

TRANSFERS OF GENERAL BUSINESS

Approval of Secretary of State required

(1) Where it is proposed to execute an instrument by which an insurance company to which this Part of this Act applies (“the transferor”) is to transfer to another body (“the transferee”) all its rights and obligations under such general policies, or general policies of such descriptions as may be specified in the instrument, and—

- (a) where the transferor is a UK company, the performance by it of the obligations proposed to be transferred constitutes the carrying on of insurance business in one or more member States; or
- (b) where the transferor is not a UK company, the performance by it of the obligations proposed to be transferred constitutes the carrying on of insurance business in the United Kingdom,

the transferor may apply to the Secretary of State for his approval of the transfer.

(2) Any notice or other document authorised or required to be given or served under this Part of this Schedule may, without prejudice to any other method of service, be served by post; and a letter containing the notice or other document shall be deemed to be properly addressed if it is addressed to that person at his last known residence or last known place of business in the United Kingdom.

(3) In this Part of this Schedule—

“direct insurance” means insurance other than reinsurance;

“general policy” means a policy evidencing a contract the effecting of which constitutes the carrying on of general business.

Procedure with respect to applications

(1) The Secretary of State shall not determine an application made under paragraph 6 above unless he is satisfied that—

- (a) a notice approved by him for the purpose has been published—
 - (i) in the London, Edinburgh and Belfast Gazettes and, if he thinks fit, in two national newspapers in the United Kingdom which have been so approved;
 - (ii) where the transferor is a UK or non-EC company and, as regards any policy included in the proposed transfer which evidences a contract of direct insurance, the risk is situated in a member State which is not the United Kingdom, in two national newspapers in that member State; and

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- (iii) where, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the EEA State in which the risk is situated, in two national newspapers in that EEA State;
 - (b) except in so far as he has otherwise directed, a copy of the notice has been sent to every affected policy holder and every other person who claims an interest in a policy included in the proposed transfer and has given written notice of his claim to the transferor; and
 - (c) copies of a statement setting out particulars of the transfer and approved by him for the purpose have been available for inspection—
 - (i) at one or more places in the United Kingdom;
 - (ii) where the transferor is a UK or non-EC company and, as regards any policy included in the proposed transfer which evidences a contract of direct insurance, the risk is situated in a member State which is not the United Kingdom, at one or more places in that member State; and
 - (iii) where, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the EEA State in which the risk is situated, at one or more places in that EEA State,
- for a period of not less than thirty days beginning with the date of the first publication of the notice in accordance with paragraph (a) above.
- (2) The notice referred to in sub-paragraph (1) above shall include a statement that written representations concerning the transfer may be sent to the Secretary of State before a specified day, which shall not be earlier than sixty days after the day of the first publication of the notice in accordance with sub-paragraph (1)(a) above; and the Secretary of State shall not determine the application until after considering any representations made to him before the specified day.
- (3) For the purposes of this paragraph a policy holder is an “affected policy holder” in relation to a proposed transfer if—
- (a) his policy is included in the transfer, or
 - (b) his policy is with the transferor and the Secretary of State has certified, after consulting the transferor, that in the opinion of the Secretary of State the policy holder’s rights and obligations under the policy will or may be materially affected by the transfer.
- (4) A policy which evidences a contract of direct insurance is an “EFTA policy” for the purposes of this Part of this Schedule if—
- (a) it covers a risk situated in an EFTA State and the transferee is a UK or EC company or a non-EC company whose head office is in an EFTA State; or
 - (b) it covers a risk situated in a member State and the transferor company or the transferee is a non-EC company whose head office is in an EFTA State.
- (5) Where the transferor is a UK or non-EC company and the transferee is an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992, sub-paragraph (1)(b) shall have effect as if the reference to every affected policy holder included a reference to the Friendly Societies Commission.

Determination of applications

- (1) Where the transferor is a UK or non-EC company and any policy included in the proposed transfer evidences a contract of direct insurance, the Secretary of State shall not approve the transfer unless—
- (a) he is satisfied that the transferee is, or will be immediately after the approval—
 - (i) authorised under section 3 or 4 above to carry on, or

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- (ii) authorised in accordance with Article 6 of the first general insurance Directive to carry on in an EEA State other than the United Kingdom,
general business of the class or classes to be transferred by the instrument;
 - (b) he is also satisfied that every policy included in the transfer evidences a contract which was entered into before the date of the application;
 - (c) the relevant authority certifies that the transferee possesses the necessary margin of solvency after taking the proposed transfer into account; and
 - (d) where the transferor is a UK company and the establishment from which the policies are to be transferred is situated in a member State other than the United Kingdom, the Secretary of State is satisfied
 - (i) that the supervisory authority in that member State has been consulted about the proposed transfer; and
 - (ii) either that the authority has responded or that the period of three months beginning with the consultation has elapsed.
- (2) Where sub-paragraph (1) above applies and, as regards any policy (other than an EFTA policy) which is included in the proposed transfer and evidences a contract of direct insurance, the risk is situated in a member State other than the United Kingdom, the Secretary of State shall not approve the transfer unless he is satisfied—
- (a) that the supervisory authority in that member State has been notified of the proposed transfer;
 - (b) either that the authority has consented to the transfer or that the authority has not refused its consent to the transfer within the period of three months beginning with the notification.
- (3) Where sub-paragraph (1) above applies, the establishment of the transferee to which the policies are to be transferred is situated in the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the risk is situated, the Secretary of State shall not approve the transfer unless he is satisfied that—
- (a) the transferee either fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in that EEA State or will be participating, by virtue of the transfer of that policy, in a Community co-insurance operation otherwise than as the leading insurer; and
 - (b) the supervisory authority in that EEA State agrees to the transfer.
- (4) Where sub-paragraph (1) above applies, the establishment of the transferee to which the policies are to be transferred is situated in an EEA State other than the United Kingdom and, as regards any EFTA policy included in the proposed transfer, an EEA State other than the United Kingdom is the State in which the risk is situated, the Secretary of State shall not approve the transfer unless—
- (a) where the EEA State in which the establishment is situated is also the State in which the risk is situated, he is satisfied that the supervisory authority in that EEA State agrees to the transfer;
 - (b) where the United Kingdom is the State in which the risk is situated, he is satisfied that the transferee is not precluded by Schedule 2F to this Act from covering the risk; and
 - (c) where an EEA State other than the United Kingdom or the EEA State in which the establishment is situated is the State in which the risk is situated, he is satisfied that—
 - (i) the transferee either fulfils the conditions in Articles 13 to 16 of the second general insurance Directive in the EEA State in which the risk is situated or will be participating, by virtue of the transfer of that policy, in a Community co-insurance operation otherwise than as the leading insurer;

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- (ii) the law of that State provides for the possibility of such a transfer; and
- (iii) the supervisory authority in that State agrees to the transfer.

(5) Where the transferor company is not a UK or non-EC company or any policy included in the proposed transfer evidences a contract of reinsurance, the Secretary of State shall not approve the transfer on an application under paragraph 6 above unless he is satisfied that the transferee is, or will be immediately after the approval—

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

general business of the class or classes to be transferred by the instrument.

(6) Where the Secretary of State determines an application under paragraph 6 above, he shall—

- (a) publish a notice of his decision in the London, Edinburgh and Belfast Gazettes and in such other manner as he may think fit, and
- (b) send a copy of that notice to the transferor, the transferee and every person who made representations in accordance with the notice referred to in paragraph 7(1) above;

and if he refuses the application he shall inform the transferor and the transferee in writing of the reasons for his refusal.

(7) In this paragraph “the relevant authority” means—

- (a) if the transferee is a UK company, the Secretary of State;
- (b) if the transferee is an EC company, the supervisory authority in its home State;
- (c) if the transferee is a non-EC company whose head office is in an EFTA State, the supervisory authority in that EFTA State;
- (d) if the transferee is a Swiss general insurance company, the supervisory authority in Switzerland;
- (e) if the transferee does not fall within paragraphs (a) to (d) above, the Secretary of State or other authority which, in accordance with Article 25 or 26 of the first general insurance Directive, is responsible for supervising the transferee’s margin of solvency.

(8) Where the transferor is a UK or non-EC company and the transferee is an incorporated friendly society or registered friendly society authorised under Part IV of the Friendly Societies Act 1992—

- (a) sub-paragraphs (1)(a) and (5)(a) above shall have effect as if the reference to section 3 or 4 above were a reference to that Part of that Act; and
- (b) sub-paragraph (1)(c) above shall have effect as if the relevant authority for the purposes of this paragraph were the Friendly Societies Commission.

Rights of policy holders

(1) This paragraph applies where the Secretary of State approves an application made under paragraph 6 above and either—

- (a) the transferor is a UK or non-EC company and, as regards any policy included in the transfer which evidences a contract of direct insurance, a member State other than the United Kingdom is the member State in which the risk is situated; or
- (b) as regards any EFTA policy included in the transfer, an EEA State other than the United Kingdom is the EEA State in which the risk is situated.

(2) The Secretary of State shall direct that—

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- (a) notice of his decision, and of the execution of any instrument giving effect to the transfer, shall be published in the member State or, as the case may be, the EEA State in which the risk is situated; and
- (b) the notice shall specify the period during which the policy holder may exercise any right to cancel the policy;

and the instrument shall not bind the policy holder if either such a notice is not so published or the policy holder exercises any such right during the period so specified.

(3) The law of the member State or, as the case may be, the EEA State in which the risk is situated shall determine—

- (a) whether the policy holder has a right to cancel the policy; and
- (b) the conditions applicable to any such right.

Effect of approval of Secretary of State

(1) Subject to paragraph 9(2) above, an instrument giving effect to a transfer approved by the Secretary of State under this Part of this Schedule shall be effectual in law—

- (a) to transfer to the transferee all the transferor's rights and obligations under the policies included in the instrument, and
- (b) if the instrument so provides, to secure the continuation by or against the transferee of any legal proceedings by or against the transferor which relate to those rights or obligations, notwithstanding the absence of any agreements or consents which would otherwise be necessary for it to be effectual in law for those purposes.

(2) Where the transferor is a UK or non-EC company, it is immaterial for the purposes of subparagraph (1) above that the law applicable to any of the contracts of direct insurance included in the transfer is the law of an EEA State other than the United Kingdom.

(3) Except in so far as the Secretary of State may otherwise direct, a policy holder whose policy is included in such an instrument shall not be bound by it unless he has been given written notice of its execution by the transferor or the transferee.”

SCHEDULE 4

Regulation 35.

