STATUTORY INSTRUMENTS

1979 No. 408

INSURANCE

The Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules Approval Order 1979

Made - - - -	*2nd April* 1979
Laid before Parliament	*3rd April* 1979
Coming into Operation	*1st July* 1979

The Secretary of State, in exercise of the powers conferred by sections 27(1) and 28(1) of the Insurance Brokers (Registration) Act 1977**(a)** and of all other powers enabling him in that behalf, hereby makes the following Order:—

1. This Order may be cited as the Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules Approval Order 1979 and shall come into operation on 1st July 1979.

2. The Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules 1979 made by the Insurance Brokers Registration Council in exercise of their powers under section 12 of the Insurance Brokers (Registration) Act 1977 are hereby approved as set out in the Schedule to this Order.

Stanley Clinton Davis,
Parliamentary Under-Secretary of State,
Department of Trade.

2nd April 1979.

(a) 1977 c. 46.

SCHEDULE

THE INSURANCE BROKERS REGISTRATION COUNCIL (INDEMNITY INSURANCE AND GRANTS SCHEME) RULES 1979

The Insurance Brokers Registration Council, in exercise of their powers under section 12 of the Insurance Brokers (Registration) Act 1977, hereby make the following Rules:

PART I—PRELIMINARY

1. These Rules may be cited as the Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules 1979.

2.—(1) In these Rules, unless the context otherwise requires:

"the Act" means the Insurance Brokers (Registration) Act 1977;

"the applicant" has the meaning assigned to it by rule 7(1);

"brokerage" means any remuneration originating from insurance broking business;

"business" means an insurance broking business or any business which includes an insurance broking business;

"a grant" and "the Grants Scheme" have the meanings assigned to them by rule 6;

"the grantee" has the meaning assigned to it by rule 14(4);

"the Grants Fund" has the meaning assigned to it by rule 15(1);

"the insured", "the insurer" and "the policy" have, for the purposes of Part II of these Rules, the meanings assigned to them by rule 3(1);

"a levy" and "the levy date" have the meanings assigned to them by rule 9;

"the maximum levy" has the meaning assigned to it by rule 11(1);

"partner" includes any person held out as a partner and "former partner" shall be construed accordingly;

"the registered address" means the address entered in the register or list in respect of the practising insurance broker or enrolled body corporate;

"the total actual levy" and "the total maximum levy" have the meanings assigned to them by rule 11(2).

(2) For the purposes of these Rules, unless the context otherwise requires, every business carried on by a partnership shall be deemed to be carried on jointly and severally by all the partners thereof and employees or former employees of a partnership shall be deemed to be employees or former employees of all the partners thereof jointly and severally.

PART II—PROFESSIONAL INDEMNITY INSURANCE

3.—(1) Practising insurance brokers and enrolled bodies corporate shall, in respect of each business which they carry on, take out and maintain in accordance with the provisions of this rule a policy or policies of insurance ("the policy") with an authorised insurer ("the insurer") which shall indemnify the practising insurance broker or the enrolled body corporate, or where the business is or was carried on in partnership the practising insurance broker or enrolled body corporate and any former partner who, as a practising insurance broker or enrolled body corporate, carried on such business in partnership (in each case "the insured") against losses arising from claims in respect of any description of civil liability incurred by them or by employees or former employees of theirs, in connection with such business.

(2) The policy shall comply with the following requirements:

(i) without prejudice to the generality of the foregoing provisions of this rule the policy shall indemnify the insured:

(*a*) against losses arising from claims made against the insured:

(A) for breach of duty in connection with the business by reason of any negligent act, error, or omission or by reason of any dishonest or fraudulent act or omission; and

(B) in respect of libel or slander or in Scotland defamation,

committed in the conduct of the business by the insured, any employee or former employee of the insured, and where the business is or was carried on in partnership any partner or former partner of the insured; and

(*b*) against claims arising in connection with the business in respect of:

(A) any loss of money or other property whatsoever belonging to the insured or for which the insured is legally liable in consequence of any dishonest or fraudulent act or omission of any employee or former employee of the insured, and where the business is or was carried on in partnership any partner or former partner of the insured; and

(B) legal liability incurred by reason of loss of documents and costs and expenses incurred in replacing or restoring such documents,

PROVIDED THAT the policy shall not be required to afford indemnity to any person committing, making or condoning any dishonest or fraudulent act or omission.

