STATUTORY INSTRUMENTS

1981 No. 710

INSURANCE

The Co-Insurance (Determination of Certain Liabilities) Regulations 1981

Made - - - -	*6th May* 1981
Laid before Parliament	*8th May* 1981
Coming into Operation	*1st June* 1981

The Secretary of State, in exercise of his powers under sections 78 and 86 of the Insurance Companies Act 1974**(a)**, hereby makes the following Regulations:—

1. These Regulations may be cited as the Co-Insurance (Determination of Certain Liabilities) Regulations 1981 and shall come into operation on 1st June 1981.

2. In these Regulations—

"leading insurer", in relation to a relevant co-insurance operation, means an insurer who—

(*a*) is recognised as the leading insurer by the other insurers involved in the operation, and

(*b*) determines the terms and conditions of insurance for the operation;

"relevant co-insurance operation" has the meaning given by the Schedule to these Regulations;

"relevant company", in relation to a relevant co-insurance operation, means an insurer carrying on insurance business in the United Kingdom who is concerned in the operation but is not the leading insurer or a member of Lloyd's.

3. These Regulations apply for the purposes of any provision of the Insurance Companies Act 1974 which requires the amount of any liability to be determined in accordance with valuation regulations, and for the purposes of any provision of the Insurance Companies (Solvency: General Business) Regulations 1977**(b)** or the Insurance Companies (Authorisation and Accounts: General Business) Regulations 1978**(c)** which requires any such amount to be so determined.

4. Where a relevant company determines the amount of a liability in order to make provision for outstanding claims arising under a relevant co-insurance operation, then, if the leading insurer has informed the company of the amount of the provision made by the leading insurer for such claims, the amount determined by the company—

(*a*) shall be at least as great as the amount of the provision made by the leading insurer, or

---

(a) 1974 c. 49; section 78 was modified by S.I. 1977/1553, Schedule 5, paragraph 11 and S.I. 1978/720, Schedule, paragraph 15.

(b) S.I. 1977/1553. **(c)** S.I. 1978/720.

(*b*) in a case where it is not the practice in the United Kingdom to make such provision separately, shall be sufficient, when all liabilities are taken into account, to include provision at least as great as that made by the leading insurer for such claims,

due regard being had in either case to the proportion of the risk covered by the company and by the leading insurer respectively.

Reginald Eyre,
Parliamentary Under Secretary of State,
Department of Trade.

6th May 1981.

SCHEDULE

1. An insurance operation is a relevant co-insurance operation for the purposes of these Regulations if—

(*a*) it is not a reinsurance acceptance, and

(*b*) it relates to any of the classes specified in paragraph 2 below, and

(*c*) it satisfies all the conditions specified in paragraph 3 below.

2. The classes referred to in paragraph 1(*b*) above are—

class 4 (railway rolling stock),

class 5 (aircraft),

class 6 (ships),

class 7 (goods in transit),

class 8 (fire and natural forces),

class 9 (damage to property),

class 11 (aircraft liability),

class 12 (liability for ships),

class 13 (general liability), excluding risks which concern damage arising from nuclear sources or from medicinal products, and

class 16 (miscellaneous financial loss),

as set out in Schedule 1 to the Insurance Companies (Classes of General Business) Regulations 1977**(a)**.

3. The conditions referred to in paragraph 1(*c*) above are—

(*a*) that the risk is covered by a single contract at an overall premium and for the same period by two or more insurers, each for his own part;

(*b*) that the risk is situated (within the meaning of paragraph 4 below) within a member State;

(*c*) that at least one of the insurers participating in the operation does so through a head office, agency or branch established in a member State other than that in which the leading insurer's head office (or if the leading insurer is participating through an agency or branch, that agency or branch) is established.

4. For the purposes of paragraph 3(*b*) above, a risk is situated in a member State—

(*a*) in the case of insurance relating to immovable property, if the property is situated in a member State,

(*b*) 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 a member State, and

(*c*) in any other case, if the policy holder is incorporated or has his habitual residence in a member State.

(a) S.I. 1977/1552.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations implement a Community obligation in Article 4(1) of Council Directive 78/473/EEC on the co-ordination of laws, regulations and administrative provisions relating to Community co-insurance (O.J. No. L151, 7.6.78, p. 25) whereby participants in co-insurance operations are to be required to make provision for outstanding claims at least as great as is made by the leading insurer.

Section 78 of the Insurance Companies Act 1974, under which these Regulations are made, provides that regulations may be made with respect to the determination of the value of assets and the amount of liabilities in any case in which the value or amount is required by any provision of the Act to be determined in accordance with valuation regulations. These Regulations will accordingly apply, so far as liabilities are concerned, for the purposes of all such provisions of the Act.

By paragraph 11 of Schedule 5 to the Insurance Companies (Solvency: General Business) Regulations 1977 and by paragraph 15 of the Schedule to the Insurance Companies (Authorisation and Accounts: General Business) Regulations 1978 the regulation-making power in section 78 was extended to cover the purposes of those regulations, and the application of these Regulations is extended accordingly.

SI 1981/710
ISBN 0-11-016710-4