“[SCHEDULE 2D
TO 1982 ACT]

FURTHER PROVISIONS WITH RESPECT TO CONTROLLERS OF UK COMPANIES

Provisions supplementing sections 60 to 61A

- (1) This paragraph applies where—
 - (a) a UK company which proposes to appoint a person as managing director or chief executive of the company;
 - (b) a person who proposes to become a controller of such a company; or
 - (c) a person who is a controller of such a company and who proposes to acquire a notifiable holding in the company,

has served notice on the Secretary of State under subsection (1)(a) of section 60, 61 or 61A above (“the relevant section”).

(2) The Secretary of State may by notice in writing require the person serving the notice or, in a case falling within sub-paragraph (1)(a) above, the person proposed to be appointed to provide such additional information or documents as the Secretary of State may reasonably require for the purpose of deciding whether to serve—

- (a) a notice of objection under the relevant section; or
- (b) a notice imposing conditions under paragraph 3 below.

(3) Where additional information or documents are required from any person by a notice under sub-paragraph (2) above, the time between the giving of that notice and the receipt of the information or documents shall be added to the period mentioned in subsection (1)(b) of the relevant section.

(4) The notice shall be of no effect for the purposes of subsection (1) of the relevant section if either the notice is withdrawn or—

- (a) in the case of a notice under section 60(1)(a) above, the person proposed to be appointed as managing director or chief executive of the company is not so appointed;
- (b) in the case of notice under section 61(1)(a) above, the person by whom it was served does not become a controller of the company; or
- (c) in the case of notice under section 61A(1)(a) above, the person by whom it was served does not acquire the holding specified in the notice,

before the end of the period of one year beginning with the date mentioned in sub-paragraph (5) below.

(5) The date referred to in sub-paragraph (4) above is as follows—

- (a) in a case where the Secretary of State has, before the end of the period mentioned in subsection (1)(b) of the relevant section, given to the person serving the notice such a notification as is mentioned in that provision, the date of that notification;
- (b) in a case where the Secretary of State has, before the end of that period, served a notice imposing conditions on that person in accordance with paragraph 3 below, the date of the service of that notice; and
- (c) in any other case, the date immediately following the end of that period.

(6) The period mentioned in subsection (1)(b) of the relevant section shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with that section.

Notice of objection where requisite notice not given

(1) This paragraph applies where—

- (a) a UK company appoints a person as managing director or chief executive of the company;
- (b) a person becomes a controller of such a company otherwise than by virtue of an appointment in relation to which section 60 above has effect; or
- (c) a person who is a controller of such a company acquires a notifiable holding in the company,

in contravention of subsection (1)(a) of section 60, 61 or 61A above; and references in this paragraph to the person in breach shall be construed accordingly.

(2) The Secretary of State—

- (a) may serve the person in breach with a notice of objection at any time within three months after he becomes aware of the contravention; and

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- (b) for the purpose of deciding whether to serve the person in breach with such a notice or with a notice imposing conditions under paragraph 3 below, may require that person by notice in writing to provide such information or documents as the Secretary of State may reasonably require.
- (3) Before serving a notice of objection under sub-paragraph (2) above, the Secretary of State shall serve on the person in breach and, in a case falling within sub-paragraph (1)(a) above, on the person appointed as managing director or chief executive a preliminary written notice—
 - (a) stating that he is considering serving a notice of objection on the person in breach; and
 - (b) specifying the matters mentioned in sub-paragraph (5) below as respects which he is not satisfied.
- (4) A person served with a preliminary notice under sub-paragraph (3) above may, within the period of one month from the date of service of that notice—
 - (a) make written representations to the Secretary of State; and
 - (b) if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for that purpose by the Secretary of State.
- (5) The Secretary of State shall not serve a notice of objection under sub-paragraph (2) above unless it appears to him—
 - (a) that the person appointed is or may not be a fit and proper person to be the managing director or chief executive of the company or, as the case may be, that the person in breach is not or may not be a fit and proper person to be a controller of the company or to retain the notifiable holding in the company; or
 - (b) that the interests of policy holders and potential policy holders of the company are or may in some other manner be jeopardised by that person's ability to influence the company.
- (6) Where representations are made in accordance with this paragraph the Secretary of State shall take them into consideration before serving a notice of objection.
- (7) The Secretary of State shall not be obliged to disclose to the person in breach any particulars of the ground on which he is considering the service of a notice of objection.
- (8) The period mentioned in sub-paragraph (2)(a) above shall be deemed not to expire until fourteen days after the end of the period within which representations may be made in accordance with this paragraph.
- (9) After a notice of objection has been served on a company in relation to a person who is a managing director or chief executive, the company shall forthwith remove that person from that office.

Notices imposing conditions

- (1) This paragraph applies where either—
 - (a) paragraph 1 above applies and the Secretary of State is entitled to serve a notice of objection under the relevant section; or
 - (b) paragraph 2 above applies;and in this paragraph expressions which are also used in paragraph 1 or 2 above have the same meanings as in that paragraph.
- (2) If, in a case falling within sub-paragraph (1)(a) above, the Secretary of State considers that, if certain conditions were complied with—
 - (a) by the person serving the notice under subsection (1)(a) of the relevant section; or

- (b) where the notice is under section 60(1)(a) above, by the person proposed to be appointed as managing director or chief executive,

the criteria of sound and prudent management would continue to be or, as the case may be, would be fulfilled in respect of the company, he may, instead of serving a notice of objection under the relevant section, serve a notice requiring the conditions in question to be complied with by that person (“the person concerned”).

A notice under this sub-paragraph shall be served—

- (a) on the person concerned, and
- (b) where that person is proposed to be appointed as managing director or chief executive, on the company.

(3) If, in a case falling within sub-paragraph (1)(b) above, the Secretary of State considers that, if certain conditions were complied with—

- (a) by the person in breach; or
- (b) where the contravention is of section 60(1)(a) above, by the person appointed as managing director or chief executive,

the criteria of sound and prudent management would continue to be or, as the case may be, would be fulfilled in respect of the company, he may, instead of serving a notice of objection under paragraph 2 above, serve a notice requiring the conditions in question to be complied with by that person (“the person concerned”).

A notice under this sub-paragraph shall be served—

- (a) on the person concerned, and
- (b) where that person has been appointed as managing director or chief executive, on the company.

(4) Before serving a notice under sub-paragraph (2) or (3) above, the Secretary of State shall serve on the person concerned and, where that person is proposed to be or has been appointed as managing director or chief executive, on the company a preliminary written notice stating—

- (a) that the Secretary of State is considering serving a notice under that sub-paragraph;
- (b) the conditions which would be required by such a notice to be complied with by the person concerned;
- (c) the criteria of sound and prudent management which he considers would not be fulfilled in respect of the company if he served neither such a notice nor a notice of objection under subsection (1)(a) of the relevant section or, as the case may be, paragraph 2 above; and
- (d) that the person on whom the preliminary notice is served may, within the period of one month from the date of service of that notice—
 - (i) make written representations to the Secretary of State; and
 - (ii) if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.

(5) Where representations are made in accordance with this paragraph the Secretary of State shall take them into consideration before serving a notice under sub-paragraph (2) or (3) above.

(6) The Secretary of State shall not be obliged to disclose—

- (a) to the person concerned; or
- (b) where that person is proposed to be or has been appointed as managing director or chief executive, to the company,

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any particulars of the ground on which he is considering the service of a notice under sub-paragraph (2) or (3) above or a notice of objection under the relevant section or, as the case may be, paragraph 2 above.

Objection to existing controller

(1) Where it appears to the Secretary of State that the criteria of sound and prudent management are not or may not be fulfilled in respect of a UK company by reason of the ability of a person who is a controller of the company to influence the company, he may—

- (a) where that person is the managing director or chief executive, serve on the company; and
- (b) in any other case, serve on that person,

a written notice of objection to that person continuing to be a controller of the company.

(2) Before serving a notice of objection under this paragraph, the Secretary of State shall serve—

- (a) on the person concerned; and
- (b) where that person is the managing director or chief executive, on the company, a preliminary written notice stating that the Secretary of State is considering serving a notice of objection under this paragraph.

(3) A notice under sub-paragraph (2) above shall—

- (a) give particulars of the rights conferred by sub-paragraph (4) below; and
- (b) specify the criteria of sound and prudent management which are not or may not be fulfilled in respect of the company.

(4) A person served with a notice under sub-paragraph (2) above may, within the period of one month beginning with the day on which the notice is served—

- (a) make written representations to the Secretary of State; and
- (b) if that person so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.

(5) Where representations are made in accordance with this paragraph, the Secretary of State shall take them into consideration before serving a notice of objection.

(6) The Secretary of State shall not be obliged to disclose to the person concerned or to the company any particulars of the ground on which he is considering the service of a notice of objection.

(7) After a notice of objection has been served on a company in relation to a person who is a managing director or chief executive, the company shall forthwith remove that person from that office.

Restrictions etc. as respects shareholdings

(1) This paragraph applies where a person—

- (a) has contravened section 61 or 61A above by becoming a shareholder controller of a UK company, or by acquiring a notifiable holding in such a company;
- (b) having become such a controller or acquired such a holding in contravention of section 61 or 61A above, continues to be such a controller or to retain that holding after being served with a notice of objection under paragraph 2 above;
- (c) having been served with a notice imposing conditions under paragraph 3 above in a case where—

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- (i) a notice of objection to his becoming such a controller or acquiring such a holding would otherwise have been served under section 61 or 61A above, or
 - (ii) a notice of objection to his continuing to be such a controller or retaining such a holding would otherwise have been served under paragraph 2 above,
- has failed to comply with any of the conditions specified in the notice under paragraph 3 above; or
- (d) having been served with a notice of objection under paragraph 4 above to his continuing to be such a controller,

continues to be such a controller; and references in this paragraph to the person in breach shall be construed accordingly.

(2) The Secretary of State may by notice in writing served on the person in breach direct that any specified shares to which this paragraph applies shall, until further notice, be subject to one or more of the following restrictions—

- (a) any transfer of or agreement to transfer the shares, or (in the case of unissued shares) any transfer of or agreement to transfer the right to be issued with the shares, shall be void;
- (b) no voting rights shall be exercisable in respect of the shares;
- (c) no further shares shall be issued in right of the shares or in pursuance of any offer made to the holder of the shares;
- (d) except in a liquidation, no payment shall be made of any sums due from the company in respect of the shares, whether by way of a repayment of capital or otherwise.

(3) The court may, on the application of the Secretary of State, by order direct that any specified shares to which this paragraph applies—

- (a) shall be sold; and
- (b) if they are for the time being subject to any restrictions under sub-paragraph (2) above, shall cease to be subject to those restrictions.

(4) Where an order has been made under sub-paragraph (3) above the court may, on the application of the Secretary of State, make such further order relating to the sale or transfer of the shares as it thinks fit.

