

SECOND SUPPLEMENT TO THE GIBRALTAR GAZETTE

No. 2,921 of 13th June, 1996.

INSURANCE COMPANIES ORDINANCE 1987

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

INSURANCE COMPANIES ORDINANCE (GENERAL INSURANCE
AND LONG TERM INSURANCE DIRECTIVES) REGULATIONS 1996

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LEGAL NOTICE NO.63 OF 1996.

INSURANCE COMPANIES ORDINANCE 1987

INTERPRETATION AND GENERAL CLAUSES ORDINANCE

**INSURANCE COMPANIES ORDINANCE (GENERAL INSURANCE
AND LONG TERM INSURANCE DIRECTIVES) REGULATIONS
1996**

In exercise of the powers conferred on it by section 23 of the Interpretation and General Clauses Ordinance, and of all other enabling powers, and for the purpose of transposing into the national law of Gibraltar Council Directives 78/473/EEC, 84/641/EEC, 87/343/EEC, 87/344/EEC, 88/357/EEC, 90/618/EEC, 90/619/EEC, 91/371/EEC, 92/49/EEC and 92/96/EEC, the Government has made the following regulations—

Title and Commencement.

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

Amendment to section 2.

2. Section 2 of the Insurance Companies Ordinance 1987 (hereinafter called “the Ordinance”) is amended —

(a) in sub-section (2) —

- (i) in the definition of “EEA State” by deleting the expression “but, until the EEA Agreement comes into force in relation to Liechtenstein, does not include the State of Liechtenstein”;
- (ii) in the definition of “home State” by omitting the word “member” and substituting therefor the expression “EEA”;
- (iii) in the definition of “linked benefits” by omitting the words “or to an index of” and substituting therefor the words “or in an index of”;

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- (iv) by omitting the definition of “state of the commitment” and substituting therefor the following new definition —

““State of the commitment”, in relation to a commitment entered into at any date, means—

- (a) where the policy holder is an individual, Gibraltar or the EEA State, as the case may be, in which he has his habitual residence at that date;
- (b) where the policy holder is not an individual, Gibraltar or the EEA State, as the case may be, in which the establishment of the policy holder to which the commitment relates was situated at that date,

and “EEA State of the commitment” shall be construed accordingly;”;

- (v) in the definition of “unit of account” by omitting the figure “3108/78” and substituting therefor the figure “3180/78”;
- (b) in sub-section (7)(a) by omitting the colon and substituting therefor a semi-colon;
- (c) in sub-section (10) —
- (i) by omitting the expression “References in this Ordinance to the EEA State where the risk is situated are —” and substituting therefor the expression “References in this Ordinance to the territory where the risk is situated (whether Gibraltar or an EEA State) are —”;
- (ii) in paragraph (a) by omitting the expression “the EEA State” and substituting therefor the expression “Gibraltar or the EEA State, as the case may be,”;
- (iii) in paragraph (b) by omitting the expression “to the EEA State of registration” and substituting therefor the expression “to the territory of registration (whether Gibraltar or an EEA State)”;

- (iv) in paragraph (c) by —
 - (aa) omitting the word “risk” and substituting therefor the word “risks”;
 - (bb) omitting the expression “the EEA State” and substituting therefor the expression “Gibraltar or the EEA State, as the case may be,”;
- (v) in paragraph (d) by omitting the expression “the EEA State” and substituting therefor the expression “Gibraltar or the EEA State, as the case may be,”;
- (d) in sub-section (11)(c) by inserting after the figure “3,” the figure “8,”;
- (e) in sub-section (12) —
 - (i) by omitting the words “an insurer’s” in each place where they occur and substituting therefor the words “a company’s”;
 - (ii) by omitting the words “the insurer’s” in each place where they occur and substituting therefor the words “the company’s”;
 - (iii) by omitting the words “the insurer” in each place where they occur and substituting therefor the words “the company”;
- (f) in sub-section (24)(a) by omitting the expression “25 to 28” and substituting therefor the expression “(25) to (28)”;
- (g) by omitting sub-sections (29), (30) and (31) and substituting therefor the following sub-sections —

“(29) In this Ordinance “claims representative”, in relation to an insurer and Gibraltar or an EEA State, means a person who —

- (a) has been designated as the insurer’s representative in Gibraltar or in that EEA State; and
- (b) in the case of —

