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STATUTORY INSTRUMENTS

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**1993 No. 3245**

**The Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993**

**Citation, commencement and extent**

1.—(1) These Regulations may be cited as the Insurance Accounts Directive (Miscellaneous Insurance Undertakings) Regulations 1993.

(2) These Regulations shall come into force on the day after the day on which they are made.

(3) These Regulations do not extend to Northern Ireland.

**Interpretation**

2.—(1) In these Regulations—

“the 1985 Act” means the Companies Act 1985(1);

“director” includes, in the case of a body which is not a company, any corresponding officer of that body;

“enactment” includes any subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978(2), other than these Regulations;

“industrial and provident society” means a registered society within the meaning given by section 74 of the Industrial and Provident Societies Act 1965(3);

“qualifying body” shall be construed in accordance with paragraphs (2) and (3) below;

and other expressions shall have the meanings ascribed to them by the 1985 Act.

(2) Subject to paragraph (3) below, a body incorporated in or formed under the law of any part of Great Britain is a qualifying body for the purposes of these Regulations if it—

(a) is incorporated by or registered under any public general Act of Parliament,

(b) is required to be authorised under section 2 of the Insurance Companies Act 1982(4), and

(c) is not required by any enactment to prepare accounts under Part VII of the 1985 Act (accounts and audit).

(3) A body is not a qualifying body for the purposes of these Regulations if it—

(a) is excluded from the scope of Council Directive [73/239/EEC](#)(5) by Article 3 of that Directive, or

(b) is referred to in Article 2(2) or (3) or 3 of Council Directive [79/267/EEC](#)(6).

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(1) 1985 c. 6; the 1985 Act, and in particular Part VII of that Act dealing with accounts and audit, has been substantially amended by the Companies Act 1989 (c. 40) and by the Companies Act 1985 (Insurance Companies Accounts) Regulations 1993 (S.I.1993/3246).

(2) 1978 c. 30.

(3) 1965 c. 12.

(4) 1982 c. 50.

(5) Official Journal No. L228 of 16.8.1973, page 3.

(6) Official Journal No. L63 of 13.3.1979, page 1.

(4) Any reference in these Regulations to the accounts required by or prepared under regulation 3 below are references to the annual accounts, the annual report and the auditors' report required by or prepared under paragraph (1) of that regulation.

### Preparation of accounts by qualifying bodies

3.—(1) The directors of a qualifying body shall in respect of each financial year of the body—

- (a) prepare the like annual accounts and annual report, and
- (b) cause to be prepared such an auditors' report,

as would be required under the provisions mentioned in paragraph (3) below if the body were an insurance company formed and registered under the 1985 Act.

(2) The accounts required by this regulation—

- (a) shall be prepared within the period of 7 months beginning immediately after the end of the body's financial year,
- (b) shall state that they are prepared under this regulation, and
- (c) shall comply with such of the requirements of the provisions mentioned in paragraph (3) below as relate to the contents of accounts or reports subject, where the qualifying body is unincorporated, to any necessary modifications to take account of that fact.

(3) The provisions referred to in paragraphs (1) and (2) above are the following provisions of Part VII of the 1985 Act, namely—

- (a) sections 226 to 237(7) (annual accounts and reports),
- (b) section 242B(8) (delivery and publication of accounts in ECUs),
- (c) sections 255 and 255A(9) (banking and insurance companies and groups),
- (d) Schedule 4A(10) (form and content of group accounts), as modified by Part II of Schedule 9A(11) other than paragraphs 13(3) to (5), 14 and 15,
- (e) Schedule 5(12) (disclosure of information: related undertakings) other than paragraphs 4, 5, 10, 12, 18, 19 and 29,
- (f) Schedule 6(13) (disclosure of information: emoluments and other benefits of directors and others) other than paragraphs 2 to 6, 8 and 9,
- (g) paragraph 6 of Schedule 7(14) (matters to be included in directors' report), and
- (h) Schedule 9A other than paragraphs 10, 56, 61, 63, 64, 65, 70(3)(b), 72(2), 73 and 74, and, in paragraph 2(2), the words from “but the following” to the end.