(5) Where the shares are sold in pursuance of an order under this section—

- (a) the net proceeds of the sale shall be paid into court for the benefit of persons beneficially interested in them; and
- (b) any such person may apply to the court for the whole or any part of the proceeds to be paid to him.

(6) This paragraph applies to—

- (a) all shares in the company which—
 - (i) are held by the person in breach; and
 - (ii) were not so held immediately before he became a shareholder controller of the company or, as the case may be, acquired a notifiable holding in the company; and
- (b) where the person in breach became such a controller or acquired such a holding as a result of the acquisition by him of shares or voting rights in another company, all shares in that company which—
 - (i) are held by him; and
 - (ii) were not so held immediately before he became such a controller or acquired such a holding.

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(7) Sub-paragraph (6) above shall have effect as if references to the person in breach acquiring a notifiable holding in the company were—

- (a) in a case falling within paragraph (a), (b) or (c)(ii) of sub-paragraph (1) above, references to his doing so in contravention of section 61 or 61A above; and
- (b) in a case falling within paragraph (c)(i) of sub-paragraph (1) above, references to his doing so after the service of the notice imposing conditions under paragraph 3 above.

(8) A copy of the notice served on the person in breach under sub-paragraph (2) above shall be served on the company to whose shares or voting rights it relates.

(9) The jurisdiction conferred by this paragraph shall be exercisable by the High Court and the Court of Session.”

SCHEDULE 5

Regulation 40.

“[SCHEDULE 2E
TO 1982 ACT]

INFORMATION FOR POLICY HOLDERS OF UK INSURERS AND EC COMPANIES

Information before contract of long term insurance

(1) Subject to sub-paragraph (2) below, this paragraph applies to a contract entered into by a UK or EC company or a member of Lloyd’s the effecting of which constitutes—

- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
- (b) the provision there of long term insurance.

(2) This paragraph does not apply to a contract entered into by an authorised person the effecting of which constitutes the carrying on in the United Kingdom of investment business; and in this sub-paragraph expressions which are also used in the Financial Services Act 1986(29) have the same meanings as in that Act.

(3) Before entering into a contract to which this paragraph applies, the company or member (“the insurer”) shall furnish the other party to the contract in writing with the information required by sub-paragraph (4) below and—

- (a) in the case of a company, the information required by sub-paragraph (5) below; and
- (b) in the case of a member, the information required by sub-paragraph (6) below.

(4) The information required by this sub-paragraph is—

- (a) a definition of each benefit and option;
- (b) the term of the contract and the means by which it may be terminated;
- (c) the method of paying premiums and the duration of the payments;
- (d) the method of calculating bonuses and the distribution of bonuses;
- (e) an indication of surrender and paid-up values and the extent to which such values are guaranteed;
- (f) an indication of the premiums for each benefit, whether a main or supplementary benefit;

(29) 1986 c. 60.

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- (g) in the case of a contract for a unit-linked policy, a definition of the units to which benefits are linked and an indication of the nature of the underlying assets;
 - (h) information as to the following, namely—
 - (i) the arrangements with respect to the period within which the policy holder may cancel the contract;
 - (ii) the tax arrangements applicable to the policy to be effected by the contract;
 - (iii) the arrangements for handling any complaints concerning the contract, whether by the other party or any other person who is a life assured or beneficiary; and
 - (iv) any compensation or guarantee arrangements which will be available if the insurer is unable to meet its liabilities under the contract; and
 - (i) whether the parties to the contract are entitled to choose the law applicable to the contract and—
 - (i) if so, the law which the insurer proposes to choose; and
 - (ii) if not, the law which will be so applicable.
- (5) The information required by this sub-paragraph is—
- (a) the name and legal form of the company;
 - (b) the company's home State and, where appropriate, the member State of the branch through which the contract is to be entered into; and
 - (c) the address of the company's head office and, where appropriate, the address of the branch through which the contract is to be entered into.
- (6) The information required by this sub-paragraph is—
- (a) the name or number of the syndicate which is to enter into the contract and a statement that it is a syndicate of members of Lloyd's;
 - (b) a statement that the syndicate's home State is the United Kingdom and, where appropriate, the member State of the branch through which the contract is to be entered into; and
 - (c) the address of the syndicate in the United Kingdom and, where appropriate, the address of the branch through which the contract is to be entered into.
- (7) Any information required by sub-paragraph (4), (5) or (6) above shall be furnished in English except that, where the other party to the contract so requests, it may instead be furnished in an official language of a member State other than the United Kingdom.

Information during contract of long term insurance

- (1) This paragraph applies where a UK or EC company or a member of Lloyd's has, on or after 1st July 1994, entered into a contract the effecting of which constitutes—
- (a) the carrying on in the United Kingdom of long term business which is not reinsurance business; or
 - (b) the provision there of long term insurance.
- (2) If during the term of the contract there is—
- (a) any change in the information mentioned in paragraphs (a) to (g) of sub-paragraph (4) of paragraph 1 above; or
 - (b) in the case of a company, any change in the information mentioned in sub-paragraph (5) of that paragraph; or
 - (c) in the case of a member, any change in the information mentioned in sub-paragraph (6) of that paragraph,

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the company or member (“the insurer”) shall inform the other party to the contract in writing of the effect of the change.

(3) If the contract provides for the payment of bonuses, the insurer shall, at least once in every calendar year except the first, inform the other party to the contract in writing of the amount of any bonus—

- (a) which has become payable under the contract, and
- (b) of which that party has not been previously informed under this sub-paragraph.

(4) There is a sufficient compliance with sub-paragraph (3) above if the insurer furnishes the other party to the contract with such information as will enable him to determine the amount of any such bonus as is mentioned in that sub-paragraph, or if the insurer informs that party of—

- (a) the total value of the benefits (including bonuses) which have accrued under the contract; and
- (b) the rates of bonus which have been declared since that party was previously informed under this sub-paragraph.

(5) In this paragraph “bonus” does not include a bonus the amount of which is specified in the contract.

Information before contract of general insurance

(1) This paragraph applies to a contract entered into by a UK or EC company or a member of Lloyd’s if—

- (a) the effecting of the contract constitutes—
 - (i) the carrying on in the United Kingdom of general business which is not reinsurance business; or
 - (ii) the provision there of general insurance; and
- (b) the risk covered by the contract is situated in the United Kingdom.

(2) Before entering into a contract to which this paragraph applies, the company or member (“the insurer”) shall, if the other party (or one of the other parties) to the contract is an individual, inform that party in writing—

- (a) of any arrangements which exist for handling complaints concerning the contract including, where appropriate, the name and address of any body which deals with complaints from any party to the contract;
- (b) that the existence of a complaints body does not affect any right of action which any party to the contract may have against the insurer; and
- (c) as to whether the parties to the contract are entitled to choose the law applicable to the contract and—
 - (i) if so, of the law which the insurer proposes to choose; and
 - (ii) if not, of the law which will be so applicable.

(3) If the information required by sub-paragraph (2) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.

(1) Subject to sub-paragraph (2) below, this paragraph applies to a contract to which paragraph 3 above applies.

(2) This paragraph does not apply to a contract entered into by a UK company or a member of Lloyd's unless the effecting of the contract constitutes the provision of general insurance in the United Kingdom.

(3) Before entering into a contract to which this paragraph applies, the UK or EC company or the member of Lloyd's ("the insurer") shall, unless the contract is for the coverage of large risks only, inform the other party to the contract in writing of the member State in which is situated the establishment which will cover the risks; and any document issued to that party by the insurer shall also contain that information.

(4) If the information required by sub-paragraph (3) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that sub-paragraph if it is also furnished in writing as soon as practicable after that time.

(5) Any relevant document issued by the insurer in relation to a contract to which this paragraph applies shall state—

- (a) the address of the establishment through which the risk is to be covered; and
- (b) where the contract relates to relevant motor vehicle risks and the effecting of the contract constitutes the provision of insurance in the United Kingdom, the name and address of the claims representative.

(6) In this paragraph "relevant document", in relation to a contract to which this paragraph applies, means any proposal, policy or other document which, or statements contained in which, will or may bind the other party to the contract."

SCHEDULE 6

Regulation 45.

“[SCHEDULE 2F
TO 1982 ACT]

RECOGNITION IN THE UNITED KINGDOM OF EC AND EFTA COMPANIES

PART I

EC COMPANIES CARRYING ON BUSINESS ETC. IN THE UNITED KINGDOM

Requirements for carrying on direct insurance business

(1) An EC company shall not carry on direct insurance business of a class or part of a class through a branch in the United Kingdom unless—

- (a) the company is authorised in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive to carry on insurance business of that class or part of a class; and
- (b) the requirements of this paragraph have been complied with in respect of that branch.

(2) The requirements of this paragraph are—

- (a) that the supervisory authority in the company's home State has sent to the Secretary of State—
 - (i) a notice which contains the requisite details; and
 - (ii) a certificate in accordance with sub-paragraph (3) below; and

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- (b) that either—
 - (i) the Secretary of State has informed that authority of the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the Secretary of State received the notice and certificate mentioned in paragraph (a) above has elapsed.
- (3) A certificate given in respect of the company by the supervisory authority in its home State is in accordance with this sub-paragraph if it—
 - (a) attests that the company has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of business which the company is authorised to carry on in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive.
- (4) The Secretary of State shall as soon as practicable—
 - (a) acknowledge receipt of the documents sent by the supervisory authority in the company's home State; and
 - (b) where necessary, send a copy of those documents and a note of the date of their receipt to every other authority which he knows is a connected UK authority.
- (5) Any connected UK authority which receives any documents under sub-paragraph (4)(b) above shall, within one month of the date on which they were received, inform the Secretary of State in writing of such provisions of the Acts, rules and regulations applying to insurance companies which the authority regulates as, having regard to the insurance business mentioned in the documents, it considers appropriate.
 - (1) An EC company shall not change the requisite details of a branch—
 - (a) which has been established by it in the United Kingdom; and
 - (b) through which it carries on direct insurance business,unless the requirements of this paragraph have been complied with in relation to its making of the change.
 - (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
 - (a) that the company has given a notice to the Secretary of State, and to the supervisory authority in its home State, stating the details of the proposed change not less than one month before the change is to take place;
 - (b) that the Secretary of State has received from that authority a notice stating that it has approved the proposed change; and
 - (c) that either—
 - (i) the Secretary of State has informed that authority of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the company gave the Secretary of State the notice under paragraph (a) above has elapsed.
 - (3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or

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after the change) give a notice to the Secretary of State, and to the supervisory authority in its home State, stating the details of the change.