(ii) Subject as provided in paragraph (2)(iii) of this rule the policy shall at inception and at each renewal date, which shall not be more than twelve months from inception or the last renewal date, provide a minimum limit of indemnity in either:

(*a*) a sum of £250,000; or

(*b*) a sum equal to three times the brokerage of the business for the last accounting period ending prior to inception or renewal of the policy,

whichever sum shall be the greater provided that in no case shall the minimum limit of indemnity be required to exceed £7,500,000.

(iii) Notwithstanding the provisions of paragraph (2)(ii) of this rule if the minimum limit of indemnity as provided by such paragraph shall be £500,000 or less then such minimum limit shall apply at all times to each and every claim or series of claims arising out of the same occurrence and if the minimum limit of indemnity required by paragraph (2)(ii) of this rule shall be greater than £500,000 then not less than the initial £500,000 of such minimum limit shall apply at all times to each and every claim or series of claims arising out of the same occurrence.

(iv) No policy shall without the previous consent in writing of the Council being obtained have an excess or deductible applying to the insurance in an amount which exceeds one-half per cent of the minimum limit of indemnity required by paragraph (2)(ii) of this rule.

(v) The policy shall cover the insured for the full indemnity required by paragraph (2)(i), (ii), (iii) and (iv) of this rule in respect of all claims first made and reported during the period of insurance regardless of the time at which the error, omission, act, event or occurrence which gives rise to any such claim may have occurred.

(vi) The policy shall indemnify the insured in respect of claims made against the insured, or losses incurred by the insured, and arising in respect of all businesses which the insured carried on either alone or in partnership when registered or enrolled.

(vii) The policy shall specifically provide that "This Policy of Insurance is taken out pursuant to the Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules 1979".

(3) (i) For the purposes of sub-paragraph (*b*) of paragraph (2)(ii) of this rule:

(*a*) "the brokerage of the business for the last accounting period ending prior to inception or renewal of the policy" shall mean any brokerage disclosed or contained in the last accounts of the business which have been prepared and submitted to the Council in accordance with rules made under section 11 of the Act or where no such accounts have been prepared and submitted since registration or enrolment any brokerage disclosed or contained in the most recent accounts of the business submitted to the Council with or at the time of any application leading to registration or enrolment; and

(*b*) if the period covered by any such accounts shall be greater or less than twelve months then the figure for the brokerage disclosed or contained in such accounts shall be amended pro rata to give an equivalent figure for a twelve month period.

(ii) For the purposes of paragraph (2)(v) of this rule "claims first made and reported during the period of insurance" shall include claims subsequently made and reported if the circumstances or occurrence which give rise to any such claim have been notified to the insurer during the period of insurance.

(4) Practising insurance brokers and enrolled bodies corporate shall:

(*a*) forthwith inform the Council in writing if:

(i) during the currency of a policy the insurer has avoided or cancelled the policy or has notified his intention of doing so;

(ii) the policy has not been renewed or has been cancelled and another policy complying with the provisions of these Rules has not been taken out from the date on which the previous policy lapsed or was cancelled;

(iii) during the currency of a policy the terms or conditions are altered in any way so that the policy no longer complies with the provisions of these Rules;

(iv) the insurer has intimated that he intends to decline to indemnify the insured in respect of a claim under the policy;

(v) the insurer has given notice that the policy will not be renewed or will not be renewed in a form which will enable the policy to comply with the provisions of these Rules;

(vi) during the currency of a policy the risks covered by the policy, or the conditions or terms relating thereto, are altered in any way;

(*b*) forthwith inform the insurer in writing:

(i) of a claim by or against the insured; and

(ii) of all circumstances or occurrences of which the insured is aware which may subsequently give rise to a claim by or against the insured; and

(*c*) comply at all times with the terms and conditions of the policy.

