

Order made by the Treasury, laid before the House of Commons under section 74(4) of the Finance Act 1994, for approval by a resolution of that House within twenty-eight days beginning with the date on which the Order was made, subject to extensions for periods of dissolution, prorogation or adjournment for more than four days.

STATUTORY INSTRUMENTS

1994 No. 1698

INSURANCE PREMIUM TAX

The Insurance Premium Tax (Taxable Insurance Contracts) Order 1994

Approved by the House of Commons

<i>Made</i>	- - - -	<i>29th June 1994</i>
<i>Laid before the House of Commons</i>	- - - -	<i>30th June 1994</i>
<i>Coming into force</i>	- -	<i>1st October 1994</i>

The Treasury, in exercise of the powers conferred on them by sections 71(1) to (4) and 74(7) and (8) of the Finance Act 1994⁽¹⁾ and of all other powers enabling them in that behalf, hereby make the following Order:

1. This Order may be cited as the Insurance Premium Tax (Taxable Insurance Contracts) Order 1994 and shall come into force on 1st October 1994.
2. In this Order—
“the Act” means the Finance Act 1994.
3. In section 69 of the Act—
 - (a) after subsection (5) there shall be inserted the following—
“(5A) For the purposes of this section “lifeboat” and “lifeboat equipment” have the same meaning as in paragraph 6 of Schedule 7A to this Act.”;
 - (b) subsection (6) (which is merely explanatory and which would cast doubt on provisions as amended by this Order) shall be deleted.
4. In section 70 of the Act—
 - (a) in subsection (1), for the words “the following provisions of this section” there shall be substituted “subsection (1A) below”;
 - (b) after subsection (1) there shall be inserted the following—

“(1A) A contract is not a taxable insurance contract if it falls within one or more of the paragraphs of Part I of Schedule 7A to this Act.

(1B) Part II of Schedule 7A to this Act (interpretation of certain provisions of Part I) shall have effect.”;

(c) subsections (2) to (10) shall be deleted.

5. After Schedule 7 to the Act there shall be inserted the following—

“SCHEDULE 7A

INSURANCE PREMIUM TAX: CONTRACTS THAT ARE NOT TAXABLE

PART I

DESCRIPTIONS OF CONTRACT

Contracts of reinsurance

1. A contract falls within this paragraph if it is a contract of reinsurance.

Contracts constituting long term business

2.—(1) A contract falls within this paragraph if it is one whose effecting and carrying out constitutes business of one or more of the classes specified in Schedule 1 to the Insurance Companies Act 1982(2) (long term business) and constitutes only such business.

(2) In deciding whether the effecting and carrying out of a contract constitutes only such business as is mentioned in sub-paragraph (1) above where—

(a) the contract includes cover for risks not falling within the descriptions in any of the classes specified in Schedule 1 to the Insurance Companies Act 1982;

(b) the effecting and carrying out of the contract is treated for the purposes of that Act as constituting business of one or more of those classes and only such business by virtue of the application to it of section 1(3) of that Act; and

(c) the contract was not entered into after 30th November 1993,

the inclusion of such cover shall be ignored.

Contracts relating to motor vehicles for use by handicapped persons

3.—(1) A contract falls within this paragraph if it relates only to a motor vehicle and the conditions mentioned in sub-paragraph (2) below are satisfied.

(2) The conditions referred to in sub-paragraph (1) above are that—

(a) the vehicle is used, or intended for use, by a handicapped person in receipt of a disability living allowance by virtue of entitlement to the mobility component or of a mobility supplement;

(b) the insured lets such vehicles on hire to such persons in the course of a business consisting predominantly of the provision of motor vehicles to such persons; and

(2) 1982 c. 50.

(c) the insured does not in the course of the business let such vehicles on hire to such persons on terms other than qualifying terms.

(3) For the purposes of sub-paragraph (2)(c) above a vehicle is let on qualifying terms to a person (the lessee) if the consideration for the letting consists wholly or partly of sums paid to the insured by—

- (a) the Department of Social Security;
- (b) the Department of Health and Social Services for Northern Ireland; or
- (c) the Ministry of Defence,

on behalf of the lessee in respect of the disability living allowance or mobility supplement to which the lessee is entitled.