- (4) The Secretary of State shall as soon as practicable—
 - (a) acknowledge receipt of the documents sent under sub-paragraph (2) or (3) above;
 - (b) send a copy of those documents, and a note of the date of their receipt, to every other authority which he knows is a connected UK authority; and
 - (c) in the case of a notice under sub-paragraph (3) above, inform the supervisory authority in the home State of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the company in carrying on insurance business through the branch.

Requisite details for purposes of paragraphs 1 and 2

3. The requisite details for the purposes of paragraphs 1 and 2 above are—
 - (a) the name of the company;
 - (b) the address of the branch in the United Kingdom and confirmation that it is an address for service on the company's authorised agent;
 - (c) the name of the company's authorised agent;
 - (d) a scheme of operations prepared in accordance with such requirements as may be imposed by the supervisory authority in its home State; and
 - (e) in the case of a company which intends to cover relevant motor vehicle risks, confirmation that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

Requirements for carrying on reinsurance business

(1) An EC company shall not carry on reinsurance business of any description through a branch in the United Kingdom unless—

- (a) the company is entitled under the law of its home State to carry on business of that description; and
 - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are—
- (a) that the company has served on the Secretary of State—
 - (i) a written notice stating its intention to carry on reinsurance business and containing the requisite details; and
 - (ii) a statement from the supervisory authority in its home State stating the classes of business which the company carries on and declaring that the company has the required margin of solvency or minimum guarantee fund; and
 - (b) that either—
 - (i) the Secretary of State has informed the company that it may begin to carry on the reinsurance business; or
 - (ii) the period of three months beginning with the date of service of that notice has expired.

(1) An EC company shall not change the requisite details of a branch—

- (a) which has been established by it in the United Kingdom; and

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(b) through which it carries on reinsurance business, unless the requirements of this paragraph have been complied with in relation to its making of the change.

(2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the company has given a notice to the Secretary of State stating the details of the proposed change not less than one month before the change is to take place.

(3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or after the change) give a notice to the Secretary of State stating the details of the change.

Requisite details for purposes of paragraphs 4 and 5

6. The requisite details for the purposes of paragraphs 4 and 5 above are—
- (a) the name of the company;
 - (b) the address of the branch in the United Kingdom and confirmation that it is an address for service on the company's authorised agent;
 - (c) the name of the company's authorised agent;
 - (d) a scheme of operations containing particulars of the reinsurance business to be carried on through the branch.

Power of Secretary of State where notice given under paragraph 4 or 5

(1) This paragraph applies where the Secretary of State receives from an EC company a notice given in accordance with paragraph 4 or 5 above.

(2) The Secretary of State may, before the end of the period of three months beginning with the day on which he receives the notice, direct that Part II of this Act shall apply to the company.

(3) Before giving a direction under sub-paragraph (2) above, the Secretary of State shall serve on the company a written notice stating—

- (a) that he is considering giving a direction and particulars of the ground on which he is considering it; and
- (b) that the company may, within the period of one month from the date of service of the notice, make written representations to the Secretary of State and, if the company so requests, oral representations to an officer of the Department of Trade and Industry appointed for the purpose by the Secretary of State.

(4) Where representations are made in response to a notice under sub-paragraph (3) above, the Secretary of State shall take them into account before giving a direction.

Requirements for providing insurance

(1) An EC company shall not provide insurance of a class or part of a class in the United Kingdom unless the company is authorised in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive to carry on insurance business of that class or part of a class and either—

- (a) the requirements of this paragraph have been complied with in respect of that insurance; or
- (b) the insurance is provided by the company participating in a Community co-insurance operation otherwise than as the leading insurer.

(2) The requirements of this paragraph are—

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- (a) that the supervisory authority in the company's home State has sent to the Secretary of State a notice containing the requisite details and a certificate in accordance with sub-paragraph (3) below; and
 - (b) that the company has been notified by that authority that it has sent such a notice to the Secretary of State.
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the company has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of business which the company is authorised to carry on in accordance with Article 6 of the first general insurance Directive or Article 6 of the first long term insurance Directive.
- (1) An EC company shall not change the requisite details relating to the provision of insurance in the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—
- (a) that the company has given a notice to the supervisory authority in its home State stating the details of the proposed change; and
 - (b) that that authority has passed to the Secretary of State the information contained in that notice.
- (3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall, as soon as practicable, give a notice to the supervisory authority in its home State stating the details of the change.

Requisite details for purposes of paragraphs 8 and 9

- 10.** The requisite details for the purposes of paragraph 8 and 9 are—
- (a) the name and address of the company;
 - (b) the nature of the risks or commitments which the company proposes to cover in the United Kingdom; and
 - (c) in the case of a company which intends to cover relevant motor vehicle risks—
 - (i) the name and address of the claims representative, and
 - (ii) confirmation that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946).

Additional requirements for covering relevant motor vehicle risks

- 11.** An EC company shall not provide insurance in the United Kingdom to cover relevant motor vehicle risks unless—
- (a) it is a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and
 - (b) either it has appointed a claims representative or the insurance is provided by it participating in a Community co-insurance operation otherwise than as the leading insurer.

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Power to prevent disposal of assets

(1) The powers conferred on the Secretary of State by section 40A above shall be exercisable in relation to an EC company if the supervisory authority in the company's home State has, in accordance with Article 20(5) of the first general insurance Directive or Article 24(5) of the first long term insurance Directive, requested the Secretary of State to prohibit the free disposal of assets of that company and has confirmed—

- (a) that the company has failed to comply with the requirements of Article 15 of the first general insurance Directive or Article 17 of the first long term insurance Directive;
- (b) that the solvency margin of the company has fallen below the minimum required by Article 16(3) of the first general insurance Directive or Article 19 of the first long term insurance Directive; or
- (c) that the solvency margin of the company has fallen below the guarantee fund as defined in Article 17 of the first general insurance Directive or Article 20 of the first long term insurance Directive.

(2) Those powers shall also be so exercisable if the Secretary of State is notified by that authority that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term insurance Directive.

Powers to obtain information

(1) Subject to sub-paragraph (2) below, the powers conferred by section 44 above on the Secretary of State or persons authorised by him shall be exercisable in respect of an EC company if either—

- (a) the following requirements are fulfilled, namely—
 - (i) the supervisory authority in the company's home State has made a written request to the Secretary of State to obtain information from the company; and
 - (ii) the Secretary of State is satisfied that the information to be acquired is necessary to enable that supervisory authority to perform its obligations under Article 19 of the first general insurance Directive or Article 23 of the first long term insurance Directive; or
- (b) the Secretary of State considers the exercise of those powers in respect of that company to be necessary to enable him to perform his functions under this Act.

(2) The Secretary of State shall not exercise the powers conferred by subsection (2A), (2B) or (4A) of section 44 above in respect of an EC company unless the requirements of sub-paragraph (1)(a) above are fulfilled.

(1) The powers conferred by section 44 above on the Secretary of State shall be exercisable in respect of an EC company by a person authorised by the supervisory authority in the company's home State if—

- (a) the information to be requested by that person is necessary to enable the authority to perform its obligations in respect of the company under Article 19 of the first general insurance Directive or Article 23 of the first long term insurance Directive; and
- (b) the authority has notified the Secretary of State in writing of that person's intention to exercise those powers.

(2) An officer or agent of the Secretary of State may accompany a person so authorised while he is acting in the exercise of those powers.

Residual power to protect policy holders

15. The Secretary of State may exercise his powers under section 45 above in relation to an EC company if the supervisory authority in the company's home State—

- (a) has informed the Secretary of State that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term Directive; and
- (b) in accordance with that Article, has requested the Secretary of State to take measures in the United Kingdom to safeguard the interests of policy holders of the company.

Powers of intervention

(1) Where it appears to the Secretary of State that an EC company has failed to comply with any provision of law applicable to its insurance activities in the United Kingdom, he may require it to take such steps as he may specify to comply with that provision.

(2) If the company fails to comply with a requirement under sub-paragraph (1) above, the Secretary of State shall notify the supervisory authority in the home State.

(3) If, after the Secretary of State has taken the action mentioned in sub-paragraphs (1) and (2) above, the company persists in contravening the provision in question, the Secretary of State may, after informing the supervisory authority of the home State, direct the company to cease to carry on insurance business or provide insurance, or to cease to carry on insurance business or provide insurance of any specified description, in the United Kingdom.

(4) The Secretary of State may exercise his powers under sub-paragraph (3) above without the conditions there mentioned being fulfilled if he considers that those powers should be exercised as a matter of urgency.

(5) After giving a direction under this paragraph, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.

(6) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

(7) A requirement or direction under this paragraph may be varied or revoked by the Secretary of State.

Power to withdraw recognition

(1) This paragraph applies where—

- (a) an EC company is carrying on insurance business or providing insurance in the United Kingdom; and
- (b) the Secretary of State is notified by the supervisory authority in the home State that the company's authorisation has been withdrawn, or has lapsed, in accordance with Article 22 of the first general insurance Directive or Article 26 of the first long term insurance Directive.

(2) The Secretary of State may direct the company to cease to carry on insurance business or provide insurance, or to cease to carry on insurance business or provide insurance of a specified description, in the United Kingdom through all, or any specified, establishments.

(3) Where the Secretary of State receives notification under sub-paragraph (1) above he shall forthwith inform the connected UK authorities of its receipt.

(4) After giving such a direction, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.

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(5) A direction under this paragraph does not prevent the company from effecting or carrying out a contract of insurance in pursuance of a term of a subsisting contract of insurance.

PART II

EFTA COMPANIES PROVIDING INSURANCE IN UNITED KINGDOM

Documents to be furnished to the Secretary of State

(1) An EFTA company which intends to provide insurance in the United Kingdom shall send to the Secretary of State—

- (a) a certificate, issued by the supervisory authority in the EFTA State in which the company's head office is situated, which attests—
 - (i) that the company possesses for its activities as a whole the minimum solvency margin calculated in accordance with the relevant provisions; and
 - (ii) that the company's authorisation in accordance with Article 7(1) of the relevant Directive enables the company to operate outside the EEA State in which the establishment through which the insurance will be provided is situated ("the EEA State of establishment");
- (b) a certificate, issued by the supervisory authority in the EEA State of establishment, which—
 - (i) indicates the classes of insurance business which the company has been authorised to undertake through that establishment;
 - (ii) states that the authority does not object to the company providing insurance in the United Kingdom; and
 - (iii) where the company intends to provide long term insurance in the United Kingdom, confirms that all the commitments which the company intends to cover fall within the classes of insurance business which the company has been authorised to undertake through that establishment;
- (c) a statement by the company of the nature of the risks or commitments which it proposes to cover in the United Kingdom;
- (d) a notice stating the address of the company for the purpose of service of documents under this Schedule; and
- (e) in the case of a company which intends to provide insurance to cover relevant motor vehicle risks—
 - (i) a notice stating the name and address of the claims representative; and
 - (ii) a declaration that the company has become a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946);

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

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

(3) An EFTA company providing insurance in the United Kingdom shall notify the Secretary of State in writing of—

- (a) any change of address of the company for the purpose of the service of documents; and
- (b) where it provides insurance to cover relevant motor vehicle risks, any change of name or address of the claims representative.

