
STATUTORY INSTRUMENTS

1995 No. 3237

The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995

Business which is overseas life assurance business

General

4. In the circumstances prescribed in regulations 5 to 11, any issue as to whether business is overseas life assurance business shall be determined by reference to the matters prescribed in those regulations.

Business other than reinsurance business effected by a company resident in the United Kingdom outside the United Kingdom

- 5.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and
 - (d) the policy or contract was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company—
- (a) in a case where the policy holder is an individual, completes the certificate prescribed in paragraph (3) below, or
 - (b) in a case where the policy holder is not an individual, completes the certificate prescribed in paragraph (4) below.
- (3) The certificate prescribed is a certificate—
- (a) showing the date on which it is given,
 - (b) stating the name of the policy holder,
 - (c) stating any unique identifying designation given to the policy or contract,
 - (d) stating the territory in which the branch is situated,
 - (e) stating that the company has no knowledge of any information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made,
 - (f) stating that to the best of the company's knowledge and belief the policy or contract is not one to which section 431D(2) applies,
 - (g) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), stating that to the best of the company's knowledge and belief the conditions specified in section 431D(5) are fulfilled, and

- (h) where the company makes the statement mentioned in sub-paragraph (g) above, stating that the company is in possession of information enabling it to make that statement, and stating the nature of that information.
- (4) The certificate prescribed is a certificate—
- (a) showing the date on which it is given,
 - (b) stating the name of the policy holder,
 - (c) stating any unique identifying designation given to the policy or contract,
 - (d) stating the territory in which the branch is situated,
 - (e) stating that the company has no knowledge of any information making it reasonable for the company to assume that the policy holder was residing in the United Kingdom at the time the policy or contract was made,
 - (f) stating that to the best of the company's knowledge and belief the policy or contract is one to which either subsection (5) or subsection (7) of section 431D applies,
 - (g) stating that to the best of the company's knowledge and belief the conditions specified in either subsection (5) or subsection (7) of section 431D, as the case may be, are fulfilled, and
 - (h) stating that the company is in possession of information enabling it to make the statement mentioned in sub-paragraph (g) above, and stating the nature of that information.
- (5) A certificate under this regulation shall be given by an employee of the insurance company, and shall show the name of that employee and his position within the company.
- (6) Paragraph (7) below applies in any case where—
- (a) policies or contracts for business to which this regulation applies were effected at or through a particular branch outside the United Kingdom, and
 - (b) those policies or contracts were effected by an insurance company within the same accounting period.
- (7) The insurance company may—
- (a) combine a certificate under paragraph (3) above with another certificate under paragraph (3) above in a single document, or
 - (b) combine a certificate under paragraph (4) above with another certificate under paragraph (4) above in a single document;
- but a certificate under paragraph (3) above shall not be combined with a certificate under paragraph (4) above in a single document.
- (8) The insurance company shall complete the certificate prescribed in this regulation within three months following the end of the insurance company's accounting period in which the policy or contract was made.

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company — policies or contracts made before 1st January 1996

- 6.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the policy or contract was made before 1st January 1996.

- (2) The business shall be overseas life assurance business where the insurance company completes—
 - (a) the certificate prescribed in paragraph (3) below, and
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (4) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (5) below.
- (3) The certificate prescribed is a certificate—
 - (a) stating that to the best of the company’s knowledge and belief the policy holder was not residing in the United Kingdom on the date the policy or contract was made, and
 - (b) specifying the territory in which to the best of the company’s knowledge and belief the policy holder was residing on that date.
- (4) The declaration prescribed is a declaration that to the best of the company’s knowledge and belief—
 - (a) the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (5) The declaration prescribed is a declaration that to the best of the company’s knowledge and belief—
 - (a) the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (6) A certificate or declaration under this regulation shall be given by an employee of the insurance company, and shall show the name of that employee and his position within the company.
- (7) The insurance company shall complete any certificate or declaration prescribed in this regulation either within six months following the end of the insurance company’s accounting period in which the policy or contract was made, or by 1st March 1996, whichever is the later.