(4) For the purposes of this paragraph—

- (a) “handicapped” means chronically sick or disabled;
- (b) “disability living allowance” means a disability living allowance within the meaning of section 71 of the Social Security Contributions and Benefits Act 1992(3) or section 71 of the Social Security Contributions and Benefits (Northern Ireland) Act 1992(4);
- (c) “mobility supplement” means a mobility supplement within the meaning of article 26A of the Naval, Military and Air Forces etc. (Disablement and Death) Service Pensions Order 1983(5), article 25A of the Personal Injuries (Civilians) Scheme 1983(6), article 3 of the Motor Vehicles (Exemption from Vehicles Excise Duty) Order 1985(7) or article 3 of the Motor Vehicles (Exemption from Vehicles Excise Duty) (Northern Ireland) Order 1985(8).

Contracts relating to commercial ships

4.—(1) A contract falls within this paragraph if it relates only to a commercial ship and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(2) For the purposes of this paragraph the relevant classes are classes 1, 6 and 12 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (ships, accident, third-party etc.).

(3) For the purposes of this paragraph a commercial ship is a ship which is—

- (a) of a gross tonnage of 15 tons or more; and
- (b) not designed or adapted for use for recreation or pleasure.

Contracts relating to lifeboats and lifeboat equipment

5.—(1) A contract falls within this paragraph if it relates only to a lifeboat and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(3) 1992 c. 4.

(4) 1992 c. 7.

(5) S.I. 1983/883; article 26A was inserted by S.I. 1983/1116, and has been amended by S.I. 1983/1521, 1986/592 and 1990/1308.

(6) S.I. 1983/686; article 25A was inserted by S.I. 1983/1164, and has been amended by S.I. 1983/1540, 1986/628, 1990/1300 and 1992/702.

(7) S.I. 1985/722.

(8) S.I. 1985/723.

(2) For the purposes of this paragraph the relevant classes are classes 1, 6 and 12 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (ships, accident, third-party etc.).

(3) For the purposes of this paragraph a lifeboat is a vessel used or to be used solely for rescue or assistance at sea.

6.—(1) A contract falls within this paragraph if it relates only to a lifeboat and lifeboat equipment and is such that, if it related only to a lifeboat, it would fall within paragraph 5 above.

(2) In deciding whether a contract relates to lifeboat equipment the nature of the risks concerned is immaterial, and they may (for example) be risks of dying or sustaining injury or of loss or damage.

(3) For the purposes of this paragraph—

- (a) “lifeboat” has the meaning given by paragraph 5(3) above; and
- (b) “lifeboat equipment” means anything used or to be used solely in connection with a lifeboat.

Contracts relating to commercial aircraft

7.—(1) A contract falls within this paragraph if it relates only to a commercial aircraft and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(2) For the purposes of this paragraph the relevant classes are classes 1, 5 and 11 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (aircraft, accident, third-party etc.).

(3) For the purposes of this paragraph a commercial aircraft is an aircraft which is—

- (a) of a weight of 8,000 kilogrammes or more; and
- (b) not designed or adapted for use for recreation or pleasure.

Contracts relating to risks outside the United Kingdom

8.—(1) A contract falls within this paragraph if it relates only to a risk which is situated outside the United Kingdom.

(2) Section 96A(3) of the Insurance Companies Act 1982⁽⁹⁾ shall apply to determine whether a risk is situated in the United Kingdom for the purposes of this paragraph as it applies to determine that question for the purposes of that Act, but as if for paragraph (a) of that section there were substituted the following—

- “(a) where the insurance relates to a building, its contents or both (whether or not the contents are covered by the same policy), to the member State in which the building is situated;”

Contracts relating to foreign or international railway rolling stock

9.—(1) A contract falls within this paragraph if it relates only to foreign or international railway rolling stock and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(9) 1982 c. 50; section 96A was inserted by regulation 2(1) of S.I. 1990/1333.

(2) For the purposes of this paragraph the relevant classes are classes 4 and 13 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (railway rolling stock, third party etc.).

(3) For the purposes of this paragraph foreign or international railway rolling stock is railway rolling stock used principally for journeys taking place wholly or partly outside the United Kingdom.

Contracts relating to the Channel tunnel

10.—(1) A contract falls within this paragraph if it relates only to the Channel tunnel system and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(2) For the purposes of this paragraph the relevant classes are classes 8, 9 and 13 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (fire, damage to property, third party etc.).

(3) For the purposes of this paragraph “the Channel tunnel system” means—

- (a) the tunnels described in section 1(7)(a) of the Channel Tunnel Act 1987;
- (b) the control towers situated in the terminal areas described in section 1(7)(b) of that Act; and
- (c) the shuttle crossovers, wherever situated.

11.—(1) A contract falls within this paragraph if it relates only to relevant Channel tunnel equipment and is a contract whose effecting and carrying out constitutes business of one or more of the relevant classes and constitutes only such business.

(2) For the purposes of this paragraph the relevant classes are classes 8, 9 and 13 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (fire, damage to property, third party etc.).