(4) In sub-paragraph (1) above “the relevant Directive” and “the relevant provisions” mean respectively—

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

(5) Any insurance which is provided by the company participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

Additional requirements with respect to relevant motor vehicle risks

19. An EFTA company shall not provide insurance in the United Kingdom to cover relevant motor vehicle risks unless—

- (a) it is a member of the Motor Insurers' Bureau (being a company limited by guarantee and incorporated under the Companies Act 1929 on 14th June 1946); and
- (b) either it has appointed a claims representative or the insurance is provided by it participating in a Community co-insurance operation otherwise than as the leading insurer.

Powers of intervention

(1) Where it appears to the Secretary of State that an EFTA company providing insurance in the United Kingdom has failed to comply with any provision of this Act, he may require it to take such steps as he may specify to comply with that provision.

(2) If the company fails to comply with a requirement under sub-paragraph (1) above, the Secretary of State shall notify the supervisory authority in the EEA State in which the establishment through which the insurance is provided is situated.

(3) If the company persists in contravening a provision which has been the subject of a requirement under sub-paragraph (1) above, the Secretary of State may, after informing that supervisory authority, direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom.

(4) After giving such a direction, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.

(5) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

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

Power to require information

21. The Secretary of State may, for the purpose of facilitating the exercise by him of his functions under paragraph 20 above, require an EFTA company providing insurance in the United Kingdom

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to furnish him, at specified times or intervals with information about such matters as he may specify being, if he so requires, information verified in a specified manner.

Withdrawal of authorisation

(1) Where an EFTA company is providing insurance in the United Kingdom and the Secretary of State is notified by the supervisory authority in the EEA State in which the establishment through which the insurance is provided, or the company's head office, is situated that the authorisation of the company has been withdrawn in accordance with—

- (a) Article 22 of the first general insurance Directive, or
- (b) Article 26 of the first long term insurance Directive,

he may direct the company to cease to provide insurance, or insurance of any specified description, in the United Kingdom through all, or any specified, establishments.

(2) After giving such a direction, the Secretary of State shall by notice in writing inform the company of his reasons for doing so.

(3) A direction under this paragraph does not prevent the company from effecting a contract of insurance in pursuance of a term of a subsisting contract of insurance.

PART III

EFTA COMPANIES PROVIDING INSURANCE THROUGH ESTABLISHMENTS IN THE UNITED KINGDOM

Notification to Secretary of State

(1) Where an EFTA company intends to provide insurance through an establishment in the United Kingdom, it shall before doing so notify the Secretary of State of its intention.

(2) The notification shall indicate—

- (a) the EEA State in which the insurance is to be provided, and
- (b) the nature of the risks or commitments which the company proposes to cover.

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

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

- (a) only to risks or commitments in respect of which such authorisation is required, or
- (b) only to risks or commitments in respect of which such authorisation is not required,

and the company subsequently intends to extend its activities to risks falling within the other category, it shall before doing so comply with sub-paragraphs (1) to (3) above in relation to those risks or commitments.

(5) Any insurance which is provided by the company participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

Issue of certificates by Secretary of State

(1) An EFTA company which intends to provide insurance through an establishment in the United Kingdom may apply to the Secretary of State for a certificate—

- (a) indicating the classes of insurance which the company is authorised to carry on in the United Kingdom, and
- (b) stating that the Secretary of State does not object to the company providing the insurance.

(2) If it appears to the Secretary of State that a certificate applied for under sub-paragraph (1) above ought to be issued, he shall issue the certificate accordingly.

(3) If the Secretary of State refuses to issue a certificate, he shall inform the company in writing of his decision and of the reasons for it.

PART IV
SUPPLEMENTAL

Offences

(1) An EC company commits an offence if—

- (a) it carries on insurance business in the United Kingdom in contravention of paragraph 1 or 4 above;
- (b) in contravention of paragraph 2 or 5 above, it changes the requisite details of a branch established by it in the United Kingdom;
- (c) it provides insurance in the United Kingdom in contravention of paragraph 8 or 11 above;
- (d) in contravention of paragraph 9 above, it changes the requisite details relating to the provision of insurance in the United Kingdom; or
- (e) it makes default in complying with, or with a requirement imposed under, any other provision of Part I of this Schedule.

(2) An EFTA company commits an offence if—

- (a) it provides insurance in the United Kingdom in contravention of paragraph 18 or 19 above; or
- (b) it makes default in complying with, or with a requirement imposed under, any other provision of Part II or III of this Schedule.

(3) A person commits an offence if—

- (a) in purported compliance with a requirement under paragraph 13, 14 or 21 above, he furnishes information which he knows to be false in a material particular or recklessly furnishes information which is false in a material particular; or
- (b) he causes or permits to be included in a document required by paragraph 1, 2, 4, 8, 9 or 18 above to be sent to 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 paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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Interpretation etc.

(1) In this Schedule—

“authorised agent”, in relation to an EC company, means an agent or employee of the company who has authority—

- (a) to bind the company in its relations with third parties; and
- (b) to represent the company in its relations with the supervisory authorities and courts in the United Kingdom;

“connected UK authority”, in relation to an EC company, means an authority in the United Kingdom which has regulatory functions in relation to the insurance business which the company proposes to carry on, or the insurance which it intends to provide, in the United Kingdom;

“direct insurance business” means insurance business other than reinsurance business.

(2) In this Schedule—

- (a) references in Part I to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom through an establishment in another member State;
- (b) references in Part II to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom through an establishment in another EEA State;
- (c) references in Part III to the provision of insurance through an establishment in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in another EEA State through an establishment in the United Kingdom.

(3) In sub-paragraph 2(b) and (c) above—

- (a) references to a risk do not include a risk falling within any of the following classes of Schedule 2 to this Act (general business), namely—
 - class 1, so far as it relates to accidents at work;
 - classes 9 and 13, so far as they relate to the compulsory insurance of building works;
 - class 13, so far as it relates to nuclear civil liability and pharmaceutical product liability; and
- (b) references to a commitment do not include a commitment falling within any of classes VII, VIII and IX of Schedule 1 to this Act (long term insurance).

(4) An EC or EFTA company shall not be regarded for the purposes of Parts I and II of this Act as carrying on insurance business in the United Kingdom by reason only of the fact that it provides insurance in the United Kingdom.

Gibraltar

(1) Except in its application to a Gibraltar company, this Schedule shall apply as if Gibraltar were part of the United Kingdom.

(2) In this paragraph and paragraphs 28 and 29 below “Gibraltar company” means an insurance company whose head office is in Gibraltar.

(1) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 1 above have been complied with in respect of

a branch, the requirements of that paragraph, and those of paragraph 2 above, shall not apply in respect of that branch.

(2) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 4 above have been complied with in respect of a branch, the requirements of that paragraph, and those of paragraph 5 above, shall not apply in respect of that branch.

(3) Where, in the case of an EC company which is not a Gibraltar company, Gibraltar requirements corresponding to those of paragraph 8 have been complied with in respect of the provision of any insurance, the requirements of that paragraph, and those of paragraph 9 above, shall not apply in respect of the provision of that insurance.

(4) Where, in the case of an EFTA company, Gibraltar requirements corresponding to those of paragraph 18 have been complied with in respect of the provision of any insurance, the requirements of that paragraph shall not apply in respect of the provision of that insurance.

(5) In this paragraph “Gibraltar requirements” means requirements imposed under any provision of the law of Gibraltar.

(1) Where, in the case of an EC company which is not a Gibraltar company—

- (a) the requirements of paragraph 1 or 4 above are complied with in respect of a branch; and
- (b) the requisite details for the purposes of that paragraph indicate that the company intends to carry on insurance business in Gibraltar,

the Secretary of State shall send to the supervisory authority in Gibraltar a notice which contains those details.

(2) Where, in the case of an EC company which is not a Gibraltar company—

- (a) the requirements of paragraph 2 or 5 above are complied with in respect of a branch; and
- (b) the changes in requisite details for the purposes of that paragraph indicate that the company intends to carry on insurance business in Gibraltar,

the Secretary of State shall send to the supervisory authority in Gibraltar a notice which contains details of the changes.

(3) Where, in the case of an EC company which is not a Gibraltar company, the requirements of paragraph 8 above are complied with in respect of the provision of any insurance, the Secretary of State shall send to the supervisory authority in Gibraltar a notice which contains the requisite details for the purposes of that paragraph.

(4) Where, in the case of an EFTA company, the requirements of paragraph 18 above are complied with in respect of the provision of any insurance, the Secretary of State shall send to the supervisory authority in Gibraltar a notice which contains the requisite details for the purposes of that paragraph.”

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SCHEDULE 7

Regulation 46.

“[SCHEDULE 2G
TO 1982 ACT]

RECOGNITION IN OTHER EEA STATES OF UK INSURERS

PART I

UK INSURERS CARRYING ON BUSINESS ETC. IN OTHER MEMBER STATES

Requirements for carrying on direct insurance business

- (1) A UK insurer shall not carry on direct insurance business of a class or part of a class through a branch in a member State other than the United Kingdom unless—
 - (a) the insurer is authorised under section 3 or 4 of this Act to carry on insurance business of that class or part of a class or is a member of Lloyd's; and
 - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are—
 - (a) that the insurer has given to the Secretary of State a notice containing the requisite EC details and, in the case of a company, the requisite UK details;
 - (b) that the Secretary of State has given to the supervisory authority of the member State in which the branch is to be established (“the member State of the branch”)—
 - (i) a notice which contains the requisite EC details; and
 - (ii) a certificate in accordance with sub-paragraph (3) below; and
 - (c) that either—
 - (i) that authority has informed the Secretary of State of the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the Secretary of State gave that authority the certificate mentioned in paragraph (b) above has elapsed.
- (3) A certificate is in accordance with this sub-paragraph if it—
 - (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in the United Kingdom.
- (4) The Secretary of State shall, within the period of three months beginning with the date on which the insurer’s notice was received—
 - (a) give the notice and certificate referred to in sub-paragraph (2)(b) above; or
 - (b) refuse to give either or both of those documents.
- (5) The Secretary of State shall, within the period of three months referred to in sub-paragraph(4) above, notify the insurer—

- (a) that he has given the notice and certificate referred to in sub-paragraph (2)(b) above, stating the date on which he did so; or
- (b) that he has refused to give either or both of those documents, stating the reasons for the refusal.