Business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company — policies or contracts made on or after 1st January 1996

- 7.—(1) This regulation applies in circumstances where—
 - (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the policy or contract was made on or after 1st January 1996.
- (2) The business shall be overseas life assurance business where the insurance company obtains—
 - (a) the document prescribed in paragraph (3) below from the policy holder, and
 - (b) in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in paragraph (8) below from the trustees of the trust.
- (3) The document prescribed is a document containing—

- (a) the certificate prescribed in paragraph (4) below,
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (5) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (6) below, and
 - (c) the undertaking prescribed in paragraph (7) below.
- (4) The certificate prescribed is a certificate—
- (a) stating that the policy holder was not residing in the United Kingdom on the date the policy or contract was made, and
 - (b) specifying the territory in which the policy holder was residing on that date.
- (5) The declaration prescribed is a declaration—
- (a) that the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (6) The declaration prescribed is a declaration—
- (a) that the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) that the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (7) The undertaking prescribed is an undertaking that the policy holder will notify the company if—
- (a) the policy holder begins residing in the United Kingdom, or
 - (b) the rights conferred by the policy or contract come to be held subject to a trust, or
 - (c) the declaration prescribed in paragraph (5) or (6) above, as the case may be, ceases to be true.
- (8) The certificate prescribed is a certificate stating that —
- (a) the settlor does not reside in the United Kingdom, and
 - (b) each beneficiary is a person within section 431D(5)(c).
- (9) The insurance company shall obtain the document prescribed in paragraph (3) above and, in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in paragraph (8) above, within six months following the end of the insurance company’s accounting period in which the policy or contract was made.

Certain business other than reinsurance business where the company comes into possession of additional information

- 8.—(1) This regulation applies in circumstances where—
- (a) an insurance company has entered into relevant business which is not reinsurance business,
 - (b) that business is with a policy holder not residing in the United Kingdom,
 - (c) the policy or contract for that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
 - (d) the insurance company comes to be in possession of information making it reasonable for the company to assume either that there has been a change in the identity of the policy holder or that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract.

- (2) The business shall continue to be overseas life assurance business where the insurance company obtains—
- (a) the document prescribed in paragraph (3) below from the policy holder, and
 - (b) in any case where section 431D(5) applies, the certificate prescribed in paragraph (8) below from the trustees of the trust.
- (3) The document prescribed is a document containing—
- (a) the certificate prescribed in paragraph (4) below,
 - (b) the declaration prescribed—
 - (i) in a case where the policy holder is an individual, in paragraph (5) below, or
 - (ii) in a case where the policy holder is not an individual, in paragraph (6) below, and
 - (c) the undertaking prescribed in paragraph (7) below.
- (4) The certificate prescribed is a certificate—
- (a) stating that the policy holder was not residing in the United Kingdom—
 - (i) in a case where it is reasonable for the company to assume that there has been a change in the identity of the policy holder, on the date he became the policy holder, or
 - (ii) in a case where it is reasonable for the company to assume that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract, on the date on which he ceased to be beneficially entitled to those rights, and
 - (b) specifying the territory in which the policy holder was residing on that date.
- (5) The declaration prescribed is a declaration—
- (a) that the policy or contract is not one to which section 431D(2) applies, and
 - (b) where the policy or contract is one to which section 431D(2) does not apply solely by virtue of section 431D(5), that the conditions specified in section 431D(5) are fulfilled.
- (6) The declaration prescribed is a declaration—
- (a) that the policy or contract is one to which subsection (5) of section 431D applies and that the conditions specified in that subsection are fulfilled, or
 - (b) that the policy or contract is one to which subsection (7) of section 431D applies and that the conditions specified in that subsection are fulfilled.
- (7) The undertaking prescribed is an undertaking that the policy holder will notify the company if—
- (a) the policy holder begins residing in the United Kingdom, or
 - (b) the rights conferred by the policy or contract come to be held subject to a trust, or
 - (c) the declaration prescribed in paragraph (5) or (6) above, as the case may be, ceases to be true.
- (8) The certificate prescribed is a certificate stating that —
- (a) the settlor does not reside in the United Kingdom, and
 - (b) each beneficiary is a person within section 431D(5)(c).
- (9) The insurance company shall obtain the document prescribed in paragraph (3) above and, in any case where section 431D(5) applies, the certificate prescribed in paragraph (8) above, within six months after the insurance company comes to be in possession of information making it reasonable for the company to assume that there has been a change in the identity of the policy holder or that the policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be.

Reinsurance of business effected by a company resident in the United Kingdom outside the United Kingdom

9.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business,
- (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,
- (c) the underlying policy in relation to that business was effected by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and
- (d) the underlying policy in relation to that business was made on or after 1st January 1996.

