Draft Order laid before Parliament under section 14(1) of the Legislative and Regulatory Reform Act 2006, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2008 No.

REGULATORY REFORM

The Legislative Reform (Lloyd's) Order 2008

Made - - - -	*2008*
Coming into force - -	*2008*

The Treasury, in exercise of the powers conferred by section 1 of the Legislative and Regulatory Reform Act 2006(**a**), makes the following Order.

For the purposes of section 3(1) of the Legislative and Regulatory Reform Act 2006, the Treasury considers that the conditions under section 3(2), where relevant, are satisfied.

The Treasury has consulted in accordance with section 13(1) of that Act, and has laid a draft order and an explanatory document before Parliament in accordance with section 14(1) of that Act.

Pursuant to section 15 of that Act, the affirmative resolution procedure (within the meaning of Part 1 of that Act) applies in relation to the making of the Order.

In accordance with section 17(2) of that Act, the draft has been approved by resolution of each House of Parliament after the expiry of the 40-day period referred to in that provision.

Citation and commencement

1. This Order may be cited as the Legislative Reform (Lloyd's) Order 2008 and shall come into force on the day after the day on which it is made.

Interpretation

2. In this Order "the Act" means Lloyd's Act 1982(**b**).

The Council

3.—(1) Section 3 of the Act (the Council) shall be amended as follows.

(2) In subsection (2)(c) omit the words ", whose appointments shall not take effect unless and until confirmed by the Governor for the time being of the Bank of England".

(**a**) 2006 c. 51. Section 32(1) of that Act defines "Minister of the Crown" for the purposes of the Act. Sections 1, 4, 11, 13, 24 and 27 of that Act have been amended by S.I.2007/1388.

(**b**) 1982 c. xiv.

(3) In subsection (5), paragraphs (ii) and (iii) shall cease to have effect.

Chairman and Deputy Chairmen of Lloyd's

4.—(1) In section 4 of the Act (the Chairman and Deputy Chairmen of Lloyd's) renumber the existing provision as subsection (1) of that section.

(2) In subsection (1)—

(a) insert after "annually elect" the words "by special resolution", and

(b) omit the word "working".

(3) After subsection (1) insert—

"(2) Subject to subsection (3) a person elected as the Chairman or Deputy Chairman of the Council may, but need not, be a member of the Society.

(3) Where the person elected as Chairman is not a working member of the Society, at least one of the Deputy Chairmen must be elected from among the working members of the Council."

The Committee

5.—(1) The Act shall be amended as follows.

(2) In section 2(1) (interpretation), omit the definition of "the Committee".

(3) Section 5 (the Committee) shall cease to have effect.

(4) Section 6 (powers of the Council and of the Committee) shall be amended as follows—

(a) in the side-note, omit the words "and of the Committee";

(b) in subsection (5), paragraphs (c) to (e) shall cease to have effect;

(c) subsections (6), (8) and (9) shall cease to have effect;

(d) in subsection (7), omit the words "or of the Committee";

(e) in subsection (11), omit the words "or Committee" wherever they occur.

(5) Section 7(3) (the Disciplinary Committee and the Appeal Tribunal) shall cease to have effect.

(6) In section 13(1) (application of certain provisions of Companies Act 1948 c.38), omit the words ", the Committee".

(7) In section 15(2) (repeals and amendments) omit the words from "Provided that" to the end of the subsection.

(8) Schedule 2 (purposes for which byelaws may be made) shall be amended as follows—

(a) in the opening words of Schedule 2, omit "and of the Committee";

(b) in paragraph (6) omit the words "and of the Committee" on each occasion they occur;

(c) in paragraph (7) omit sub-paragraph (b) and the preceding "and";

(d) in paragraph (8) omit the words "and the Chairman and Deputy Chairmen of the Committee";

(e) in paragraph (10)(a) omit the words "or of sub-committees of the Committee";

(f) in paragraph (10)(b) omit the words "or the Committee";

(g) in paragraph (11) for the words "the Committee or any other" substitute "any".

6.—(1) In this article, "Committee" means the Committee constituted by section 5 of the Act (as in force immediately before the coming into force of this Order), and "Council" means the Council constituted by section 3 of the Act.

(2) Any regulation made by the Committee in the exercise of powers delegated to it under section 6(6)(a)(i) of the Act (as in force immediately before the coming into force of this Order)

shall be deemed to have been made by the Council in the exercise of its powers under the Act, and shall continue in full force and effect unless and until revoked by the Council.

(3) Anything required or authorised to be done by the Committee under the provisions of any enactment, subordinate legislation, instrument, trust deed, or other document may after this Order comes into force be done by the Council.

Powers of the Council

7.—(1) Section 6 of the Act shall be amended as follows.

(2) In subsection (5)—

(a) for the words "subsections (6) and (10)" substitute "subsection (10)";

(b) for paragraphs (a) and (b), substitute—

"(a) Committees, subcommittees or other bodies of persons (whose members need not be members of the Society), or

(b) any person (whether or not a member of the Society).".

(3) After subsection (5) insert—

"(5A) A delegation under subsection (5) may be made—

(a) to such an extent; and

(b) on such conditions or subject to such restrictions,

as the Council considers appropriate.

(5B) A delegation of the exercise of a power or function made under subsection (5) may authorise the person or body to whom it is delegated to make a further delegation of the exercise of that power or function.".