(5) The insurer shall be entitled at any time to disclose to the Council the following information relating to the policy:

(i) any particulars of the policy relating to the requirements of this rule;

(ii) any other information relating to the policy whether or not the policy is in force or may have been avoided or cancelled or has lapsed;

(iii) whether the policy has lapsed or not been renewed or whether the insurer has avoided or cancelled the policy for any reason or intends to do so;

(iv) that he has intimated that he intends to decline to indemnify the insured in respect of a claim under the policy;

(v) whether in the opinion of the insurer the policy complies with the requirements of these Rules.

(6) For the purposes of this rule "the insured" shall include:

(*a*) the estate or personal representatives or trustee, or assignee, in bankruptcy of such person; and

(*b*) in Scotland the partnership in addition to the members thereof.

4.—(1) For the purposes of demonstrating to the satisfaction of the Council that the provisions of rule 3 of these Rules are being complied with practising insurance brokers and enrolled bodies corporate shall, in respect of each business which they carry on:

(*a*) within fourteen days of being registered or enrolled or commencing business; and

(*b*) within fourteen days of the date on which the policy is renewed or inception of a new policy,

submit to the Council the policy, or renewal receipt as the case may be, or a cover note, or such other written evidence as the Council may require to establish compliance with these Rules.

(2) At any time and from time to time a practising insurance broker or enrolled body corporate shall within fourteen days of being required in writing to do so produce to the Council written evidence satisfactory to the Council that a policy which in all respects complies with the provisions of these Rules is in full force and effect in respect of each of the businesses of the practising insurance broker or of the enrolled body corporate.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this rule the submission of a cover note, renewal receipt or other written evidence signed or issued by a practising insurance broker or an enrolled body corporate in respect of a policy which relates to his or its business must be accompanied by a receipt for payment of the premium under the policy from the insurer or a Lloyd's broker.

5. The Council shall have powers, from time to time and in their absolute discretion, for the purposes of ascertaining whether or not the provisions of Part II of these Rules are being complied with, to require practising insurance brokers or enrolled bodies corporate to:

(1) supply other or additional information;

(2) instruct the insurer to supply other or additional information;

(3) produce, at a time during ordinary business hours and at a place to be fixed by the Council, their accounting records, the policy and all or any documentation in any way connected therewith, and any other necessary documents for the inspection of any person appointed by the Council and to supply to such person any necessary information and explanations.

PART III—THE GRANTS SCHEME

6. There shall be a scheme to be known as "the Grants Scheme" which shall be maintained and administered by the Council for the purpose of making grants or other payments ("a grant") to relieve or mitigate losses suffered by persons as hereinafter defined in consequence of negligence or fraud or other dishonesty on the part of practising insurance brokers or enrolled bodies corporate, or of employees of theirs, in connection with their businesses or the failure on the part of practising insurance brokers or enrolled bodies corporate to account for money received by them in connection with their businesses,

PROVIDED THAT no grant or application for a grant shall be made under the Grants Scheme in respect of losses resulting from any negligence arising, or fraud or other dishonesty committed, or failure to account for money occurring, before the earlier of 1st December 1980 or the date of the coming into operation of section 22 of the Act.

7.—(1) The persons who shall be entitled to apply to the Council for a grant under the Grants Scheme ("the applicant") shall be individuals or partnerships or other unincorporated bodies of persons all the members of which are individuals, who are or have been insured under a United Kingdom policy of insurance but excluding a policy of reinsurance or reassurance and who have suffered loss in consequence of the negligence or fraud or other dishonesty on the part of practising insurance brokers or enrolled bodies corporate, or of employees of theirs, in connection with such United Kingdom policy of insurance or through failure on the part of practising insurance brokers or enrolled bodies corporate to account for money received by them in connection with such United Kingdom policy of insurance.