(4) For the purposes of those provisions as applied to accounts prepared under this regulation, these Regulations shall be regarded as part of the requirements of the 1985 Act.

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- (7) Sections 226 to 237 were inserted by sections 4 to 9 of the Companies Act 1989.
  - (8) Section 242B was inserted by regulation 3 of the Companies Act 1985 (Accounts of Small and Medium-sized Enterprises and Publication of Accounts in ECUs) Regulations 1992 (S.I. 1992/2452).
  - (9) Sections 255 and 255A were inserted by regulation 3 of the Companies Act 1985 (Bank Accounts) Regulations 1991 (S.I. 1991/2705). Section 255A was amended by regulation 5 of the Companies Act 1985 (Disclosure of Branches and Bank Accounts) Regulations 1992 (S.I. 1992/3178). Section 255 is amended, and section 255A further amended, by regulations 2 and 3 of the Companies Act 1985 (Insurance Companies Accounts) Regulations 1993 (S.I. 1993/3246).
  - (10) Schedule 4A was inserted into the 1985 Act by section 5 of, and Schedule 2 to, the 1989 Act.
  - (11) Parts I and II of Schedule 9 to the 1985 Act were formed into a new Schedule numbered 9A by regulation 5(1) of the Bank Accounts Regulations. Regulation 4 of, and Schedule 1 to, the Companies Act 1985 (Insurance Companies Accounts) Regulations 1993 has substituted a new Schedule 9A.
  - (12) Schedule 5 was substituted by section 6 of, and Schedule 3 to, the 1989 Act.
  - (13) Schedule 6 was amended by section 6 of, and Schedule 4 to, the 1989 Act.
  - (14) Schedule 7 was amended by section 8 of, and Schedule 5 to, the 1989 Act.

(5) Part II of the Companies Act 1989 (eligibility for appointment as auditors) shall apply to auditors appointed for the purposes of this regulation subject, where the body concerned is unincorporated, to any necessary modifications to take account of that fact.

(6) In this regulation “financial year”, in relation to a qualifying body, means—

- (a) any period in respect of which a profit and loss account, or in the case of an industrial and provident society, an annual return, of the body is required to be made up by or in accordance with its constitution or by any enactment (whether that period is a year or not); or
- (b) failing any such requirement, each period of 12 months beginning with 1st April.

#### **Preparation of accounts by Council of Lloyd's**

4.—(1) The members of the Council of Lloyd's shall prepare an account in respect of each calendar year by amalgamating all syndicate accounts for that year.

(2) The account required by this regulation—

- (a) shall be prepared within the period of 7 months beginning immediately after the end of the calendar year,
- (b) shall state that it is prepared under this regulation, and
- (c) shall comply with the requirements of paragraphs (3) and (4) below.

(3) The notes to the account shall include details of the following, namely—

- (a) inter-syndicate business, including premiums written and claims paid,
- (b) the method by which run-off accounts are taken into account, and
- (c) the method by which the premium income limit for individual members of Lloyd's syndicates is calculated.

(4) The notes to the account shall state—

- (a) the aggregate amount of members' qualifying assets and how that aggregate amount is divided between—
  - (i) Lloyd's deposits,
  - (ii) personal reserve funds,
  - (iii) special reserve funds, and
  - (iv) other qualifying assets;
- (b) the aggregate amount of Lloyd's central resources and how that aggregate amount is divided between—
  - (i) the net assets of the Central Fund, and
  - (ii) the net assets of the Corporation of Lloyd's;
- (c) the reason why charges to tax are not shown in the account and the basic rate of tax applicable to amounts of tax deducted at source; and
- (d) the estimated average rates of commission and brokerage charged by agents and brokers at Lloyd's.