(4) In subsection (7)—

(a) for the words "subsections (5) and (6)" substitute "subsection (5)";

(b) insert after "employees" the words "or officers".

(5) In subsection (10)—

(a) for the words "under this section" substitute "under subsection (5)";

(b) for "is revocable" substitute "may be amended or revoked".

The Disciplinary Committee and the Appeal Tribunal

8.—(1) Section 7 of the Act shall be amended as follows.

(2) In subsection (1)(a)(i), for the words "provided that the majority of the members of any such Disciplinary Committee shall be members of the Society (who need not be members of the Council)" substitute "provided that the members of any such Disciplinary Committee shall include at least one person who falls within subsection (1A)".

(3) In subsection (1)(a)(ii), omit the words "subject to subsection (3) below,".

(4) Insert after subsection (1)—

"(1A) A person falls within this subsection if he is—

(a) a working member of the Society;

(b) a director of a corporate member of the Society;

(c) an officer or employee of an underwriting agent or Lloyd's broker where that officer or employee has been approved by the Financial Services Authority under section 59 of the Financial Services and Markets Act 2000(**a**);

(**a**) 2000 c.8.

(d) a person who has gone into retirement, but who immediately before retirement fell within paragraph (b) or (c) above."

Insurance Business and Lloyd's brokers

9.—(1) The Act shall be amended as follows.

(2) In section 2(1), for the definition of "Lloyd's broker" substitute—

""Lloyd's broker" means a partnership or body corporate permitted by the Council to describe itself as a Lloyd's broker".

(3) Section 8(3) (Insurance business) shall cease to have effect.

(4) In section 8(4), for the words "(1) to (3)" substitute "(1) or (2)".

(5) In Schedule 2—

(a) after paragraph (12) insert—

"(12A) For regulating the grant and renewal of permission to a partnership or body corporate to describe itself as a Lloyd's broker and regulating the manner and circumstances in which such permission may be withdrawn;";

(b) after paragraph (19) insert—

"(19A) For regulating the conditions under which underwriting agents may accept and place business from or through intermediaries other than Lloyd's brokers;

(19B) For regulating the manner and circumstances in which underwriting agents may transact insurance business otherwise than through an intermediary;".

Divestment

10.—(1) Sections 10 (restrictions affecting Lloyd's brokers), 11 (restrictions affecting managing agents) and 12 (interpretation of sections 10 and 11) of the Act shall cease to have effect.

(2) In section 2(2), the words "(except sections 10, 11 and 12)" shall be omitted.

[Name]
[Name]

Date

Two of the Lords Commissioners of Her Majesty's Treasury

EXPLANATORY NOTE

(This note is not part of the Order)

This Order removes a number of burdens imposed on the Society of Lloyd's, its members and those working in the Lloyd's market under Lloyd's Act 1982 ("the Act").

Article 3 of the Order removes the prohibition in section 3(5)(ii) on working members of the Council being elected for a consecutive term, and the exception to that prohibition in section 3(5)(iii) which permits the Chairman and Deputy Chairmen to be elected for two consecutive terms, but no more. It also removes the requirement under section 3(2)(c) for the appointment of nominated members of the Council to be confirmed by the Governor of the Bank of England.

Article 4 of the Order removes the requirement in section 4 of the Act that the Chairman and Deputy Chairmen may only be elected from among the working members of the Council. It amends that section to require elections to those offices to be made by special resolution of the Council, and to ensure that at least one of those offices will be held by a working member of the Council.

Article 5 of the Order repeals section 5 of the Act, which requires there to be a Committee of Lloyd's, and removes all references to the Committee from the Act. Article 6 ensures that any regulations made by the Committee which remain in force are not affected by the abolition of that body, and ensures that decisions required to be taken by the Committee may instead be taken by the Council.

Article 7 amends the delegation powers in section 6(5) of the Act, which currently enable the Council to delegate certain powers and functions to the Chairman or a Deputy Chairman of Lloyd's or to the Committee or its officers, by making more general provision. The Council is given power to make delegations to any Committees, subcommittees or other bodies of persons; or to any person (including, for example, the Chairman or a Deputy Chairman of Lloyd's, or a person who is not a member of the Society). A special resolution will continue to be required for any delegation under the new provisions, and the Council will not be able to delegate any power or function for which a special resolution is required.

Article 8 replaces the requirement in section 7(1)(a)(i) of the Act that a majority of the members of any disciplinary committee must be members of the Society with a requirement that disciplinary committees must contain at least one person falling within one of the classes listed in the new section 7(1A).

Article 9 repeals section 8(3) of the Act. That subsection prevents underwriting members from accepting or placing business from or through anyone other than a Lloyd's broker or a person approved by the Council. Article 9 also amends Schedule 2 to give the Council express power to regulate the conditions under which underwriting agents may accept or place business from or through insurance intermediaries who are not Lloyd's brokers, and under which they may deal directly with the assured, and the grant, renewal and withdrawal of permission for a partnership or body corporate to use the title "Lloyd's broker".

Article 10 repeals sections 10 to 12 of the Act. This removes the prohibition on associations between managing agents and Lloyd's brokers.

A full impact assessment of the effect that this instrument will have on the costs of business and the voluntary sector is available at www.hm-treasury.gov.uk.

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