(3) For the purposes of this paragraph “the Channel tunnel system” has the meaning given by paragraph 10(3) above.

(4) For the purposes of this paragraph “relevant Channel tunnel equipment” means, subject to sub-paragraph (5) below, the fixed or movable equipment needed for the operation of the Channel tunnel system or for the operation of trains through any tunnel forming part of it and in particular includes—

- (a) any ventilation, cooling or electrical plant used or to be used in connection with any such operation; and
 - (b) any safety, signalling and control equipment which is or is to be so used.
- (5) Equipment which consists of or forms part of—
- (a) roads, bridges, platforms, ticket offices and other facilities for the use of passengers or motor vehicles;
 - (b) administrative buildings and maintenance facilities; and
 - (c) railway track or signalling equipment which is not situated in any part of the Channel tunnel system,

is not relevant Channel tunnel equipment for the purposes of this paragraph.

Contracts relating to goods in foreign or international transit

12.—(1) A contract falls within this paragraph if it relates only to loss of or damage to goods in foreign or international transit and the insured enters into the contract in the course of a business carried on by him.

(2) For the purposes of this paragraph goods in foreign or international transit are goods in transit, and any container in which they are carried, where their carriage—

- (a) begins and ends outside the United Kingdom;
- (b) begins outside but ends in the United Kingdom; or
- (c) ends outside but begins in the United Kingdom.

(3) For the purposes of sub-paragraph (2) above “container” has the same meaning as in regulation 38(3) of the Value Added Tax (General) Regulations 1985⁽¹⁰⁾.

Contracts relating to credit

13.—(1) A contract falls within this paragraph if it relates only to credit granted in relation to goods or services supplied under a relevant contract by a person carrying on business in the United Kingdom.

(2) For the purposes of this paragraph a relevant contract is—

- (a) a contract to make a relevant supply of goods, or a supply of services, or both, to an overseas customer;
- (b) a contract to supply goods to a person who is to—
 - (i) export those goods; or
 - (ii) incorporate those goods in other goods which he is to export, where the condition mentioned in sub-paragraph (3) below is satisfied;
- (c) a contract to supply to a person who is to export goods services consisting of the valuation or testing of, or other work carried out on, those goods where the condition mentioned in sub-paragraph (3) below is satisfied;
- (d) a contract to supply services to a person in order that he may comply with a legally binding obligation to make a supply of services to an overseas customer.

(3) The condition referred to in sub-paragraph (2)(b) and (c) above is that the goods to be exported are to be exported in order that the person exporting them may comply with a legally binding obligation to make a relevant supply of goods to an overseas customer.

(4) For the purposes of this paragraph—

- (a) “export” means export from the United Kingdom and cognate expressions shall be construed accordingly; and
- (b) any reference to a person who is to export goods shall be taken as including a reference to a person at whose direction the insured is to export them and the reference in sub-paragraph (3) above to the person exporting goods shall be construed accordingly.

(5) Where a contract relates to—

- (a) credit of the description in sub-paragraph (1) above; and
- (b) loss resulting from the insured or any third party being required to pay the amount of any bond or guarantee against non-performance by the insured of the contract which involves him making the supply,

⁽¹⁰⁾ S.I. 1985/886.

the contract shall be treated for the purposes of sub-paragraph (1) above as if it did not relate to loss of the description in paragraph (b) above.

Contracts relating to exchange losses

- 14.**—(1) A contract falls within this paragraph if—
- (a) it relates only to loss resulting from a change in the rate at which the price for a supply which is or may be made by the insured may be exchanged for another currency; and
 - (b) the conditions mentioned in sub-paragraph (2) below are satisfied.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the insured is a person carrying on business in the United Kingdom;
 - (b) the contract of insurance concerns a contract to make a relevant supply of goods, or a supply of services, or both, to an overseas customer (whether or not the contract to make the supply is one into which the insured has entered, or one for which he has tendered or intends to tender); and
 - (c) the period of cover for the risk expires no later than the date by which the whole of the price for the supply is to be paid or, where the contract has not been entered into, would be required to be paid.
- (3) Where the contract relates to—
- (a) loss of the description in sub-paragraph (1)(a) above; and
 - (b) loss relating from a change in the rate at which the price of goods which the insured imports into the United Kingdom for the purpose of enabling him to make the supply concerned may be exchanged for another currency,

the contract shall be treated for the purposes of sub-paragraphs (1) and (2) above as if it did not relate to loss of the description in paragraph (b) above.