- (i) an individual, is resident in the territory (whether Gibraltar or an EEA State) for which he has been designated as the insurer's representative;
 - (ii) a corporation, has a place of business in the territory (whether Gibraltar or an EEA State) for which it has been designated as the insurer's representative; and
- (c) is authorised —
- (i) to act on behalf of the insurer and to represent, or to instruct others to represent, the insurer in relation to any matters giving rise to relevant claims;
 - (ii) to pay sums in settlement of relevant claims;
 - (iii) to accept service on behalf of the insurer of proceedings in respect of relevant claims;
 - (iv) to represent the insurer in any proceedings or enquiry to establish the existence or validity of a policy issued by the insurer which covers or purports to cover relevant motor vehicle risks in the territory (whether Gibraltar or an EEA State) for which the person has been designated as the insurer's representative.

(30) The authorisation referred to in sub-section (29)(c) shall not extend to the settlement of relevant claims and in this sub-section and sub-section (29) "relevant claim" means any claim which may be made against a policy issued by the insurer to the extent that it covers relevant motor vehicle risks situated in the territory (whether Gibraltar or an EEA State) for which the person has been designated as the insurer's representative, whether or not submitted to the insurer and whether by a policy holder or by a third party having rights of action against the insurer or a policy holder or by both.

(31) Without prejudice to sub-section (29)(c), the claims representative shall not be authorised to act on behalf of the insurer in the carrying on in the territory (whether Gibraltar or an EEA State) for which he or it has been designated of its general business (other than its reinsurance business, if any).";

- (h) in sub-section (32) by inserting after the word “requires” a comma;
- (j) in sub-section (35) by omitting the word “sections” and substituting therefor the word “sub-sections”.

Amendment to section 3.

3. Section 3 of the Ordinance is amended —

- (a) in sub-section (1)(a) by omitting the expression “EEA States” and substituting therefor the expression “EEA”;
- (b) in sub-section (2)(a) by omitting the expression “EEA States” and substituting therefor the expression “EEA”.

Amendment to section 4.

4. Section 4 of the Ordinance is amended by omitting the words “member States” and substituting therefor the expression “EEA States”.

Amendment to section 5.

5. Section 5 of the Ordinance is amended in sub-section (2) by inserting after the expression “Schedule 1 if” a dash.

Amendment to section 6.

6. Section 6 of the Ordinance is amended —

- (a) in sub-section (1) by omitting the word “derivatives” and substituting therefor the word “derivative”;
- (b) in sub-section (2) by omitting the words-
“Nothing in subsection (1) shall apply to the use of either word by —
(a) a representative or authorised agent of an insurer to which sub-section (1) applies, when advertising or referring to its services;”

and substituting therefor the following —

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“Nothing in sub-section (1) shall apply to the use of the word “insurance” or “assurance”, as the case may be, by —

- (a) a representative or authorised agent of an insurer, when advertising or referring to its services, provided that the insurer is permitted under the terms of sub-section (1) to use the word which the representative or agent proposes to use;”.

Amendment to section 16A.

7. Section 16A of the Ordinance is amended in sub-section (1) by omitting the words “such part of these Classes” and substituting therefor the words “such parts of these Classes”.

Amendment to section 21.

8. Section 21 of the Ordinance is amended by omitting the marginal note thereto and substituting therefor the following marginal note -

“Licensed insurer not to carry on other business.”.

Amendment to section 23.

9. Section 23 of the Ordinance is amended in sub-section (1) by inserting after the words “as may be prescribed” the words “by or in accordance with regulations under this Ordinance”.

Amendment to section 24A.

10. Section 24A of the Ordinance is amended by omitting the figure “26(2A)” and substituting therefor the figure “26(2)”.

Amendment to section 24B.

11. Section 24B of the Ordinance is amended by omitting sub-section (4)(c) and substituting therefor the following —

“(c) an employee of the applicant who, under the immediate authority of a director or of an officer or employee within paragraph (b), —

- (i) exercises managerial functions, or

- (ii) is responsible for maintaining accounts or other records of the applicant,

not being a person whose functions relate exclusively to business conducted from a place of business outside Gibraltar.”.

Amendment to section 25.

12. Section 25 of the Ordinance is amended —

- (a) in sub-section (5)(a) by inserting after the word “individual” the word “representative”;
- (b) in sub-section (6)(a) by omitting the expression “not in an EEA State” and substituting therefor the expression “not in the EEA”;
- (c) in sub-section (8) by omitting the word “provisions” and substituting therefor the word “provision”.

Amendment to section 25A.