(5) In this regulation—

“run-off account” means a year of account which has not been closed as at the date at which it would normally have been closed in accordance with the policies and practices generally adopted in respect of the syndicate concerned;

“syndicate accounts” means accounts which are prepared, in accordance with Council Directive 91/674/EEC(15), in respect of syndicates in which members of Lloyd’s participate.

### **Publication of accounts**

5.—(1) A qualifying body shall—

- (a) make available the latest accounts prepared under regulation 3 above for inspection by any person, without charge and during business hours, at the body’s head office in Great Britain; and
- (b) supply to any person upon request a copy of those accounts (or such part of those accounts as may be requested) at a price not exceeding the administrative cost of making the copy.

(2) The Council of Lloyd’s shall—

- (a) make available the latest account prepared under regulation 4 above for inspection by any person, without charge and during business hours, at the Council’s office in London; and
- (b) supply to any person upon request a copy of that account (or such part of that account as may be requested) at a price not exceeding the administrative cost of making the copy.

(3) In the case of industrial and provident societies which are qualifying bodies, the obligation in paragraph (1)(b) above is subject to the provisions of section 39(5) of the Industrial and Provident Societies Act 1965(16) .

### **Penalties for non-compliance**

6.—(1) If—

- (a) the directors of a qualifying body fail to comply with paragraph (1) of regulation 3 above within the period referred to in paragraph (2) of that regulation, or
- (b) the members of the Council of Lloyd’s fail to comply with paragraph (1) of regulation 4 above within the period referred to in paragraph (2) of that regulation,

every person who, immediately before the end of that period, was a director of the body or (as the case may be) a member of the Council is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(2) If—

- (a) accounts which are made available for inspection under regulation 5(1) above do not comply with the requirements of regulation 3 above, or
- (b) an account which is made available for inspection under regulation 5(2) above does not comply with the requirements of regulation 4 above,

every person who, at the time when the accounts were or the account was first made available for inspection, was a director of the qualifying body or (as the case may be) a member of the Council of Lloyd’s is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

(3) If—

- (a) a qualifying body fails to comply with regulation 5(1) above, or
- (b) the Council of Lloyd’s fails to comply with regulation 5(2) above,

the body or Council and every person who, at the time when the failure takes place, is a director of the body or (as the case may be) a member of the Council is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale.

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(15) Official Journal No. L374 of 31.12.91, pages 7 to 31.

(16) 1965 c. 12.

(4) It is a defence for a person charged with an offence under this regulation to show that he took all reasonable steps for securing that the requirements in question would be complied with.

(5) The following provisions of the 1985 Act<sup>(17)</sup>, namely—

- (a) section 731 (summary proceedings),
- (b) section 733 (offences by bodies corporate), and
- (c) section 734 (criminal proceedings against unincorporated bodies),

shall apply to an offence under this regulation.

### **Industrial and provident societies**

7.—(1) The Schedule to these Regulations shall have effect for the purpose of modifying—

- (a) the Industrial and Provident Societies Act 1965<sup>(18)</sup>; and
- (b) the Friendly and Industrial and Provident Societies Act 1968<sup>(19)</sup>,

in their application to industrial and provident societies which prepare accounts under the provisions of these Regulations.

(2) The Industrial and Provident Societies (Group Accounts) Regulations 1969<sup>(20)</sup> shall not apply to industrial and provident societies which prepare accounts under the provisions of these Regulations.

### **Transitional provisions**

8.—(1) The directors of a qualifying body need not prepare accounts in accordance with regulation 3 with respect to a financial year of the body commencing before 23rd December 1994.

(2) Where advantage is taken of paragraph (1), regulation 5 shall not apply to the body.

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

18th December 1993

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<sup>(17)</sup> Section 733(3) has been amended by section 212 of, and Schedule 24 to, the Companies Act 1989, whilst section 734 has been amended by sections 120(2), 123(4) and 145 of, and paragraph 18 of Schedule 19 to, that Act.

<sup>(18)</sup> 1965 c. 12.

<sup>(19)</sup> 1968 c. 55.

<sup>(20)</sup> S.I. 1969/1037.