(2) References to persons who are or have been insured under a United Kingdom policy of insurance shall include persons who had sought advice or given instructions in contemplation of becoming an insured under a United Kingdom policy of insurance.

(3) A policy of insurance is a United Kingdom policy for the purposes of this rule at any time when the performance by the insurance company of any of its obligations under the contract evidenced by the policy would constitute the carrying on by the insurance company of insurance business of any class in the United Kingdom.

(4) For the purposes of this rule the expressions "insured" and "insurance" shall include "assured" and "assurance".

8. Notwithstanding the provisions of rule 7 of these Rules the Council shall in their absolute discretion be entitled to make a grant or grants under the Grants Scheme to such other person or persons as they may decide in all the circumstances.

9. Where the Council so resolve under the provisions of rule 17(2) of these Rules or where they have made a grant or propose to make a grant they shall, subject to the provisions of rule 11 of these Rules, be entitled to impose a levy ("a levy") upon all practising insurance brokers and enrolled bodies corporate who are or were on the register or list on a day to be specified by the Council ("the levy date").

10.—(1) A levy to be imposed by the Council in accordance with the provisions of rule 9 of these Rules shall be based:

(i) (*a*) in the case of an enrolled body corporate upon the aggregate number of individuals engaged in the business of, or employed by, the enrolled body corporate in the United Kingdom; or

(*b*) in the case of each business of a practising insurance broker who is a sole proprietor, upon the aggregate of the practising insurance broker and the number of individuals engaged in the business of, or employed by, the practising insurance broker in the United Kingdom; or

(*c*) in the case of each business which is being carried on by a practising insurance broker or an enrolled body corporate in partnership, upon the aggregate of the number of practising insurance brokers and enrolled bodies corporate carrying on business in partnership and the number of individuals engaged in the business of, or employed by, such partnership in the United Kingdom so that only one levy shall be payable in respect of each business by all practising insurance brokers and enrolled bodies corporate carrying on such business in partnership,

PROVIDED THAT the liability of each such practising insurance broker or enrolled body corporate to pay a levy shall be a joint and several liability to the Council;

AND

(ii) upon the latest information supplied to the Council by the practising insurance broker or the enrolled body corporate under the provisions of rule 13(5) of these Rules.

(2) For the purposes of this rule individuals who are engaged in the business of, or employed by, the practising insurance broker or enrolled body corporate for less than twenty hours per week shall be regarded as engaged or employed part-time, so that two individuals so engaged or employed shall make up one full-time individual and so that any part numbers shall be ignored.

11.—(1) The Council shall not be entitled to levy in each calendar year commencing on 1st January an amount in respect of each practising insurance broker or enrolled body corporate which will exceed an amount in respect of each business ("the maximum levy") calculated as follows:

Number of persons ascertained in accordance with rule 10	*Calculation of the maximum levy*
1–50 inclusive	£25 per person, subject to a minimum of £100
51–200 inclusive	The aggregate of: (*a*) £25 per person for the first 50 persons (£1,250); and (*b*) £20 per person for the remainder
201–1000 inclusive	The aggregate of: (*a*) £25 per person for the first 50 persons (£1,250); (*b*) £20 per person for the next 150 persons (£3,000); and (*c*) £15 per person for the remainder
1001–2000 inclusive	The aggregate of: (*a*) £25 per person for the first 50 persons (£1,250); (*b*) £20 per person for the next 150 persons (£3,000); (*c*) £15 per person for the next 800 persons (£12,000); and (*d*) £10 per person for the remainder
Over 2000	The aggregate of: (*a*) £25 per person for the first 50 persons (£1,250); (*b*) £20 per person for the next 150 persons (£3,000); (*c*) £15 per person for the next 800 persons (£12,000); (*d*) £10 per person for the next 1000 persons (£10,000); and (*e*) £5 per person for the remainder.