13. Section 25A of the Ordinance is amended in sub-section (5) by omitting the comma after the word “company”.

Repeal and replacement of section 26.

14. Section 26 of the Ordinance is repealed and replaced by the following section —

- “ (1) The Commissioner shall not issue a licence unless —
- (a) the applicant has submitted to him such proposals as to the manner in which it proposes to carry on business, such financial forecasts and such other information as may be required by or in accordance with regulations under this Ordinance, and
 - (b) he is satisfied on the basis of that and any other information received by him that the application ought to be granted.

(2) The Commissioner shall not issue a licence to an applicant which is a Gibraltar or non-EEA insurer if it appears to him that the criteria of sound and prudent management are not or will not be fulfilled with respect to the applicant.

(3) Subject to sub-section (4), the Commissioner shall decide an application for a licence within six months of receiving all the information referred to in sub-section (1)(a) and section 23, and if he refuses to issue the authorisation he shall inform the applicant in writing of the reasons for the refusal.

(4) The Commissioner may defer a decision on an application for a licence for such period as may be necessary for the purpose of implementing any decision of the Council or Commission of the Communities under —

(a) Article 29b(4) of the first general insurance Directive; or

(b) Article 32b(4) of the first long term insurance Directive.”.

Amendment to section 40.

15. Section 40 of the Ordinance is amended —

“(a) in sub-section (4)(b) by inserting before the word “oral” a comma and the words “if the insurer or that person so requests,”;

(b) in sub-section (5) by omitting the words “on the ground” and substituting therefor the words “of the ground”.

Amendment to section 41.

16. Section 41 of the Ordinance is amended —

(a) in sub-section (3)(b) by inserting before the word “oral” a comma and the words “if that person so requests,”;

(b) by omitting sub-section (5) and substituting therefor the following sub-sections —

“(5) The Commissioner shall not be obliged to disclose to any person any particulars of the ground on which he is considering the service on him of a notice of objection.

(6) Where representations are made in accordance with this section the Commissioner shall take them into consideration before serving the notice of objection.”.

Amendment to section 44.

17. Section 44 of the Ordinance is amended —

- (a) in the proviso to sub-section (1) by inserting a comma after the word “so”;
- (b) in sub-section (4) by inserting the word “any” before the words “such person”.

Amendment to section 45.

18. Section 45 of the Ordinance is amended in sub-section (1) by —

- (a) omitting the expression “a non-EEA insurer or”;
- (b) omitting the word “reference” in each place where it occurs and substituting therefor the word “references”.

Amendment to section 46.

19. Section 46 of the Ordinance is amended in sub-section (2) by inserting after the words “the day” the word “next”.

Amendment to section 48.

20. Section 48 of the Ordinance is amended by omitting sub-section (1) and substituting therefor the following sub-section-

“ (1) The accounts and balance sheets of every insurer licensed under this Ordinance shall be audited in the prescribed manner by a person of the prescribed description, and regulations made for the purposes of this section may apply to such insurers the provisions relating to the audit of the accounts of companies under the Companies Ordinance, subject to such adaptations and modifications as may appear necessary or expedient.”.

Repeal and replacement of section 52.

21. Section 52 of the Ordinance is repealed and replaced by the following section —

“ (1) A licensed insurer shall submit to the Supervisor within six months of the end of the period to which they relate, two printed copies of each of the following documents —

- (a) every account and balance sheet prepared in accordance with section 50;
- (b) any report of the auditor of the insurer, made in pursuance of section 48, on any such account and balance sheet;
- (c) the abstract of the actuary's report prepared in accordance with section 78;
- (d) every published annual account and balance sheet and the report thereon by the auditor;
- (e) every report, if any, on the affairs of the insurer submitted to the shareholders or policy holders of the insurer.

(2) There shall be deposited with the Commissioner, at the same time as the documents mentioned in sub-section (1), two printed copies of a statement of the names and the connection with the insurer of any persons who, during the period to which those documents relate —

- (a) were authorised by the insurer to issue, or to the knowledge of the insurer have issued, any such invitation in relation to the insurer as is mentioned in sub-section (1)(a) of section 70C; and
- (b) were connected with the insurer as provided by regulations under that section.

(3) One of the copies of any document deposited under paragraph (a) or paragraph (c) of sub-section (1) or under sub-section (2) shall be signed by such persons as may be prescribed.

(4) One of the copies of any auditor's report deposited under paragraph (b) of sub-section (1) shall be a copy signed by the auditor.

