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STATUTORY INSTRUMENTS

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**2001 No. 2635**

**The Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001**

**PART I**

*General*

**Citation and commencement**

1. These Regulations may be cited as the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001 and come into force on the day on which section 19 of the Act comes into force.

**Interpretation**

2.—(1) In these Regulations—

“the Act” means the Financial Services and Markets Act 2000;

“the 1990 Act” means the Contracts (Applicable Law) Act 1990<sup>(1)</sup>;

“applicable law”, in relation to a contract of insurance, means the law that is applicable to that contract;

“contract of general insurance” and “contract of long-term insurance” have the meanings given by the Regulated Activities Order;

“EEA State of the commitment” means, in relation to a contract of long-term insurance entered into on a date—

- (a) if the policyholder is an individual, the EEA State in which he resides on that date; or
- (b) otherwise, the EEA State in which the establishment of the policyholder to which the contract relates is situated on that date;

“establishment”, in relation to a person (“A”), means—

- (a) A’s head office;
- (b) any of A’s agencies;
- (c) any of A’s branches; or
- (d) any permanent presence of A in an EEA State, which need not take the form of a branch or agency and which may consist of an office managed by A’s staff or by a person who is independent of A but has permanent authority to act for A as if he were an agency;

“large risk” has the meaning given by Article 5(d) of the first non-life insurance directive and includes risks specified by paragraph (iii) of that definition insured by professional associations, joint ventures or temporary groups;

“mandatory rules” means the rules from which the law allows no derogation by way of contract;

“the Regulated Activities Order” means the Financial Services and Markets Act 2000 (Regulated Activities) Order 2001<sup>(2)</sup>.

(2) References to the EEA State where the risk covered by a contract of insurance is situated are to—

- (a) if the contract relates to buildings or to buildings and their contents (in so far as the contents are covered by the same contract of insurance), the EEA State in which the property is situated;
- (b) if the contract relates to vehicles of any type, the EEA State of registration;
- (c) if the contract covers travel or holidays risks and has a duration of four months or less, the EEA State in which the policyholder entered into the contract;
- (d) in any other case—
  - (i) if the policyholder is an individual, the EEA State in which he resides on the date the contract is entered into;
  - (ii) otherwise, the EEA State in which the establishment of the policyholder to which the contract relates is situated on that date.

(3) References to the country in which a person resides are to—

- (a) if he is an individual, the country in which he has his habitual residence;
- (b) in any other case, the country in which he has his central administration.

(4) Where an EEA State (including the United Kingdom) includes several territorial units, each of which has its own laws concerning contractual obligations, each unit is to be considered as a separate state for the purposes of identifying the applicable law under these Regulations.

### **Scope of these Regulations**

3.—(1) These Regulations do not apply to contracts of reinsurance.

(2) These Regulations apply to contracts of insurance which are entered into by friendly societies as follows—

- (a) Part II applies to a contract of insurance entered into by a friendly society to which section 37(3) of the Friendly Societies Act 1992<sup>(3)</sup> applies;
- (b) Part III applies to a contract of insurance entered into by a friendly society to which section 37(2) of that Act applies; and
- (c) Part II applies to any other contract of insurance entered into by a friendly society which covers a risk situated in an EEA State with the following modifications—
  - (i) paragraph (1) of regulation 4 does not apply;
  - (ii) regulation 4 applies only where the policyholder is an individual; and
  - (iii) regulation 7 applies as if for the words “the 1990 Act is deemed to apply” in each case there were substituted the words “the general rules of private international law of that part of the United Kingdom concerning contractual obligations apply”.

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(2) S.I.2001/544.

(3) 1992 c. 40.