(6) In the case of a UK company, the Secretary of State shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the business to be carried on through the branch, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

(7) Where the supervisory authority of the member State of the branch has informed the Secretary of State as mentioned in sub-paragraph (2)(c)(i) above, he shall forward the information to the insurer.

(1) A UK insurer shall not change the requisite EC details of a branch—

- (a) which has been established by it in a member State other than the United Kingdom (“the member State of the branch”); and
- (b) through which it carries on direct insurance business,

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

(2) Subject to sub-paragraph (3) below, the requirements of this paragraph are—

- (a) that the insurer has given a notice to the Secretary of State, and to the supervisory authority in the member State of the branch, stating the details of the proposed change not less than one month before the change is to take place;
- (b) that the Secretary of State has sent to that authority a notice in accordance with sub-paragraph (4)(a) below; and
- (c) that either—
 - (i) that authority has informed the insurer of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the insurer gave that authority the notice of the proposed change in accordance with paragraph (a) above has elapsed.

(3) In the case of a change occasioned by circumstances beyond the insurer’s control, the requirements of this paragraph are that the insurer shall as soon as practicable (whether before or after the change) give a notice to the Secretary of State, and to the supervisory authority in the member State of the branch, stating the details of the change.

(4) The Secretary of State shall, as soon as practicable after receiving a notice under sub-paragraph(2)(a) above—

- (a) give notice to the supervisory authority in the member State of the branch informing it of the proposed change; or
- (b) refuse to give such notice.

(5) The Secretary of State shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the insurer—

- (a) that he has given the notice referred to in that sub-paragraph, stating the date on which he did so; or
- (b) that he refused to give the notice, stating the reasons for that refusal.

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(6) In the case of a UK company, the Secretary of State shall not refuse to give the notice referred to in sub-paragraph (4)(a) above unless, having regard to the proposed change, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

(1) A UK company shall not change the requisite UK details of a branch—

- (a) which has been established by it in a member State other than the United Kingdom; and
- (b) through which it carries on direct insurance business,

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

(2) Subject to sub-paragraph (3) below, the requirements of this paragraph are that the company has given a notice to the Secretary of State stating the details of the proposed change at least one month before the change is effected.

(3) In the case of a change occasioned by circumstances beyond the company's control, the requirements of this paragraph are that the company shall as soon as practicable (whether before or after the change) give a notice to the Secretary of State stating the details of the change.

Requisite details for purposes of paragraphs 1 to 3

(1) The requisite EC details for the purposes of paragraphs 1 and 2 above are—

- (a) the member State in which the branch is to be or has been established (“the member State of the branch”);
- (b) the address of the branch and confirmation that it is an address for service on the insurer's authorised agent;
- (c) the name of the insurer's authorised agent and, in the case of a member of Lloyd's, confirmation that the authorised agent has power to accept service of proceedings on behalf of Lloyd's;
- (d) the classes or parts of classes of business to be carried on, and nature of the risks or commitments to be covered, in the member State of the branch;
- (e) details of the structural organisation of the branch;
- (f) the guiding principles as to reinsurance of business to be carried on in the member State of the branch, including the insurer's maximum retention per risk or event after all reinsurance ceded;
- (g) estimates of the following, namely—
 - (i) the costs of installing administrative services and the organisation for securing business in the member State of the branch;
 - (ii) the resources available to cover those costs; and
 - (iii) if risks within class 18 of Schedule 2 to this Act are to be covered, the resources available for providing assistance;
- (h) for each of the first three financial years following the establishment of the branch—
 - (i) estimates of the insurer's margin of solvency and the margin of solvency required, and a statement showing how both have been calculated;
 - (ii) in the case of an insurer which intends to carry on long term business, the details mentioned in sub-paragraph (2) below as respects the business to be carried on in the member State of the branch; and

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

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- (i) the technical bases which the actuary appointed in accordance with section 19 above proposes to use for each class of business to be carried on in the member State of the branch, including the bases needed for calculating premium rates and mathematical reserves;
 - (ii) a statement by the actuary so appointed as to whether he considers that the premium rates which will be used in the member State of the branch are suitable;
 - (iii) a statement by that actuary as to whether he agrees with the information provided under sub-paragraphs (1)(f) and (2)(b) and (c) above; and
 - (iv) the technical bases used to calculate the statements and estimates referred to in sub-paragraph (2) above; and
- (g) in the case of a company which intends to carry on general business, copies or drafts of any agreements which the company will have with main agents in the member State of the branch.
- (5) In this paragraph “authorised agent” means an agent or employee of the insurer who has authority—
- (a) to bind the insurer in its relations with third parties; and
 - (b) to represent the insurer in its relations with supervisory authorities and courts in the member State of the branch.

Requirements for providing insurance

- (1) A UK insurer shall not provide insurance of any class or part of a class in a member State other than the United Kingdom unless the insurer is authorised under section 3 or 4 above to carry on insurance of that class or part of a class or is a member of Lloyd’s and either—
- (a) the requirements of this paragraph have been complied with in relation to the provision of the insurance in that member State; or
 - (b) the insurance is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer.
- (2) The requirements of this paragraph are—
- (a) that the insurer has given to the Secretary of State a notice containing the requisite details; and
 - (b) that the Secretary of State has given to the supervisory authority in the member State in which the insurance is to be provided—
 - (i) a notice which contains the requisite details; and
 - (ii) a certificate in accordance with sub-paragraph (3) below.
- (3) A certificate is in accordance with this sub-paragraph if it—
- (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate—
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in the United Kingdom.
- (4) Where the insurer intends to provide insurance in more than one member State, the requisite details may be contained in a single notification but must be set out separately in relation to each member State.

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(5) The Secretary of State shall, within the period of one month beginning with the date on which the insurer's notice was received—

- (a) give the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the insurer intends to provide insurance; or
- (b) refuse to give either or both of those documents.

(6) The Secretary of State shall, within the period of one month referred to in sub-paragraph (5) above, notify the insurer—

- (a) that he has given the notice and certificate referred to in sub-paragraph (2)(b) above to the supervisory authority in the member State in which the insurer intends to provide insurance, stating the date on which he did so; or
- (b) that he has refused to give either or both those documents, stating the reasons for the refusal.

(7) In the case of a UK company, the Secretary of State shall not refuse to give the notice referred to in sub-paragraph (2)(b) above unless, having regard to the insurance to be provided in the member State, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

(1) A UK insurer shall not change the requisite details of the provision of insurance in a member State other than the United Kingdom unless the requirements of this paragraph have been complied with in relation to its making of the change.

(2) The requirements of this paragraph are—

- (a) that the insurer has given a notice to the Secretary of State stating the details of the proposed change;
- (b) that the Secretary of State has sent to the supervisory authority in the member State in which the insurance is provided a notice in accordance with sub-paragraph (4)(a) below.

(3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable give a notice to the Secretary of State stating the details of the change.

(4) The Secretary of State shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) above either—

- (a) give notice to the supervisory authority in the member State in which the insurance is provided informing it of the proposed change; or
- (b) refuse to give such notice.

(5) The Secretary of State shall, as soon as practicable after making a decision under sub-paragraph (4) above, notify the insurer—

- (a) that he has given the notice referred to in that sub-paragraph, stating the date on which he did so; or
- (b) that he has refused to give the notice, stating the reasons for the refusal.

(6) In the case of a UK company, the Secretary of State shall not refuse to give the notice referred to in sub-paragraph (4)(a) above unless, having regard to the proposed change, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the company.

Requisite details for purposes of paragraphs 5 and 6

7. The requisite details for the purposes of paragraphs 5 and 6 above are—

- (a) the member State in which the insurance is to be provided;

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- (b) the nature of the risks or commitments which the insurer proposes to cover in that State;
- (c) in the case of an insurer which intends to provide insurance to cover relevant motor vehicle risks—
 - (i) a notice stating the name and address of the claims representative; and
 - (ii) a declaration that the insurer has become a member of the national bureau and the national guarantee fund in that State; and
- (d) in the case of an insurer which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.

Requirement to notify cessation of insurance business etc.

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

PART II

UK INSURERS PROVIDING INSURANCE IN EFTA STATES

Notification to Secretary of State

- (1) Where a UK insurer intends to provide insurance in an EFTA State, it shall before doing so notify the Secretary of State in writing of its intention.
- (2) The notification shall indicate—
 - (a) the EFTA State in which the insurance is to be provided,
 - (b) the EEA State in which is situated the establishment through which the insurance will be provided (“the EEA State of establishment”), and
 - (c) the nature of the risks or commitments which the insurer proposes to cover.
- (3) Where the insurer intends to provide insurance in more than one EFTA State, the information specified above may be contained in a single notification but must be set out separately in relation to each such State.
- (4) Where a UK insurer has duly notified the Secretary of State of its intention to provide insurance in an EFTA State where administrative authorisation is required for the provision of insurance, then, if the original notification related—
 - (a) only to risks or commitments in respect of which such authorisation is required, or
 - (b) only to risks or commitments in respect of which such authorisation is not required,and the insurer subsequently intends to extend its activities to risks falling within the other category, it shall before doing so comply with sub-paragraphs (1) to (3) above in relation to those risks or commitments.

(5) Any insurance which is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

Issue of certificates by Secretary of State

(1) A UK insurer which intends to provide insurance in an EFTA State may apply to the Secretary of State for a certificate—

- (a) attesting that the insurer possesses for its activities as a whole the minimum solvency margin calculated in accordance with the relevant provisions;
- (b) indicating the classes of business which the insurer is authorised to carry on in the United Kingdom;
- (c) stating that the Secretary of State does not object to the insurer providing the insurance; and
- (d) in the case of a company, attesting that the company's authorisation to carry on business in the United Kingdom, issued in accordance with Article 7(1) of the relevant Directive, enables the company to carry on business outside the EEA State of establishment.

(2) If it appears to the Secretary of State that a certificate applied for under sub-paragraph (1) above ought to be issued, he shall issue the certificate accordingly.

(3) If the Secretary of State refuses to issue a certificate, he shall inform the company in writing of his decision and of the reasons for it.

(4) In sub-paragraph (1) above “the relevant Directive” and “the relevant provisions” mean respectively—

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

PART III

UK INSURERS PROVIDING INSURANCE IN THE UNITED KINGDOM THROUGH BRANCHES IN OTHER EEA STATES

(1) Where a UK insurer intends to provide insurance in the United Kingdom, it shall before doing so notify the Secretary of State in writing of its intention.

(2) The notification shall indicate—

- (a) the EEA State in which is situated the branch through which the company intends to provide insurance in the United Kingdom; and
- (b) the nature of the risks or commitments which the insurer proposes to cover in the United Kingdom.