(5) The Commissioner shall consider the documents deposited under sub-sections (1) and (2), and if any such document appears to him to be inaccurate or incomplete in any respect he shall communicate with the insurer with a view to the correction of any such inaccuracies and the supply of deficiencies.

(6) In this section any reference to an account or balance sheet includes a reference to any statement or report annexed thereto giving information authorised or required by virtue of sub-section (1A) of section 50 and any certificate so annexed by virtue of sub-section (1B) of that section.”.

Amendment to section 53.

22. Section 53 of the Ordinance is amended —

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note —

“Additional requirements for insurers based outside the EEA.”;

- (b) by omitting the expression “EEA States” and substituting therefor the expression “EEA”;
- (c) in sub-section (a) by omitting the words “or statements, if any,”.

Repeal and replacement of section 56.

23. Section 56 of the Ordinance is repealed and replaced by the following section —

“ (1) Subject to sub-section (2), an insurer shall forward by post or otherwise to any shareholder or policy holder who applies for one —

- (a) a printed copy of any of the documents last deposited by the insurer under sub-section (1) or (2) of section 52;
- (b) a copy of any document supplied to the Commissioner under sub-section (5) of that section which relates to any of those documents.

(2) If in the opinion of the Commissioner, the disclosure of information contained in the statement or report annexed to a document prepared in

pursuance of section 50(1) by an insurer would be harmful to the business of the insurer or any of its subsidiaries, the Commissioner may dispense the insurer from complying with the obligation imposed by sub-section (1) to forward a copy of the document containing the information to a shareholder or policy holder who applies for it.”.

Amendment to Part V.

24. Part V of the Ordinance is amended by inserting after section 56 the following section —

“56A. Documents deposited with the Commissioner.

(1) The Commissioner shall deposit with the Registrar of Companies one copy of —

- (a) any document deposited with the Commissioner under section 52, including any document obtained under sub-section (5) of that section;
- (b) any document deposited with him under section 82(4) or paragraph 5(5) of Schedule 10.

(2) Subject to sub-section (3), any document deposited under this section with the Registrar of Companies shall be open to inspection and copies thereof may be procured by any person on payment of such fees as may be prescribed.

(3) Sub-section (2) shall not apply to any document if it is a copy of a document in respect of which a dispensation has been granted under section 56(2).

(4) Every document deposited with the Commissioner under this section and certified by the Registrar of Companies to be a document so deposited shall be deemed to be a document so deposited, and every document purporting to be certified by the Registrar of Companies to be a copy of a document so deposited shall be deemed to be a copy of that document and shall be received in evidence as if it were the original document unless some variation between it and the original is proved.”.

Amendment to section 59.

25. Section 59 of the Ordinance is amended —

- (a) in sub-section (2) by omitting the expression “not in an EEA State” and substituting therefor the expression “not in Gibraltar or an EEA State”;
- (b) in sub-section (4) —
 - (i) by omitting in paragraph (c) the expression “in EEA States (taken together)” and substituting therefor the expression “in Gibraltar and an EEA State (or States) (taken together)”;
 - (ii) by omitting the words “were requirement to maintain separate margins in respect of the two kinds of business (and accordingly as if the reference to assets and liabilities)” and substituting therefor the words “were requirements to maintain separate margins in respect of the two kinds of business (and accordingly as if the references to assets and liabilities in the definitions of “margin of solvency”, “Gibraltar margin of solvency” and “EEA margin of solvency””.

Amendment to section 61A.

26. Section 61A of the Ordinance is amended —

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note -

“Special provisions for insurers that have their head office in a country outside the EEA and are supervised by agreement in Gibraltar or in an EEA State.”;
- (b) in sub-section (1) -
 - (i) by omitting the expression “from more than one EEA State” and substituting therefor the expression “from Gibraltar and one or more EEA States”;
 - (ii) by omitting in paragraph (a) the word “of” where it appears after the word “agencies” and substituting therefor the word “or”;

