

2005 No. 1985

INSURANCE

The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) (Amendment) Regulations 2005

<i>Made</i> - - - -	<i>13th July 2005</i>
<i>Laid before Parliament</i>	<i>20th July 2005</i>
<i>Coming into force</i> - -	<i>1st October 2005</i>

The Secretary of State, being a Minister designated(a) for the purposes of section 2(2) of the European Communities Act 1972(b) in relation to measures relating to the drawing up, auditing and publication of accounts by insurance undertakings, in exercise of the powers conferred by that section and of all other powers enabling him in that behalf, hereby makes the following Regulations:

Citation, commencement and interpretation

1.—(1) These Regulations may be cited as the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) (Amendment) Regulations 2005 and come into force on 1st October 2005.

(2) These Regulations have effect as respects financial years which begin on or after 1st January 2005 and which end on or after 1st October 2005.

(3) In these Regulations—

“the 1985 Act” means the Companies Act 1985(c), and

“the principal regulations” means the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993(d).

Amendment of regulation 3 of the principal regulations (preparation of accounts)

2.—(1) Regulation 3 of the principal regulations (preparation of accounts by qualifying bodies) is amended as follows.

(2) In paragraph (3)—

(a) in sub-paragraph (d)—

(i) at the beginning insert “where Companies Act group accounts are prepared,”, and

(ii) for “13(3) to (5)” substitute “13(3) and (5)”(e),

(a) S.I. 1992/2870.

(b) 1972 c.68.

(c) 1985 c.6.

(d) S.I. 1993/3245, as amended by article 450 of S.I. 2001/3649, by regulation 8 of S.I. 2004/3379 and by regulation 18 of S.I. 2004/3219.

(e) Paragraph 13(4) of Schedule 4A to the 1985 Act was repealed by regulation 14(2) of, and paragraph 4(2) of Schedule 2 to, S.I. 1996/189.

- (b) in sub-paragraph (e), for “paragraphs 4, 5, 10, 12, 18, 19 and 29” substitute “paragraphs 4 and 12”(a),
- (c) in sub-paragraph (f), for “paragraphs 2 to 6” substitute “paragraphs 2”(b),
- (d) in sub-paragraph (g), for “paragraph 6” substitute “paragraphs 5A and 6”(c), and
- (e) in sub-paragraph (h)—
 - (i) at the beginning insert “where Companies Act individual accounts are prepared,” and
 - (ii) omit “70(3)(b),”(d).

Amendment of regulation 6 of the principal regulations (penalties for non-compliance)

3.—(1) Regulation 6 of the principal regulations (penalties for non-compliance)(e) is amended as follows.

- (2) In paragraph (1)(a), at the end omit “, or”.
- (3) In paragraph (2)(a), at the end omit “, or”.
- (4) In paragraph (3)—
 - (a) in sub-paragraph (a), at the end omit “, or”; and
 - (b) after “the body” omit “or Council”.

Amendment of the Schedule to the principal regulations (modifications of certain enactments in their application to industrial and provident societies)

4.—(1) The Schedule to the principal regulations is amended as follows.

(2) For paragraph 1 substitute—

“1. In its application to industrial and provident societies which prepare accounts under the provisions of these Regulations, the Friendly and Industrial and Provident Societies Act 1968 shall have effect subject to the modifications made by paragraphs 3 to 7 below.”

(3) Omit paragraph 2.

(4) After paragraph 6 insert—

“7. In section 3A of the Friendly and Industrial and Provident Societies Act 1968, for subsections (2) to (12) substitute—

“(2) If a society publishes any of its statutory accounts, they must be accompanied by the relevant auditors’ report under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993.

(3) A society which is required to prepare group accounts for a financial year shall not publish its statutory individual accounts for that year without also publishing with them its statutory group accounts.

(4) If a society publishes non-statutory accounts, it shall publish with them a statement indicating—

- (a) that they are not the society’s statutory accounts,
- (b) whether statutory accounts dealing with any financial year with which the non-statutory accounts purport to deal have been delivered to the Authority,

(a) Paragraphs 5, 10, 18, 19 and 29 of Schedule 5 to the 1985 Act were repealed by regulation 14(3) of, and paragraphs 5, 10, 15, 16 and 23 of Schedule 3 to, S.I. 1996/189.

(b) Paragraph 2 of Schedule 6 to the 1985 Act was substituted for paragraphs 2 to 6 by regulation 3 of S.I. 1997/570.