(3) Where the EEA State in which is situated the branch through which the company intends to provide insurance in the United Kingdom is an EFTA State, the notification shall be accompanied by a certificate, issued by the supervisory authority in that State, which—

- (a) indicates the classes of insurance business which the company has been authorised to undertake through that branch;
- (b) states that the authority does not object to the company providing insurance in the United Kingdom; and

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- (c) where the company intends to provide long term insurance in the United Kingdom, confirms that all the commitments which the company intends to cover fall within the classes of insurance business which the company has been authorised to undertake through that branch.
- (4) The insurer shall notify the Secretary of State in writing if—
 - (a) it changes either of the details notified to the Secretary of State under sub-paragraph (2) above; or
 - (b) it ceases to provide insurance in the United Kingdom.
- (5) Any insurance which is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

PART IV

SUPPLEMENTAL Offences

- (1) A UK insurer commits an offence if—
 - (a) it carries on insurance business in a member State other than the United Kingdom in contravention of paragraph 1 above;
 - (b) in contravention of paragraph 2 or 3 above, it changes the requisite EC details or, as the case may be, the requisite UK details of a branch established by it in such a member State;
 - (c) it provides insurance in such a member State in contravention of paragraph 5 above;
 - (d) in contravention of paragraph 6 above, it changes the requisite details relating to the provision of insurance in such a member State; or
 - (e) it makes default in complying with, or with a requirement imposed under, any other provision of this Schedule.
- (2) A person commits an offence if he causes or permits to be included in a notification sent to the Secretary of State under paragraph 1, 2, 3, 5 or 6 above a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person committing an offence under this paragraph is liable on summary conviction to a fine not exceeding level 5 on the standard scale.

Interpretation

- (1) In this Schedule—
 - “direct insurance business” means insurance business other than reinsurance business;
 - “health insurance risks”, in relation to a member State, means risks falling within class 2 of Schedule 2 to this Act (sickness) where—
 - (a) insurance contracts covering those risks serve as a partial or complete alternative to the health cover provided by the statutory social security system in that State; and
 - (b) the law of that State requires such contracts to be operated on a technical basis similar to life assurance in accordance with all the conditions listed in the first sub-paragraph of Article 54(2) of the third general insurance Directive;
 - “national bureau”, in relation to a member State, means a professional organisation—

- (a) which has been constituted in that State in accordance with Recommendation No 5 adopted on 25th January 1949 by the Road Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe; and
- (b) which groups together insurance undertakings which in that State are authorised to conduct the business of motor vehicle liability insurance;

“national guarantee fund”, in relation to a member State, means a body—

- (a) which has been set up or authorised in that State in accordance with Article 1(4) of Council Directive 84/5/EEC(30); and
- (b) which provides compensation for damage to property or personal injuries caused by unidentified vehicles or vehicles for which the insurance obligation provided for in Article 1(1) of that Directive has not been satisfied;

“UK insurer” means a UK company or a member of Lloyd's.

(2) In this Schedule—

- (a) references in Part I to the provision of insurance in a member State other than the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that member State through an establishment in another member State;
- (b) references in Part II to the provision of insurance in an EFTA State are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that EFTA State through an establishment in another EEA State;
- (c) references in Part III to the provision of insurance in the United Kingdom are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in the United Kingdom—
 - (i) through an establishment in another member State; or
 - (ii) through an establishment in an EFTA State.

(3) In sub-paragraph 2(b) and (c)(ii) above—

- (a) references to a risk do not include a risk falling within any of the following classes of Schedule 2 to this Act (general business), namely—
 - class 1, so far as it relates to accidents at work;
 - classes 9 and 13, so far as they relate to the compulsory insurance of building works;
 - class 13, so far as it relates to nuclear civil liability and pharmaceutical product liability; and
- (b) references to a commitment do not include a commitment falling within any of classes VII, VIII and IX of Schedule 1 to this Act (long term insurance).”

(30) O.J. L8, 11.1.84, page 17.

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SCHEDULE 8

Regulation 68.

MINOR AND CONSEQUENTIAL AMENDMENTS

PART I

PRIMARY LEGISLATION

Judicial Pensions Act (Northern Ireland) 1951 (c. 20 (N.I.))

1.—(1) Section 11A(2) of the Judicial Pensions Act (Northern Ireland) 1951(**31**) (voluntary contributions) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

(2) In Schedule 2A to the Judicial Pensions Act (Northern Ireland) 1951(**32**) (transfer of accrued benefits), paragraph 1 shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act (or any similar previous enactment) to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))

2.—(1) Section 127A(2) of the County Courts Act (Northern Ireland) 1959(**33**) (voluntary contributions) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

(2) In Schedule 2A to the County Courts Act (Northern Ireland) 1959(**34**) (transfer of accrued benefits), paragraph 1 shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act (or any similar previous enactment) to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

Resident Magistrates' Pensions Act (Northern Ireland) 1960 (c. 2 (N.I.))

3.—(1) Section 9A(2) of the Resident Magistrates' Pensions Act (Northern Ireland) 1960(**35**) (voluntary contributions) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

(2) In Schedule 3 to the Resident Magistrates' Pensions Act (Northern Ireland) 1960(**36**) (transfer of accrued benefits), paragraph 1 shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act (or any similar previous enactment) to carry on

(31) Section 11A was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 6.

(32) Schedule 2A was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 5 and Schedule 2.

(33) Section 127A was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 6.

(34) Schedule 2A was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 5 and Schedule 2.

(35) Section 9A was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 6.

(36) Schedule 3 was inserted by the Judicial Pensions (Northern Ireland) Order 1991 (S.I. 1991/2630 (N.I.24)), Article 5 and Schedule 2.

ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

Solicitors Act 1974 (c. 47)

4. Section 23(2) of the Solicitors Act 1974(37) (unqualified person not to prepare papers for probate etc.) shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act included a reference to an EC company lawfully carrying on insurance business in the United Kingdom.

Policyholders Protection Act 1975 (c. 75)

5.—(1) Section 3(2) of the Policyholders Protection Act 1975(38) (authorised insurance companies) shall have effect as if the reference to being authorised under section 3 or 4 of the Insurance Companies Act 1982 to carry on insurance business of any class in the United Kingdom included a reference to being an EC company which is lawfully carrying on insurance business of any class in the United Kingdom.

(2) After subsection (2) of section 21 of that Act (levies on authorised insurance companies)insert—

“(2A) The Board may, with the consent of the Secretary of State, waive (in whole or in part) any levy imposed under subsection (1) or (2) above on an EC company if it considers it appropriate to do so, having regard to the extent to which provision is made for the indemnification of qualifying policyholders—

- (a) under the law of the member State in which the head office of the EC company is situated; or
- (b) by virtue of any arrangements which are in force in that State.

(2B) In subsection (2A) above—

‘EC company’ has the same meaning as in the Insurance Companies Act 1982;

‘qualifying policyholder’ means a policyholder who is eligible for the assistance or protection of the Board in accordance with any provision of sections 6 to 16 above.”

Housing (Northern Ireland) Order 1981 (S.I. 1981/156 (N.I.3))

6. In Schedule 10 to the Housing (Northern Ireland) Order 1981 (institutions recognised for purposes of Article 153), paragraph 5 shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Judicial Pensions Act 1981 (c. 20)

7.—(1) Section 33A(2) of the Judicial Pensions Act 1981(39) (voluntary contributions) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

(37) Section 23 was substituted by the Courts and Legal Services Act 1990 (c. 41), section 54.

(38) Section 3(2) has been amended by the Insurance Companies Act 1980 (c. 25), section 4 and Schedules 3 and 5, the Insurance Companies Act 1981 (c. 31), section 36 and Schedule 4 and the Insurance Companies Act 1982 (c. 50), section 99(2) and Schedule 5.

(39) Section 33A was inserted by the Courts and Legal Services Act 1990 (c. 41), section 82(1).

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(2) In Schedule 1A to the Judicial Pensions Act 1981(40) (transfer of accrued benefits), paragraph 1 shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act (or any similar previous enactment) to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

Data Protection Act 1984 (c. 35)

8. Section 30 of the Data Protection Act 1984 (exemption for regulation of financial services etc.) shall have effect as if the reference in subsection (1) to prejudicing the proper discharge of statutory functions to which that section applies included a reference to contravening—

- (a) Article 16 of Council Directive 92/49/EEC of 18 June 1992; or
- (b) Article 15 of Council Directive 92/96/EEC of 10 November 1992.

Companies Act 1985 (c. 6)

9.—(1) The following provisions of the Companies Act 1985, namely—

- (a) section 246(4)(41) (exemptions for small and medium-sized companies);
- (b) section 248(2)(42) (exemptions for small and medium-sized groups); and
- (c) section 450(1)(43) (punishment for destroying, mutilating etc. company documents),

shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company lawfully carrying on insurance business in the United Kingdom.

(2) In subsection (1) of section 449 of the Companies Act 1985 (provision for security of information obtained), in paragraph (cc)(44), for the words “under section 44” substitute the words “or appointed under section 43A or 44”.

(3) In subsection (3) of section 451A of that Act(45) (disclosure of information by Secretary of State or inspector), in paragraph (b), for the words “under section 44” substitute the words “or appointed under section 43A or 44”.

(4) In subsection (3) of section 452 of that Act(46) (privileged information), for the words “section 44(2) to (4)” substitute the words “section 43A or 44(2) to (4)”.

(5) In subsection (1) of section 460 of that Act (order on application of Secretary of State), for the words “section 44(2) to (6)” substitute the words “section 43A or 44(2) to (6)”.

(6) In the case of an EC company, section 720 of that Act (certain companies to publish periodical statement) does not apply if the company complies with provisions of law of its home State as to the accounts and balance sheet to be prepared annually and deposited with the supervisory authority in that State by such a company.

(40) Schedule 1A was inserted by the Courts and Legal Services Act 1990 (c. 41), section 81 and Schedule 23.

(41) Section 246 was inserted by the Companies Act 1989 (c. 40), section 13(1).

(42) Section 248 was inserted by the Companies Act 1989 (c. 40), section 13(3).

(43) Section 450(1) was amended by the Companies Act 1989 (c. 40), section 66.

(44) Paragraph (cc) of section 449(1) was inserted by the Companies Act 1989 (c. 40), section 65.

(45) Section 451A was inserted by the Financial Services Act 1986 (c. 60), section 182 and Schedule 13, para 10 and amended by the Companies Act 1989 (c. 40), section 68.

(46) Section 452 was amended by the Companies Act 1989 (c. 40), section 69.