- (iii) by omitting in paragraph (b) the expression “in only one of those EEA States” and substituting therefor the expression “either in Gibraltar only or in only one of the EEA States where a branch or agency is also established”;
- (iv) by omitting in paragraph (c) the expression “in any one of the EEA States” and substituting therefor the expression “either in Gibraltar only or in only one of the EEA States where a branch or agency is also established”;
- (c) in sub-section (2) by omitting the expression “of the EEA States concerned and shall state the authority of the EEA State of the selected supervisory authority which” and substituting therefor the expression “of Gibraltar and the EEA State or States concerned and shall state the authority of Gibraltar or the EEA State which”;
- (d) in sub-section (3) by omitting the expression “with the EEA State of the selected supervisory authority” and substituting therefor the expression “with the country of the selected supervisory authority (being either Gibraltar or an EEA State)”;
- (e) in sub-section (4) by omitting the expression “of all EEA States” and substituting therefor the expression “of Gibraltar and the EEA State or States concerned”;
- (f) by omitting sub-section (5) and substituting therefor the following sub-section —

“(5) Where the selected supervisory authority is in Gibraltar, it shall obtain from the EEA State or States concerned the information necessary for the supervision of the overall solvency of the agencies and branches established in their territory.”;

- (g) by omitting sub-section (6) and substituting therefor the following sub-section -

“(6) At the request of Gibraltar or one or more of the EEA States concerned, the advantages granted under this section shall be withdrawn simultaneously by Gibraltar and the EEA State or States concerned.”.

Amendment to section 64.

27. Section 64 of the Ordinance is amended -

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note —

“Insurers supervised in EEA States.”;

- (b) in sub-section (1)(a) by omitting the expression “another EEA State” and substituting therefor the expression “an EEA State”.

Amendment to section 64A.

28. Section 64A of the Ordinance is amended in sub-section (2) by inserting after the word “Gibraltar” a comma.

Amendment to section 65.

29. Section 65 of the Ordinance is amended in sub-section (5) by omitting the expression “of a liability to the business carried on by the insurer in the EEA States” and substituting therefor the expression “to a liability of the business carried on by the insurer in the EEA”.

Amendment to section 67.

30. Section 67 of the Ordinance is amended -

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note -

“Grounds for exercise of powers of intervention (sections 64D to 66B).”;

- (b) in sub-section (2)(c)(i) by omitting the words “to which it was” and substituting therefor the words “to which it is or was”.

Amendment to section 72.

31. Section 72 of the Ordinance is amended in sub-section (8) by omitting paragraph (a) and substituting therefor the following paragraph -

“(a) the insurer’s head office is in Gibraltar or an EEA State; and”.

Amendment to section 73A.

32. Section 73A of the Ordinance is amended -

- (a) in sub-section (2)(e) by inserting after the word “Commissioner” the words “or the Registrar of Companies”;
- (b) by inserting after sub-section (5) the following sub-section -

“(6) Regulations under this section may, to such extent as may be specified therein, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before 1st April 1995.”.

Amendment to section 78.

33. Section 78 of the Ordinance is amended -

- (a) in sub-section (1)(a) by omitting the expression “section 76” and substituting therefor the expression “section 76(1)”;
- (b) in sub-section (3) by inserting before the word “valuation” the word “applicable”;
- (c) in sub-section (4) by inserting before the word “contents” the words “form and”.

Amendment to section 82.

34. Section 82 of the Ordinance is amended -

- (a) in sub-section (3) by omitting the words “The contents of any abstract made in accordance with a requirement under this section shall be the same as the abstract” and substituting therefor the words “The form and contents of any abstract made in accordance with a requirement under this section shall be the same as for an abstract”;
- (b) in sub-section (4) by deleting the words “or statements”.

Amendment to section 87.

35. Section 87 of the Ordinance is amended in sub-section (1) by omitting the expression “any of sections 75, 78 or 79” and substituting therefor the expression “sections 75 or 78”.

Amendment to section 87B.

36. Section 87B of the Ordinance is amended -

- (a) in sub-section (1) by omitting the full stop at the end of paragraph (b) and substituting therefor a comma;
- (b) by deleting sub-section (2) and substituting therefor the following sub-section -

“(2) For the purposes of section 59 and the definitions of “margin of solvency”, “Gibraltar margin of solvency” and “EEA margin of solvency” in section 2(2), the value of the insurer’s liabilities shall be treated as being increased by the amount of the equalisation reserve.”

Amendment to section 87C.

37. Section 87C of the Ordinance is amended -

- (a) in sub-section (1)(b) by omitting the expression “4 per cent” and substituting therefor the expression “4 per centum”;
- (b) in sub-section (2) by omitting the comma after the word “period” and substituting therefor a semi-colon.

Amendment to section 87H.

38. Section 87H of the Ordinance is amended by inserting a dash after the words “expressly provide that”.

Amendment to section 89.

39. Section 89 of the Ordinance is amended by omitting the expression “EEA States” in each place where it occurs and substituting therefor the expression “EEA”.

