



Finance Act 1997

1997 CHAPTER 16

PART VII

STAMP DUTY AND STAMP DUTY RESERVE TAX

Stamp duty

96 Demutualisation of insurance companies.

- (1) This section applies where there is a relevant transfer, under a scheme, of the whole or any part of the business carried on by a mutual insurance company (“the mutual”) to a company which has share capital (“the acquiring company”).
- (2) Stamp duty shall not be chargeable on an instrument executed for the purposes of or in connection with the transfer if the requirements of subsections (3) and (4) below are satisfied in relation to the shares of a company (“the issuing company”) which is either—
 - (a) the acquiring company; or
 - (b) a company of which the acquiring company is a wholly-owned subsidiary.
- (3) Shares in the issuing company must be offered, under the scheme, to at least 90 per cent. of the persons who immediately before the transfer are members of the mutual.
- (4) Under the scheme, all the shares in the issuing company which will be in issue immediately after the transfer has been made, other than shares which are to be or have been issued pursuant to an offer to the public, must be offered to the persons who (at the time of the offer) are—
 - (a) members of the mutual;
 - (b) persons who are entitled to become members of the mutual; or
 - (c) employees, former employees or pensioners of the mutual or of a company which is a wholly-owned subsidiary of the mutual.
- (5) An instrument on which stamp duty is not chargeable by virtue only of subsection (2) above shall not be taken to be duly stamped unless it is stamped with the duty to which

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it would be liable but for that subsection or it has, in accordance with section 12 of the ^{M1}Stamp Act 1891, been stamped with a particular stamp denoting that it is not chargeable with any duty.

(6) For the purposes of this section, a company is a wholly-owned subsidiary of another person (“the parent”) if it has no members except the parent and the parent’s wholly-owned subsidiaries or persons acting on behalf of the parent or its wholly-owned subsidiaries.

(7) In this section “relevant transfer” means—

[^{F1}(a) a transfer from a company to another person of business consisting of the effecting or carrying out of contracts of insurance which is effected under an insurance business transfer scheme; or

(b) a transfer of the whole or any part of the business of a general insurance company carried on through a branch or agency in the United Kingdom which takes place in accordance with any authorisation granted outside the United Kingdom [^{F2}for the purposes of Article 39 of the Solvency 2 Directive.]]

(8) In this section—

^{F3}

[^{F4}“contract of insurance” has the meaning given by Article 3(1) of the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001;]

“employee”, in relation to a mutual insurance company or its wholly-owned subsidiary, includes any officer or director of the company or subsidiary and any other person taking part in the management of the affairs of the company or subsidiary;

[^{F5}“general insurance company” means a company which has permission under [^{F6}Part 4A] of the Financial Services and Markets Act 2000 ^{F7}... to effect or carry out contracts of insurance;

“insurance business transfer scheme” has the same meaning as in Part 7 of the Financial Services and Markets Act 2000;

“insurance company” means a company which carries on the business of effecting or carrying out contracts of insurance;]

“mutual insurance company” means an insurance company carrying on business without having any share capital;

^{F8}

^{F9}

“pensioner”, in relation to a mutual insurance company or its wholly-owned subsidiary, means a person entitled (whether presently or prospectively) to a pension, lump sum, gratuity or other like benefit referable to the service of any person as an employee of the company or subsidiary.

[^{F10}“the Solvency 2 Directive” means [Directive 2009/138/EC](#) of the European Parliament and of the Council of 25 November 2009 on the taking-up and pursuit of the business of Insurance and Reinsurance (Solvency II);]

(9) The Treasury may by regulations amend subsection (3) above by substituting a lower percentage for the percentage there mentioned.

(10) The Treasury may by regulations provide that any or all of the references in subsections (3) and (4) above to members shall be construed as references to members of a class specified in the regulations; and different provision may be made for different cases.

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- (11) The power to make regulations under this section shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of the House of Commons.
- (12) This section applies in relation to instruments executed on or after the day on which this Act is passed.

Textual Amendments

- F1** S. 96(7)(a)(b) substituted (1.12.2001 with effect as mentioned in art. 100(4) of the amending S.I.) by [S.I. 2001/3629, art. 100\(2\)](#)
- F2** Words in s. 96(7)(b) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\), reg. 1\(2\), Sch. 1 para. 20\(2\)](#)
- F3** Words in s. 96(8) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\), reg. 1\(2\), Sch. 1 para. 20\(3\)\(a\)\(i\)](#)
- F4** Definition of “contract of insurance” in s. 96(8) inserted (1.12.2001 with effect as mentioned in art. 100(4) of the amending S.I.) by [S.I. 2001/3629, art. 100\(3\)\(a\)](#)
- F5** Definitions of “general insurance company”, “insurance business transfer scheme” and “insurance company” in s. 96(8) substituted (1.12.2001 with effect as mentioned in art. 100(4) of the amending S.I.) for the definition of “insurance company” by [S.I. 2001/3629, art. 100\(3\)\(b\)](#)
- F6** Words in s. 96(8) substituted (1.4.2013) by [Financial Services Act 2012 \(c. 21\), s. 122\(3\), Sch. 18 para. 83 \(with Sch. 20\); S.I. 2013/423, art. 3, Sch.](#)
- F7** Words in s. 96(8) omitted (31.12.2020) by virtue of [The Taxes \(Amendments\) \(EU Exit\) Regulations 2019 \(S.I. 2019/689\), regs. 1, 7\(2\) \(with regs. 39-41\); 2020 c. 1, Sch. 5 para. 1\(1\)](#)
- F8** Words in s. 96(8) omitted (11.1.2005) by virtue of [The Life Assurance Consolidation Directive \(Consequential Amendments\) Regulations 2004 \(S.I. 2004/3379\), regs. 1, 5\(3\)\(b\)](#)
- F9** Words in s. 96(8) omitted (1.1.2016) by virtue of [The Solvency 2 Regulations 2015 \(S.I. 2015/575\), reg. 1\(2\), Sch. 1 para. 20\(3\)\(a\)\(ii\)](#)
- F10** Words in s. 96(8) inserted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\), reg. 1\(2\), Sch. 1 para. 20\(3\)\(b\)](#)

Marginal Citations

- M1** 1891 c. 39.

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