(2) When the Council have resolved to impose a levy under rule 9 of these Rules they shall calculate the maximum amount which could be levied on all practising insurance brokers and enrolled bodies corporate who are subject to a levy and on the register or list on the levy date ("the total maximum levy") such amount being calculated in accordance with paragraph (1) of this rule. The Council shall then levy on each practising insurance broker or enrolled body corporate who is subject to a levy an amount which is to be calculated in respect of each business in accordance with the following fraction:

$$\frac{\text{the total actual levy}}{\text{the total maximum levy}} \times \text{the maximum levy}$$

where "the total actual levy" means the aggregate amount to be levied on all practising insurance brokers and enrolled bodies corporate who are subject to a levy.

12.—(1) (i) Enrolled bodies corporate which are related companies for the purposes of these Rules may agree and if so notify the Council in writing from time to time of such agreement that for the purposes of rules 10 and 11 of these Rules the levy shall be based upon the aggregate number of individuals engaged in the business of, or employed by, all such related companies in the United Kingdom but so that the liability of each such related company to pay the levy so calculated shall be a joint and several liability to the Council.

(ii) In the events referred to in paragraph (1)(i) of this rule one statement shall be completed and submitted to the Council under the provisions of rule 13(5) of these Rules in respect of all the related companies who have agreed and notified their agreement to the Council under the provisions of paragraph (1)(i) of this rule provided that the obligation to complete and submit such a statement shall be a joint and several obligation on each of the related companies.

(iii) The provisions of paragraph (1)(i) and (ii) of this rule shall not apply in respect of businesses carried on in partnership.

(2) (i) A practising insurance broker who carries on more than one business as a sole proprietor may for the purposes of rules 10 and 11 of these Rules notify the Council in writing that the levy to be paid by him shall be based upon the aggregate of the practising insurance broker and the number of individuals engaged in, or employed by him, in all such businesses.

(ii) In the events referred to in paragraph (2)(i) of this rule one statement shall be completed and submitted to the Council under the provisions of rule 13(5) of these Rules in respect of all such businesses.

(3) Practising insurance brokers and enrolled bodies corporate who carry on business in two or more partnerships in which not less than one half of the partners in each such partnership are the same persons may agree and if so notify the Council in writing from time to time of such agreement for the purposes of rules 10 and 11 of these Rules that they shall be deemed to be related companies and that the provisions of paragraph (1) of this rule shall apply mutatis mutandis to all such practising insurance brokers and enrolled bodies corporate.

(4) The expression "related company" in this rule shall mean any subsidiary or holding company or any subsidiary of a holding company of the enrolled body corporate where "subsidiary" and "holding company" shall be construed in accordance with the provisions of section 154 of the Companies Act 1948(**a**) or section 148 of the Companies Act (Northern Ireland) 1960 (**b**) as the case may be.

(**a**) 1948 c. 38. (**b**) 1960 c. 22 (N.I.).

13.—(1) On imposing a levy under the provisions of these Rules the Council shall send to every practising insurance broker and enrolled body corporate to whom a levy applies a written notice in accordance with the provisions of these Rules.

(2) A notice under paragraph (1) of this rule shall indicate:

(i) the circumstances in which a levy is being imposed;

(ii) the amount of the total actual levy; and

(iii) the amount of the levy payable in respect of each of the businesses of the practising insurance broker or enrolled body corporate.

(3) The practising insurance broker or enrolled body corporate to whom notice of a levy is sent under paragraph (1) of this rule shall pay to the Council within one month from the date of service of the notice the amount specified in the notice provided that if the said amount is not paid within such month the Council may, without prejudice to any remedy or action they may be entitled to take, charge interest on any unpaid amounts at a rate of 4 per centum per annum over the Bank of England's prevailing minimum lending rate from the expiry of the said month until the date of payment.

(4) Any sum due to the Council in respect of a levy imposed under the provisions of these Rules shall be recoverable in any court of competent jurisdiction.