Amendment to section 92.

40. Section 92 of the Ordinance is amended in sub-section (1) by omitting paragraph (a) and substituting therefor the following paragraph -

“(a) an EEA insurer is to transfer -

- (i) to a Gibraltar insurer; or
- (ii) to a non-EEA insurer whose solvency is supervised by the Commissioner in accordance with Article 29 or 30 of the first long term insurance Directive or Article 25 or 26 of the first general insurance Directive,

all its rights and obligations under such long term or general policies, or long term or general policies of such descriptions, as may be specified in the instrument; or”.

Amendment to section 93.

41. Section 93 of the Ordinance is amended -

- (a) in sub-section (1)(a)(ii) by inserting after the semi-colon the word “or”;
- (b) in sub-section (1)(b) by inserting a comma after the words “first general insurance Directive”;
- (c) in sub-section (3) by omitting the word “provisions” and substituting therefor the word “provision”.

Amendment to section 98.

42. Section 98 of the Ordinance is amended -

- (a) in sub-section (3) by omitting the word “Sub-section” and substituting therefor the word “Sub-sections”;
- (b) in sub-section (6)(b) by inserting after the word “produced” a comma;
- (c) in sub-section (7)(b) by inserting after the words “a body on which” the word “such”.

Amendment to section 99.

43. Section 99 of the Ordinance is amended in sub-section (1) by omitting paragraph (a) and substituting therefor the following paragraph -

- “(a) with such information as may be required under that section and as may from time to time be prescribed; and”.

Amendment to section 100.

44. Section 100 of the Ordinance is amended -

- (a) in sub-section (1)(a) by omitting the words “potential policyholder” and substituting therefor the words “potential policyholders”;
- (b) in sub-section (2)(d) by inserting after the word “obligation” the words “to which”.

Amendment to section 100A.

45. Section 100A of the Ordinance is amended -

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note -

“General investigations.”;

- (b) in sub-section (3) by omitting the words “without notice” and substituting therefor the words “without prior notice”.

Amendment to section 100B.

46. Section 100B of the Ordinance is amended by omitting the words “profession privilege or authorise the taking” and substituting therefor the words “professional privilege or authorise the taking of possession”.

Amendment to section 105A.

47. Section 105A of the Ordinance is amended in sub-section (2) by omitting the words “set up” and substituting therefor the words “set out”.

Amendment to section 105B.

48. Section 105B of the Ordinance is amended in sub-section (2)(b) by omitting the expression “sub-section (b)” and substituting therefor the expression “sub-section (6)”.

Amendment to section 106.

49. Section 106 of the Ordinance is amended in sub-section (1)(a) by omitting the expression “EEA States” and substituting therefor the expression “EEA”.

Amendment to section 107.

50. Section 107 of the Ordinance is amended -

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note -

“Grounds for exercise of powers of intervention (sections 55, 82, 98, 100 and 100A).”;

- (b) in sub-section (2)(h) by omitting the expression “a non-EEA State where it has its head office or”;
- (c) in sub-section (5) by omitting the word “subjection” and substituting therefor the word “sub-section”;
- (d) in sub-section (8) by omitting the expression “sub-section 2(c) to (g) and (3)” and substituting therefor the expression “sub-sections (2)(c) to (h) and (3)”.

Amendment to section 108.

51. Section 108 of the Ordinance is amended in sub-section (2) by omitting the words “decide not” and substituting therefor the words “decides not”.

Amendment to section 109.

52. Section 109 of the Ordinance is amended -

- (a) by omitting the marginal note thereto and substituting therefor the following marginal note -

“Rescission, variation and publication of requirements.”;

- (b) in sub-section (1) by omitting the words “if it appear to him” and substituting therefor the words “if it appears to him”.

Amendment to section 114A.

53. Section 114A of the Ordinance is amended in sub-section (2) by omitting the expression “in an EEA State” in each place where it occurs and substituting therefor the expression “in Gibraltar or an EEA State”.

Amendment to section 118.

54. Section 118 of the Ordinance is amended in sub-section (2)(a)(vii) by omitting the expression “outside the EEA States” and substituting therefor the expression “outside the EEA”.

Amendment to section 119A.

55. Section 119A of the Ordinance is amended in sub-section (6)(b) by omitting the words “in any such a State” and substituting therefor the words “in any such State”.

Amendment to Schedule 1.