Housing Act 1985 (c. 68)

10. Section 622 of the Housing Act 1985 (minor definitions: general) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Housing Associations Act 1985 (c. 69)

11. Section 106(1) of the Housing Associations Act 1985 (minor definitions: general) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Financial Services Act 1986 (c. 60)

12. Section 134 of the Financial Services Act 1986 (which is superseded by regulations 50 and 52 above) shall cease to have effect.

Companies (Northern Ireland) Order 1986 (S.I. 1986/1032 (N.I.6))

13.—(1) The following provisions of the Companies (Northern Ireland) Order 1986, namely—

- (a) Article 254(4)(**47**) (exemptions for small and medium-sized companies);
- (b) Article 256(2)(**48**) (exemption for small and medium-sized groups); and
- (c) Article 443(1)(**49**) (punishment for destroying, mutilating etc. company documents),

shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business in the United Kingdom.

(2) In paragraphs (1)(cc) and (3)(c) of Article 442 of that Order(**50**) (provision for security of information obtained), for the words “under section 44” substitute the words “or appointed under section 43A or 44”.

(3) In paragraph (3)(b) of Article 444A of that Order(**51**) (disclosure of information by Department or inspector), for the words “under section 44” substitute the words “or appointed under section 43A or 44”.

(4) In paragraph (3) of Article 445 of that Order(**52**) (privileged information), for the words “section 42(2) to (4)” substitute the words “section 43A or 44(2) to (4)”.

(5) In paragraph (1)(a) of Article 453 of that Order (order on application of Department), for the words “section 42(2) to (6)” substitute the words “section 43A or 44(2) to (6)”.

(6) In the case of an EC company, Article 669 of that Order (certain companies to publish periodical statement) does not apply if the company complies with provisions of law of its home State as to the accounts and balance sheet to be prepared annually and deposited with the supervisory authority in that State by such a company.

(47) Article 254 was substituted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I.5)), Article 15(1).

(48) Article 256 was substituted by the Companies (Northern Ireland) Order 1990 (S.I. 1990/593 (N.I.5)), Article 15(3).

(49) Article 443 was amended by the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I.10)), Article 14.

(50) Article 442 was amended by the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I.10)), Article 13.

(51) Article 444A was substituted by the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I.10)), Article 16.

(52) Article 445 was amended by the Companies (No. 2) (Northern Ireland) Order 1990 (S.I. 1990/1504 (N.I.10)), Article 17.

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Banking Act 1987 (c. 22)

14.—(1) In subsection (1) of section 84 of the Banking Act 1987(**53**) (disclosure for facilitating discharge of functions by other supervisory authorities), in entry No.4 in the Table, for the words “authorised by the Secretary of State under section 44” substitute the words “appointed or authorised by the Secretary of State under section 43A or 44”.

(2) In Schedule 2 to the Banking Act 1987 (exempted persons), paragraph 8 shall have effect as if the reference to an institution which is for the time being authorised under section 3 or 4 of the 1982 Act to carry on insurance business of a class specified in Schedule 1 or 2 to that Act included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Housing (Scotland) Act 1987 (c. 26)

15. Section 338 of the Housing (Scotland) Act 1987 (interpretation) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Criminal Justice Act 1987 (c. 38)

16. In subsection (6) of section 3 of the Criminal Justice Act 1987 (disclosure of information), in paragraph (k), for the words “section 44(2)” substitute the words “section 43A or 44(2)”.

Criminal Justice (Scotland) Act 1987 (c. 41)

17. In subsection (5) of section 54 of the Criminal Justice (Scotland) Act 1987 (disclosure of information), in paragraph (l), for the words “section 44(2)” substitute the words “section 43A or 44(2)”.

Companies Act 1989 (c. 40)

18. In subsection (4) of section 87 of the Companies Act 1989 (exceptions from restrictions on disclosure), in the third entry in the Table, for the words “under section 44” substitute the words “or appointed under section 43A or 44”.

Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (c. 40)

19. Subsection (2) of section 19 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 (executory services by recognised financial institutions) shall have effect as if the reference to an insurance company which is authorised under section 3 or 4 of the 1982 Act included a reference to an EC company which is lawfully carrying on insurance business in the United Kingdom.

Courts and Legal Services Act 1990 (c. 41)

- 20.** The following provisions of the Courts and Legal Services Act 1990, namely—
- (a) section 37(8) (authorisation of practitioners); and
 - (b) section 48(4) (investigations on behalf of the Board),

(53) Subsection (1) was amended by [S.I. 1987/1292](#), Article 2 and [S.I. 1992/3218](#), reg 39(1).

shall have effect as if the reference to an insurance company which is authorised under section 3 or 4 of the 1982 Act included a reference to an EC company which is lawfully carrying on insurance business in the United Kingdom.

Northern Ireland (Emergency Provisions) Act 1991 (c. 24)

21. In paragraph 6(2)(k) of Schedule 5 to the Northern Ireland (Emergency Provisions) Act 1991 (restriction on disclosure of information), for the words “section 44(2)” substitute the words “section 43A or 44(2)”.

Judicial Pensions and Retirement Act 1993 (c. 8)

22.—(1) Section 10(4) of the Judicial Pensions and Retirement Act 1993 (additional benefits from voluntary contributions) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

(2) In Schedule 2 to the Judicial Pensions and Retirement Act 1993 (transfer of accrued benefits), paragraph 1 shall have effect as if the reference to an insurance company authorised under section 3 or 4 of the 1982 Act (or any similar previous enactment) to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

PART II

SUBORDINATE LEGISLATION

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (S.I. 1975/1023)

23.—(1) In Part III of Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (regulated occupations), paragraph 3 shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company lawfully carrying on insurance business in the United Kingdom.

(2) In Part IV of that Schedule (interpretation), the definition of “insurance company” shall have effect as if the reference to section 7 of the 1982 Act were a reference to sections 96C and 96D of that Act.

British Railways Board (Winding up of Closed Pension Funds) Order 1978 (S.I. 1978/1358)

24. Article 1 of the British Railways Board (Winding up of Closed Pension Funds) Order 1978 (commencement, citation and interpretation) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies and which is authorised by or under section 3 or 4 of that Act to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

Rehabilitation of Offenders Act 1974 (Exceptions) Order (Northern Ireland) 1979 (S.R. 1979/195)

25. In Part III of Schedule 1 to the Rehabilitation of Offenders Act 1974 (Exceptions) Order (Northern Ireland) 1979 (regulated occupations), paragraph 2 shall have effect as if the reference

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to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company lawfully carrying on insurance business in the United Kingdom.

Mortgage Indemnities (Recognised Bodies) Order 1984 (S.I. 1984/1555)

26. Schedule 2 to the Mortgage Indemnities (Recognised Bodies) Order 1984 shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Building Societies (Mobile Home Loans) Order 1986 (S.I. 1986/1877)

27. Article 2 of the Building Societies (Mobile Home Loans) Order 1986 (interpretation) shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Local Authorities (Recognised Bodies for Heritable Securities Indemnities)M (Scotland) Order 1987 (S.I. 1987/1388 (S.104))

28. In Schedule 2 to the Local Authorities (Recognised Bodies for Heritable Securities Indemnities) (Scotland) Order 1987 (classes or descriptions of bodies designated for the purposes of section 31 of the Tenants' Rights, etc.(Scotland) Act 1980), paragraph 1 shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Housing Corporation (Recognised Bodies for Heritable Securities Indemnities) (Scotland) Order 1987 (S.I. 1987/1389 (S.105))

29. In Schedule 2 to the Housing Corporation (Recognised Bodies for Heritable Securities Indemnities) (Scotland) Order 1987 (classes or descriptions of bodies designated for the purposes of section 86 of the Housing Associations Act 1985), paragraph 1 shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies included a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Local Government Superannuation (Scotland) Regulations 1987 (S.I.1987/1850 (S.128))

30. In Schedule 7A to the Local Government Superannuation (Scotland) Regulations 1987(**54**) (additional voluntary contributions), paragraph 11 shall have effect as if the reference to a person authorised under section 3 or 4 of the 1982 Act to carry on long term business and acting through a branch or agency in the United Kingdom included a reference to an EC company which is lawfully carrying on long term insurance business, or providing long term insurance, in the United Kingdom.

Banking Act 1987 (Advertisements) Regulations 1988 (S.I. 1988/645)

31. Regulation 2(3) of the Banking Act 1987 (Advertisements) Regulations 1988 (application of regulations) shall have effect as if the reference to a body authorised under section 3 or 4 of the 1982 Act to carry on insurance business of a class specified in Schedule 1 or 2 to that Act included

(54) Schedule 7A was inserted by S.I. 1989/802 (S.80), reg 43 and Schedule 1.

a reference to an EC company which is lawfully carrying on insurance business, or providing insurance, in the United Kingdom.

Insurance Companies (Transfer of Long Term Business) Regulations 1990 (S.I. 1990/1207)

32. The Insurance Companies (Transfer of Long Term Business) Regulations 1990 (which are superseded by regulation 28 above) shall cease to have effect.

Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1992 (S.I.1992/2649)

33. Regulation 9 of the Teachers' Superannuation (Additional Voluntary Contributions) (Scotland) Regulations 1992 (investment of contributions) shall have effect as if the reference to a body authorised under section 3 or 4 of the 1982 Act to carry on long term business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business, or providing ordinary long term insurance, in the United Kingdom.

Insurance Companies (Amendment) Regulations 1992 (S.I. 1992/2890)

34. In the Insurance Companies (Amendment) Regulations 1992, regulation 10 (which is superseded by regulation 64 above) shall cease to have effect.

Local Government (Superannuation) Regulations (Northern Ireland) 1992 (S.R. 1992/547)

35. In Schedule 6 to the Local Government (Superannuation) Regulations (Northern Ireland) 1992 (further additional contributions), paragraph 10 shall have effect as if the reference to a person authorised under section 3 or 4 of the 1982 Act to carry on long term business and acting through a branch or agency in the United Kingdom included a reference to an EC company which is lawfully carrying on long term business, or providing long term insurance, in the United Kingdom.

Money Laundering Regulations 1993 (S.I. 1993/1933)

36. In regulation 16(6) of the Money Laundering Regulations 1993 (persons subject to duty to report evidence of money laundering), after paragraph (f) insert—

“(fa) a person appointed under section 43A of the Insurance Companies Act 1982;”.

Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993 (S.I.1993/3252)

37. The following provisions of the Parliamentary Pensions (Additional Voluntary Contributions Scheme) Regulations 1993, namely—

- (a) regulation 6(2) (investment of contributions); and
- (b) regulation 9(2) (purchase of pensions),

shall have effect as if the reference to an insurance company to which Part II of the 1982 Act applies and which is authorised under section 3 or 4 of that Act to carry on ordinary long term insurance business included a reference to an EC company which is lawfully carrying on ordinary long term insurance business in the United Kingdom.