(5) For the purpose of providing the Council with evidence for the calculation of any levy practising insurance brokers and enrolled bodies corporate shall at the same time as any fee is paid under rules made under section 8 of the Act complete and submit a statement upon the appropriate form available from the Registrar.

(6) A notice under the provisions of these Rules imposing a levy may be sent by post, and a letter containing such a notice shall be deemed to be properly addressed if it is addressed to the practising insurance broker or enrolled body corporate at the registered address in respect of such practising insurance broker or enrolled body corporate.

14.—(1) (i) Every applicant shall complete, sign and deliver to the Council a Notice in the form set out in the Appendix to these Rules.

(ii) Every such Notice shall be delivered within six months after the loss or likelihood of loss, or failure to account, as the case may be, first came to the knowledge of the applicant.

(2) The Council may require an application to be supported by a statutory declaration made by the applicant and by the production to the Council of any relevant documents and may cause such enquiries to be made in relation to the application as they see fit.

(3) The Council may, before deciding whether or not to make a grant, require the pursuit of any civil remedy which in their opinion is still available in respect of the loss to the applicant or that criminal proceedings shall have been instituted in respect of any dishonesty leading to the loss.

(4) Where the Council make or intend to make a grant under the Scheme the Council shall be subrogated, to the extent specified in the following paragraph of this rule, to any rights and remedies of the applicant to whom the grant is made ("the grantee") in relation to the act or default in respect of which it is made, and shall be entitled, upon giving him a sufficient indemnity against costs, to require him, whether before or after payment of the grant, to sue in his own name but on behalf of the Council for the purpose of giving effect to the Council's rights, and to permit the Council to have the conduct of the proceedings.

(5) The extent to which the Council is subrogated under the provisions of paragraph (4) of this rule is the amount of any grant made to the grantee.

(6) A grantee shall be required by the Council upon receiving a sufficient indemnity against costs to sign an undertaking to prove or rank, if required, in the bankruptcy or liquidation of the practising insurance broker or enrolled body corporate or partnership as the case may be together with a further undertaking to comply with all proper requirements of the Council in exercise of subrogated rights under the provisions of paragraph (4) of this rule.

(7) The Council may entertain an application for a supplementary grant by way of a sum in lieu of interest on a principal grant in respect of the period from the date of the loss to the date of the authorisation of the principal grant and the Council may also entertain an application for a further grant for the amount of the applicant's solicitors costs incurred wholly and exclusively in connection with the preparation, submission and proof of the application for a principal or supplementary grant.

(8) A grant under the provisions of these Rules may be made by way of a loan upon such terms and conditions including terms and conditions as to the time and manner of repayment, the payment of interest and the giving of security for repayment as the Council may determine and the Council may at any time or times, upon such terms and conditions, if any, as the Council shall decide, waive or refrain from enforcing the repayment of the whole or any part of the loan, the payment of any interest on the loan or any of its terms and conditions.

(9) For the purposes of these Rules "a grant by way of loan" shall be deemed to be a grant for all other purposes of these Rules.

(10) If the Council refuse to make a grant for either the whole or part of the amount applied for then the Council shall cause the applicant to be informed in writing of the reason for their decision.

(11) In these Rules, where the context so admits, references to the applicant or grantee shall include, in the event of his death, insolvency or other disability, reference to his personal representatives or to his trustee, or assignee, in bankruptcy or other representative as the case may be.

15.—(1) All levies received by the Council under the provisions of these Rules shall be paid into a fund to be maintained and administered by the Council on trust for the purposes provided in these Rules, such fund to be known as "the Grants Fund".

(2) All grants to be made by the Council shall be made out of the Grants Fund.

(3) The Council may invest in securities in which trustees are authorised by law to invest trust funds in their hands, any money which forms part of the Grants Fund.

(4) Subject to the provisions of section 1 of the Borrowing (Control and Guarantees) Act 1946(a) and of any order under that section for the time being in force, the Council may borrow for the purposes of the Grants Fund from any lender and may charge any investments of the Grants Fund by way of security for any such loan.