56. Schedule 1 to the Ordinance is amended in Part I -

- (a) in the third column of the entry in respect of Class 17 by omitting the word “cost” and substituting therefor the word “costs”;
- (b) by omitting the entry in respect of Class 18 and substituting therefor the following entry -

“18	Assistance	Contracts of insurance providing either or both of the following benefits, namely - (a) assistance (whether in cash or in kind) for persons who get into difficulties while travelling, while away from home or while away from their permanent residence; or (b) assistance (whether in cash or in kind) for persons who get into difficulties otherwise than as mentioned in paragraph (a).”.
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Amendment to Schedule 2.

57. Schedule 2 to the Ordinance is amended -

- (a) in the third column of the entry in respect of Class II by inserting after the word “child” a comma and the words “being contracts expressed to be in effect for a period of more than one year”;
- (b) in the third column of the entry in respect of Class III by omitting the words “when the benefits” and substituting therefor the words “where the benefits”.

Amendment to Schedule 4.

58. Schedule 4 to the Ordinance is amended by omitting the entry in respect of section 78 and substituting therefor the words “Periodic actuarial investigation of insurer with long term business.”.

Amendment to Schedule 6.

59. Schedule 6 to the Ordinance is amended -

- (a) in Part I -

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- (i) by inserting after the entry "Class 15 - suretyship," the word "and";
- (ii) by omitting the entry in respect of "Class 16 - miscellaneous financial loss." and substituting therefor the following -

"Class 16 - miscellaneous financial loss,
as specified in Part 1 of Schedule 1.";

(b) In Part 2 -

- (i) by omitting in paragraph 1(c) the words "other than that in which" and substituting therefor the expression "other than the State (whether Gibraltar or an EEA State) in which";
- (ii) by omitting paragraph 2(ii) and substituting therefor the following -
 - "(ii) in the case of insurance relating to a registered vessel, aircraft or vehicle (including railway rolling stock), if the vessel, aircraft or vehicle is registered in Gibraltar or an EEA State; and";
 - (iii) by omitting in paragraph 2(iii) the words "was incorporated" and substituting therefor the words "is incorporated".

Amendment to Schedule 7.

60. Schedule 7 to the Ordinance is amended -

- (a) by omitting the heading and substituting therefor the following heading -

"SCHEDULE 7

Section 113

PROVISIONS WHICH THE COMMISSIONER MAY MODIFY.;"

- (b) by omitting the entry in the second column in respect of section 21 and substituting therefor the following entry -

“Licensed insurer not to carry on other business.”;

- (c) by omitting the entry in the second column in respect of section 78 and substituting therefor the following entry -

“Periodic actuarial investigation of insurer with long term business.”.

Amendment to Schedule 8.

61. Schedule 8 to the Ordinance is amended in paragraph 7(5) by omitting the expression “section 94” and substituting therefor the expression “section 91 and Part I of Schedule 10”.

Amendment to Schedule 9.

62. Schedule 9 to the Ordinance is amended -

- (a) in paragraph 1 -

- (i) by inserting in sub-paragraph (2)(a) after the word “State” a comma and the words “as the case may be.”;
- (ii) by inserting in sub-paragraph (4) after the words “Where Gibraltar or” the words “any of”;
- (iii) by omitting sub-paragraph (5) and substituting therefor the following sub-paragraph -

“ (5) Notwithstanding sub-paragraphs (1) to (3), when the risks covered by the contract are limited to events occurring in a territory (whether Gibraltar or an EEA State) other than the territory (whether Gibraltar or an EEA State) where the risk is situated, the parties may always choose the law of the former territory.”;

- (b) in paragraph 2 by omitting sub-paragraph (4) and substituting therefor the following sub-paragraph -

“(4) A contract is rebuttably presumed to be most closely connected with the territory in which the risk is situated, whether Gibraltar or an EEA State.”;

- (c) in paragraph 10 by omitting the closing quotation marks and the second full stop.

Amendment to Schedule 11.

63. Schedule 11 to the Ordinance is amended -

- (a) in paragraph 2(4) by inserting before the word “oral” a comma and the words “if that person so requests,”;
- (b) by omitting paragraph 3(4)(d) and substituting therefor the following -

“(d) that the person on whom the preliminary notice is served may, within the period of one month from the date of service of that notice, make written and, if that person so requests, oral representations to the Commissioner.”;
- (c) in paragraph 4(4) by inserting before the word “oral” a comma and the words “if that person so requests,”;
- (d) in paragraph 5 -
 - (i) by omitting in sub-paragraph (2) the words “be notice” and substituting therefor the words “by notice”;
 - (ii) by inserting in sub-paragraph (4) a comma after the word “Commissioner”;
 - (iii) by inserting in sub-paragraph (7)(a) a comma after the figure “(1)”.