(2) The business shall be overseas life assurance business where the insurance company obtains from the cedant company—

- (a) the certificate prescribed in paragraph (3) below, and
- (b) the undertaking prescribed in paragraph (4) below.

(3) The certificate prescribed is a certificate that the cedant company has complied with the requirements of regulation 5(2).

(4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—

- (a) any part of the certificate prescribed in paragraph (3) or (4) of regulation 5, as the case may be, has ceased to be true, or
- (b) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder who was not residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, or
- (c) the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time the underlying policy was made or at any time thereafter.

(5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—

- (a) eight months following the end of the cedant company's accounting period in which the underlying policy was made, or
- (b) three months following the making of the reinsurance arrangement,

whichever is the later.

Reinsurance of business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company

10.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business,
- (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,
- (c) the underlying policy in relation to that business was effected either by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
- (d) the underlying policy in relation to that business was made on or after 1st January 1996.

(2) The business shall be overseas life assurance business where the insurance company obtains from the cedant company—

- (a) the certificate prescribed in paragraph (3) below, and
- (b) the undertaking prescribed in paragraph (4) below.

(3) The certificate prescribed is a certificate that the cedant company either—

- (a) has completed the certificate prescribed in regulation 6(3) and, in any case where section 431D(5) applies, the certificate prescribed in regulation 6(4), or
- (b) has obtained the document prescribed in regulation 7(3) from the underlying policy holder and, in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, the certificate prescribed in regulation 7(8) from the trustees of the trust,

within six months following the end of the cedant company's accounting period in which the underlying policy was made.

(4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—

- (a) any part of the certificate prescribed in regulation 6(3) or any part of the declarations prescribed in paragraphs (4) and (5) of regulation 6 or, as the case may be, any part of the document prescribed in regulation 7(3) has ceased to be true, or
- (b) in any case where section 431D(5) applies and the policy or contract is held otherwise than by the trustees of the trust, any part of the certificate prescribed in regulation 7(8) has ceased to be true, or
- (c) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder who was not residing in the United Kingdom at the time the policy or contract was made or at any time within six months thereafter, or
- (d) the underlying policy holder, not being the person with whom the policy or contract was originally effected, was residing in the United Kingdom at the time the underlying policy was made or at any time thereafter.

(5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—

- (a) nine months following the end of the cedant company's accounting period in which the underlying policy was made, or
- (b) three months following the making of the reinsurance arrangement,

whichever is the later.

Certain reinsurance business where the company comes into possession of additional information

11.—(1) This regulation applies in circumstances where—

- (a) an insurance company has entered into relevant business,
- (b) that business is reinsurance of life assurance business with a policy holder not residing in the United Kingdom,
- (c) the underlying policy in relation to that business was effected by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and
- (d) the insurance company comes to be in possession of information making it reasonable for the company to assume either that there has been a change in the identity of the underlying

policy holder or that the underlying policy holder has ceased to be beneficially entitled to the rights conferred by the policy or contract.

(2) The business shall continue to be overseas life assurance business where the insurance company obtains from the cedant company—

- (a) the certificate prescribed in paragraph (3) below, and
- (b) the undertaking prescribed in paragraph (4) below.

(3) The certificate prescribed is a certificate that the cedant company has obtained the document prescribed in regulation 8(3) from the policy holder and, in any case where section 431D(5) applies, the certificate prescribed in regulation 8(8) from the trustees of the trust, within six months after the cedant company came to be in possession of information making it reasonable for the cedant company to assume that there had been a change in the identity of the policy holder or that the policy holder had ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be.

(4) The undertaking prescribed is an undertaking that the cedant company will notify the insurance company if the cedant company comes to be in possession of information making it reasonable for the cedant company to assume that—

- (a) any part of the document prescribed in regulation 8(3) has ceased to be true, or
- (b) in any case where section 431D(5) applies, any part of the certificate prescribed in regulation 8(8) has ceased to be true, or
- (c) the underlying policy in relation to the business has ceased to be life assurance business with a policy holder not residing in the United Kingdom.

(5) The insurance company shall obtain the certificate prescribed in paragraph (3) above and the undertaking prescribed in paragraph (4) above within—

- (a) six months following the end of the cedant company's accounting period in which there was a change in the identity of the policy holder or the policy holder ceased to be beneficially entitled to the rights conferred by the policy or contract, as the case may be, or
- (b) three months following the making of the reinsurance arrangement,

whichever is the later.