

Financial Services (Insurance Companies)
INSURANCE COMPANIES (DEPOSITS) REGULATIONS 1996

1987-10

**Subsidiary
1996/065**

Regulations made under section 118 of the Insurance Companies Act 1987.

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REGULATIONS 1996**

(LN 1996/065)

1.7.1996

Amending enactments	Relevant current provisions	Commencement date
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EU Legislation/International Agreements involved:

Directive 73/239/EEC

Directive 79/267/EEC

ARRANGEMENT OF REGULATIONS

Regulation

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In exercise of the powers conferred on it by section 118 of the Insurance Companies Ordinance 1987, and of all other enabling powers, and for the purpose of transposing into the national law of Gibraltar Council Directives 73/239/EEC and 79/267/EEC, the Government has made the following regulations –

Title and commencement.

1. These regulations may be cited as the Insurance Companies (Deposits) Regulations 1996 and shall come into effect on the 1st day of July 1996.

Interpretation.

2. In these regulations, unless the context shall otherwise require,–

“deposit” means the deposit mentioned in section 25(1)(c);

“permitted securities” means securities in which trustees may invest property under paragraphs 1, 3 to 13 and 15 of Part II of Schedule 1 to the Trustee Act, as restricted by Part IV of that Schedule;

“prescribed minimum”, in relation to a deposit, means one-half of the minimum guarantee fund appropriate to the margin of solvency which the depositor is required to maintain under section 59(2)(b) or 3(b);

“the Stock Exchange” means the International Stock Exchange of the United Kingdom and the Republic of Ireland Limited.

Application.

3. These regulations apply only to a licensed insurer -

- (a) whose head office is not in Gibraltar or an EEA State;
- (b) who is not making a deposit in an EEA State; and
- (c) whose business is not restricted to reinsurance only.

Amount and form of deposit.

4. (1) Every deposit made pursuant to sub-section (1)(c) of section 25 shall (subject to sub-section (2)(b) of that section) be made with the Commissioner and shall be maintained by the insurer at a level equal to the prescribed minimum.

(2) The Commissioner, where he is satisfied that a deposit is required to be made pursuant to sub-regulation (1) or under an agreement of the kind mentioned in section 25(2)(b), may (and on the application of the insurer shall) -

- (a) certify the fact of the requirement, and
- (b) specify the prescribed minimum in pounds sterling.

(3) Where the minimum changes, the Commissioner may (and on the application of the insurer shall) -

- (a) certify the fact of the change; and
- (b) specify the changed prescribed minimum in pounds sterling.

(4) Subject to sub-regulation (5), any payment to be made by the insurer in respect of the deposit may be partly or wholly effected by the lodgement of permitted securities instead of cash.

(5) Sub-regulation (4) shall not apply unless the insurer gives the Commissioner -

- (a) a valuation of the securities as on a day not more than two days before that on which such a lodgement is to be effected, and
- (b) a report by a duly authorised person stating that in his opinion the valuation has been made in accordance with Part II of the Insurance Companies (Valuation of Assets and Liabilities) Regulations 1996.

(6) In sub-regulation (5) “duly authorised person” means a member of the Stock Exchange or a person who is eligible for appointment as a company auditor.

Investment of deposits.

5. (1) The Commissioner shall, on the application of the insurer-

- (a) invest in permitted securities specified by the insurer, any cash which constitutes or forms part of the deposit;
- (b) reinvest in permitted securities specified by the insurer, the net proceeds received on the maturity of any security acquired under paragraph (a);
- (c) realize the whole or any part of any security acquired under paragraph (a) or (b) and reinvest the net proceeds in any other

permitted security or retain the same in cash, as the insurer may specify.

(2) An insurer shall not be entitled to make application under sub-regulation (1) within 28 days of an earlier application.

Change of business.

6. Where a further licence is granted to a licensed insurer to which these regulations apply, allowing the insurer to carry on business of another or additional class in respect of which the prescribed minimum deposit is higher than the deposit it has made, the insurer shall, before commencing such business, deposit with the Commissioner such further sum as may be necessary to bring the deposit up to the prescribed minimum.

Change of prescribed minimum.

7. If the prescribed amount for the minimum guarantee fund is increased, an insurer who has made a deposit under section 25 shall, as soon as practicable, deposit with the Commissioner such further sum as may be necessary to bring the deposit up to the prescribed minimum.

Depreciation of securities etc..

8. If the market value of the securities and cash representing a deposit at any time falls below the prescribed minimum, the insurer shall, at the request of the Commissioner, deposit with the Commissioner such further sum as may be necessary to bring the deposit up to the prescribed minimum.

Remission of surplus.

9. If at any time the market value of the securities and cash representing a deposit exceeds the prescribed minimum, the Commissioner may, at the request of the insurer -

- (a) transfer to the insurer any of the securities forming part of the deposit; or
- (b) realize any of the securities forming part of the deposit and pay to the insurer the net proceeds; or
- (c) pay to the insurer any cash which forms part of the deposit, but so that the market value of the remaining securities and cash is not less than the prescribed minimum.

Winding up.

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10. If an insurer which has made a deposit under section 25 is wound up by or under the supervision of a court, the securities representing the deposit shall be realized by the Commissioner and the net proceeds, together with any cash in the deposit, shall be paid to the liquidator.

Cessation of business.

11. (1) If an insurer which has made a deposit under section 25 ceases to carry on business in Gibraltar, the insurer, or any other person entitled to give a good discharge for the amount of the deposit, may apply in writing to the Commissioner for the release of the deposit or the securities representing the same.

(2) An application under sub-regulation (1) shall be accompanied by a statutory declaration by the applicant declaring that he knows of no other person who has made or is entitled to make any claim to or on the deposit, and where the applicant is not the insurer, declaring that he is entitled to give a good discharge for the amount of the deposit and also stating the circumstances in which he is so entitled.

(3) On receipt of an application accompanied by a statutory declaration as required by sub-regulations (1) and (2), the Commissioner shall, if satisfied as to the entitlement, transfer the securities and cash representing the deposit, or realize the securities and transfer the net proceeds and the cash, to the insurer or to such other person in accordance with the application.

Revocations.

12. The Insurance Companies (Deposits) Regulations 1987 (Legal Notice No. 1987/104) and the Insurance Companies (Deposits) (Amendment) Regulations 1991 (Legal Notice No. 1991/027) are revoked.