Amendment to Schedule 12.

64. Schedule 12 to the Ordinance is amended -

- (a) in paragraph 1 -
 - (i) by omitting sub-paragraph (3)(b) and substituting therefor the following -

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- “(b) the insurer’s home State or territory (whether Gibraltar or an EEA State) and, where appropriate, the State or territory of the branch (whether Gibraltar or an EEA State) through which the contract is to be entered into;”;
- (ii) by inserting in sub-paragraph (4) after the expression “EEA State” the expression “(other than that of the UK)”;
- (b) in paragraph 5(1) by omitting the word “these” and substituting therefor the word “those”.

Amendment to Schedule 13.

65. Schedule 13 to the Ordinance is amended -

- (a) in paragraph 9(2)(b) by omitting the words “that the authority” and substituting therefor the words “that that authority”;
- (b) in paragraph 17 by omitting the figure “1” and substituting therefor the figure “(1)”.

Amendment to Schedule 14.

66. Schedule 14 to the Ordinance is amended in paragraph 11(2)(a) by omitting the expression “through an establishment in an EEA State” and substituting therefor the expression “through an establishment in another EEA territory”.

Amendment to Schedule 16.

67. Schedule 16 to the Ordinance is amended -

- (a) by omitting paragraph 2 and inserting the following paragraphs -

“2. Paragraph 1 does not preclude the disclosure of information in any case in which disclosure is for the purpose of enabling or assisting the Commissioner to discharge his functions under this Ordinance or any rules or regulations made under this Ordinance (whether or not by virtue of any requirement to supply it made under those provisions).

Disclosure for facilitating discharge of functions by other regulatory authorities.

2A.(1) Paragraph 1 does not preclude the disclosure of information -

(a) if disclosure is in accordance with Article 16(6) of the third general insurance Directive, or Article 15(6) of the third long term insurance Directive;

(b) for the purpose of enabling or assisting any public or other authority to discharge any functions if disclosure is in accordance with Article 16 of the third general insurance Directive, or Article 15 of the third long term insurance Directive;

(c) for the purpose of enabling or assisting an authority in a country or territory outside Gibraltar to exercise functions corresponding to those of the Financial Services Commissioner.

(2) Paragraph 2A(1)(c) does not apply in relation to disclosure to an authority in a non-EEA State unless the Commissioner is satisfied that the authority is subject to restrictions on further disclosures at least equivalent to those imposed by this Part of this Schedule.”;

(b) in paragraph 3(1)(c) by omitting the full stop and substituting therefor a semi-colon and the following new sub-paragraph —

“(d) with a view to the institution of or otherwise for the purposes of any civil proceedings arising under or by virtue of the Financial Services Ordinance if those proceedings relate to an insurance company.”;

(c) in paragraphs 3(2) and 3(3) by omitting the expression “Paragraph (1)” and substituting therefor the expression “Paragraph 1”.

Amendment to Schedule 17.

68. Schedule 17 to the Ordinance is amended -

(a) in paragraph 2(1) by omitting the words “general meetings of the undertakings” and substituting therefor the words “general meetings of the undertaking”;

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- (b) in the title to paragraph 3 by omitting the word “and” and substituting therefor the word “or”;
- (c) in paragraph 7(a) by omitting the words “for the purposes” and substituting therefor the words “for the purpose”;
- (d) in paragraph 8(2) by omitting the expression “paragraph 6 or 7” and substituting therefor the expression “paragraph 6(2) and (3) or paragraph 7”;
- (e) in paragraph 10 by omitting the word “Refernce” and substituting the word “Reference”.

Amendment to the Insurance Companies Ordinance (General Insurance and Long Term Insurance Directives) Regulations 1995.

69. The Insurance Companies Ordinance (General Insurance and Long Term Insurance Directives) Regulations 1995 are amended in regulation 73 by omitting sub-regulations (5) and (6) and substituting for sub-regulation (6) the following -

“(6) Except where the contrary intention appears, nothing contained in these regulations shall have the effect of varying the provisions of the Ordinance in respect of business which is reinsurance business.”.

Dated this 13th day of June, 1996.

P. C. MONTEGRIFFO,

Minister for Trade & Industry.