(c) Paragraph 5A was inserted by regulation 13(1) of S.I. 2004/2947.

(d) Paragraph 70(3)(b) was repealed by regulation 14(7) of, and paragraph 12 of Schedule 5 to, S.I. 1996/189.

(e) Regulation 6 was amended by regulation 18 of S.I. 2004/3219.

- (c) whether the society's auditors have made a report under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993,
- (d) whether any such auditors' report—
 - (i) was qualified or unqualified, or included a reference to any matters to which the auditors drew attention by way of emphasis without qualifying the report, or
 - (ii) contained a statement under section 237(2) or (3) of the Companies Act 1985 as applied to industrial and provident societies by the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 (accounting records or returns inadequate, accounts not agreeing with records and returns or failure to obtain necessary information and explanations),

and it shall not publish with the non-statutory accounts any auditors' report under the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993.

(5) For the purposes of this section a society shall be regarded as publishing a document if it publishes, issues or circulates it or otherwise generally makes it available for public inspection in a manner calculated to invite members of the public generally, or any class of members of the public, to read it.

(6) References in this section to a society's statutory accounts are to its individual or group accounts for a financial year as required to be prepared by the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993; and references to the publication by a society of "non-statutory accounts" are to the publication of—

- (a) any balance sheet or profit and loss account relating to, or purporting to deal with, a financial year of the society, or
- (b) an account in any form purporting to be a balance sheet or profit and loss account for the group consisting of the society and its subsidiary undertakings relating to, or purporting to deal with, a financial year of the society,

otherwise than as part of the society's statutory accounts.””

Gerry Sutcliffe
Parliamentary Under-Secretary of State for
Employment Relations and Consumers
Department of Trade and Industry

13th July 2005

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993 (S.I. 1993/3245) (“the 1993 Regulations”). The 1993 Regulations implemented Council Directive 91/674/EEC of 19th December 1991 on the annual and consolidated accounts of insurance undertakings (Official Journal No. L 374/7 of 31st December 1991) in so far as it applies to bodies corporate or unincorporate other than (a) bodies corporate to which Part 7 of the Companies Act 1985 (“the 1985 Act”) applies and (b) friendly societies.

Regulation 3 of the 1993 Regulations requires the directors of those insurance undertakings defined as “qualifying bodies” in regulation 2 of the 1993 Regulations to prepare accounts and a directors’ report, and to obtain an auditors’ report, in accordance with the provisions of Part 7 of the 1985 Act which are specified in paragraph (3) of that regulation and are applicable to insurance companies and groups. Regulation 7 of, and the Schedule to, the 1993 Regulations make certain modifications of legislation applicable to industrial and provident societies which prepare accounts under the 1993 Regulations.

Part 7 of the 1985 Act has been amended in particular by the Companies Act 1985 (International Accounting Standards and Other Accounting Amendments) Regulations 2004 (S.I. 2004/2947) and by the Companies Act 1985 (Operating and Financial Review and Directors’ Report etc.) Regulations 2005 (S.I. 2005/1011) in order to—

ensure the effective application of, and implement Member State options in, EC Regulation No. 1606/2002 of the European Parliament and of the Council of 19th July 2002 on the application of international accounting standards (Official Journal No. L243/1 of 11th September 2002) (“the IAS Regulation”);

implement Directive 2003/51/EEC of the European Parliament and of the Council of 18th June 2003 amending Directives 78/660/EEC, 83/349/EEC, 86/635/EEC and 91/674/EEC on the annual and consolidated accounts of certain types of companies, banks and other financial institutions and insurance undertakings (Official Journal No. L 178/16 of 17th July 2003 (“the Accounts Modernisation Directive”)).

These Regulations amend the 1993 Regulations in order to ensure the full application to insurance undertakings of the IAS Regulation and Accounts Modernisation Directive and consequentially on amendments to primary legislation applied by the 1993 Regulations.

Further minor amendments to regulation 6 of the 1993 Regulations are made consequential on changes made by the Insurance Accounts Directive (Lloyd’s Syndicate and Aggregate Accounts) Regulations 2004 (S.I. 2004/3219).

Full regulatory impact assessments of the effect that S.I. 2004/2947 and S.I. 2005/1011, and associated instruments such as these Regulations, will have on the costs of business are available from the Department of Trade and Industry, Corporate Law and Governance Directorate, 5th Floor 1 Victoria Street, London SW1H 0ET (they are also available electronically at www.dti.gov.uk/cld). Copies have also been placed in the libraries of both Houses of Parliament.

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