

**SECOND SUPPLEMENT TO THE GIBRALTAR
GAZETTE**

No. 3390 of 5 February, 2004

LEGAL NOTICE NO. 16 OF 2004

INSURANCE COMPANIES ORDINANCE

**INSURANCE COMPANIES (ACCOUNTS AND STATEMENTS)
(AMENDMENT NO. 2) REGULATIONS 2004**

In exercise of powers conferred on it by section 118 of the Insurance Companies Ordinance, and all other enabling powers, and in order to implement in the law of Gibraltar Council Directive 98/78/EC on the regulatory supervision of insurance groups, the Government has made the following regulations—

Title.

1. These regulations may be cited as the Insurance Companies (Accounts and Statements) (Amendment No. 2) Regulations 2004.

Amendments to the Insurance Companies (Accounts and Statements) Regulations 1998.

2. The Insurance Companies (Accounts and Statements) Regulations 1998 are amended as follows—

(a) the following definitions are inserted in regulation 2 in the appropriate alphabetical places—

“material connected-party transaction” means a connected-party transaction for which (together with any similar transactions):

(a) the price actually paid or received for the transfer of assets or liabilities or the performance of services; or

(b) the price which would have been paid or received had that transaction been negotiated at arm’s length between unconnected parties;

exceeds—

- (i) in the case of an insurer that carries on either general insurance business or long-term insurance business, but not both, 5% of the general business amount or long-term business amount, as applicable; or
- (ii) in the case of an insurer that carries on both types of business either–
 - (a) 5% of the long-term business amount where the transaction is in connection with the insurer's long term business, or
 - (b) in other cases, 5% of the general business amount.

“connected party transaction” means the transfer of assets or liabilities or the performance of services by, or to a connected person irrespective of whether or not a price is charged.

“connected” shall be construed so that a body corporate “A” and another body corporate “B” are connected with each other if–

- (a) B is a related undertaking of A;
- (b) B is a participating undertaking in A; or
- (c) B is a related undertaking of a participating undertaking in A;

a body corporate “C” and a natural person “D” are connected if D holds a participation in–

- (a) C or any of its related undertakings;
- (b) a participating undertaking in C; or
- (c) a related undertaking of a participating undertaking in A;

- (b) the following regulation is inserted after regulation 18 in the Insurance Companies (Accounts and Statements) Regulations 1998–

“Intra-group transactions.

- 18A.(1) An insurer, which during the financial year in question has agreed to, or carried out, a material connected-party transaction must provide a brief description of that transaction by way of supplementary note to Form INS 20 or Form INS 40.
- (2) description to be provided in accordance with sub-regulation (1) must state–
- (a) the names of the transacting parties;
 - (b) a description of the relationship between the parties;
 - (c) a description of the transaction;
 - (d) the amounts involved;
 - (e) any other elements of the transaction necessary for an understanding of its effect upon the financial position or performance of the insurer; and
 - (f) amounts written off in the period in respect of debts due to or from connected parties.
- (3) Transactions with the same connected party may be disclosed on an aggregated basis unless separate disclosure is needed for a proper understanding of the effect of the transactions upon the financial position or performance of the insurer.”.

Dated the 5th day of February, 2004.

P R CARUANA Q.C.,
Chief Minister,
for the Government.