Contracts relating to the provision of financial facilities

- 15.**—(1) A contract falls within this paragraph if it relates only to the provision of a relevant financial facility and the conditions mentioned in sub-paragraph (2) below are satisfied.
- (2) The conditions referred to in sub-paragraph (1) above are that—
- (a) the person to whom the relevant financial facility is provided is an overseas customer;
 - (b) it is provided in order that he may comply with a legally binding obligation to receive a relevant supply of goods, or a supply of services, or both, from a person carrying on business in the United Kingdom; and
 - (c) the contract of insurance is a contract whose effecting and carrying out constitutes business of one or both of classes 14 and 15 of the classes specified in Part I of Schedule 2 to the Insurance Companies Act 1982 (credit, suretyship etc.).
- (3) For the purposes of this paragraph a relevant financial facility is—
- (a) the making of an advance;
 - (b) the issue of a letter of credit or acceptance of a bill of exchange;
 - (c) the giving of a guarantee or bond; or
 - (d) any other similar transaction entered into in order to provide a customer with the means to pay, or a supplier with the right to call upon a third party for, the consideration for goods or services.

PART II

INTERPRETATION

- 16.**—(1) This Part of this Schedule applies for the purposes of Part I of this Schedule.
- (2) A relevant supply of goods is any supply of goods where the supply is to be made outside the United Kingdom or where the goods are to be exported from the United Kingdom.
- (3) An overseas customer, in relation to a supply of goods or services, is a person who—
- (a) does not have any business establishment in the United Kingdom but has such an establishment elsewhere;
 - (b) has such establishments both in the United Kingdom and elsewhere, provided that the establishment at which, or for the purposes of which, the goods or services which are to be supplied to him are most directly to be used is not in the United Kingdom; or
 - (c) has no such establishment in any place and does not have his usual place of residence in the United Kingdom.”.
- 6.** In section 73 of the Act subsections (2) and (4) to (8) shall be deleted.

29th June 1994

Tim Wood
Andrew Mackay
Two of the Lords Commissioners of Her
Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order, with effect from 1st October 1994, amends the insurance premium tax provisions in Part III of the Finance Act 1994 (the Act) by making a number of adjustments to the descriptions of insurance contracts which are not taxable (exemptions) and the way in which those exemptions are set out in the law.

Article 3 inserts a cross-reference in section 69 of the Act to the new location of the definitions of “lifeboat” and “lifeboat equipment” and deletes subsection (6) of that section.

Articles 4, 5 and 6 move the definitions of the exemptions from the tax in section 70 of the Act, together with various associated definitions from that section and section 73, to a new Schedule 7A to the Act. Some of these exemptions are also amended and certain new exemptions are included in the new Schedule.

Paragraph 2 of new Schedule 7A is a replacement for section 70(2)(b) of the Act, which exempts insurance contracts constituting “long term” insurance business (as defined in the Insurance Companies Act 1982), but extends the exemption to certain contracts taken out before 1st December 1993 that include an element of “general” insurance business but are treated as entirely “long term” business by the Insurance Companies Act 1982.

Paragraph 8 of new Schedule 7A is a replacement for sections 70(2)(h), (i) and 73(2) of the Act, which exempt insurance contracts relating to risks situated outside the United Kingdom, but includes an amendment so that the location of risk of contents insurance is unaffected by whether or not contents and building are insured under the same policy. This amendment is necessary to give effect to the second sub-paragraph of Article 46(2) of Council Directive [92/49/EEC](#) (OJ L228, 11.8.92 p. 1).

Paragraph 9 of new Schedule 7A is a replacement for sections 70(2)(j) and 73(7) of the Act, which exempt certain insurance contracts relating to railway rolling stock, but extends the exemption to contracts of liability insurance relating to such rolling stock.

Paragraphs 10 and 11 of new Schedule 7A introduce a new exemption for certain insurance contracts relating to the Channel Tunnel and its equipment, and thus provide broadly equivalent reliefs to those enjoyed by cross-Channel ferry operators.

Paragraph 12 of new Schedule 7A is a replacement for sections 70(2)(k) and 73(8) of the Act, which exempt certain insurance contracts relating to goods in international transit, and includes confirmation of the application of the exemption to insurance of containers carrying such goods.

Paragraphs 13, 14, and 15 of new Schedule 7A are replacements for section 70(2)(1) of the Act, which exempts certain insurance contracts relating to export credit insurance, and extend the exemption to a range of insurance relating to export finance where there is an underlying export of goods or services from the UK.

Paragraph 16, which is in Part II of new Schedule 7A, contains certain interpretative provisions which apply for the purposes of Part I.

All the other provisions in the new Schedule merely reproduce the existing exemptions, and related interpretative provisions.