(5) There shall be carried to the credit of the Grants Fund:

(i) all levies paid to the Council in pursuance of these Rules;

(ii) all interest, dividends and other income and accretions of capital arising from the investment of the Grants Fund or any part of it;

(iii) the proceeds of any realisation of any investments of the Grants Fund;

(iv) all money borrowed for the purposes of the Grants Fund;

(v) all sums received by the Council under the provisions of rules 14, 17 and 18 of these Rules;

(vi) all other money which may belong or accrue to the Grants Fund or be received by the Council in respect of the Grants Fund;

(vii) all tax recovered by the Council in respect of the Grants Fund.

(a) 1946 c. 58.

(6) All money from time to time forming part of the Grants Fund and all investments of the Grants Fund shall be applicable:

(i) for payment of any grants which the Council may make under the provisions of these Rules;

(ii) for payment of any costs, charges and expenses of establishing, maintaining, administering and applying the Grants Fund;

(iii) for payment of any premiums on insurances effected by the Council under the provisions of rule 17 of these Rules;

(iv) for repayment of any money borrowed by the Council for the purposes of the Grants Fund and for payment of interest on any money so borrowed;

(v) for payment of all costs, charges and expenses incurred by the Council by virtue of rules 14 and 18 of these Rules;

(vi) for payment of any other sums properly payable out of the Grants Fund by virtue of the provisions of these Rules;

(vii) for payment of any tax assessable in respect of the Grants Fund.

16. The Council shall have power from time to time and in their absolute discretion, for the purpose of Part III of these Rules to require practising insurance brokers or enrolled bodies corporate to:

(1) supply other and additional information; and

(2) produce, at a time during ordinary business hours and at a place to be fixed by the Council, their accounting records, files, other records and all or any documentation as may relate to matters covered by these Rules for the inspection of any person appointed by the Council and to supply to such person any necessary information and explanations.

PART IV—MISCELLANEOUS

17.—(1) The Council may effect a policy or policies of insurance with authorised insurers, in such amounts without limit as the Council shall decide, to provide:

(i) all or any of the Council, practising insurance brokers or former practising insurance brokers or enrolled bodies corporate or former enrolled bodies corporate with indemnity against claims arising from all or any matters referred to in rule 3(1) and (2) of these Rules; and

(ii) the Council with indemnity in respect of payments made under the Grants Scheme referred to in these Rules.

(2) If the Council so resolve the premium or premiums payable under any policy or policies taken out under the provisions of paragraph (1) of this rule may be recovered by the Council by way of levy under the provisions of rule 9 of these Rules.

18.—(1) In the event that a practising insurance broker or enrolled body corporate has failed to comply with the provisions of these Rules either in whole or in part and in consequence of such failure a grant has been made under Part III of these Rules or a claim made under any policy or policies taken out under the provisions of rule 17 of these Rules the Council or the insurer under such policy or policies shall be entitled to be indemnified by him or it in respect of the full amount of the grant or claim and to recover such amount and all costs, charges and expenses incurred by the Council or insurer in respect thereof.

(2) Where a grant has been made by the Council under the provisions of these Rules in consequence of the act or omission of a practising insurance broker or enrolled body corporate then the Council or, if the insurer under a policy taken out under the provisions of rule 17 of these Rules shall have indemnified the Council in respect of the whole or part of such grant, the insurer with the consent of the Council may take proceedings against him or it in respect of the sum so paid by way of grant or indemnity and all costs, charges and expenses incurred in connection therewith.

19. A practising insurance broker or enrolled body corporate shall be exempt from complying with the requirements of Part II of these Rules in respect of any business, whether carried on alone or in partnership, which is accepted by the Committee of Lloyd's as a Lloyd's broking business provided that on any such business ceasing to be accepted as a Lloyd's broking business by the Committee of Lloyd's a practising insurance broker or enrolled body corporate carrying on such business shall forthwith be required to ensure that the requirements of the said Part II of these Rules are complied with in respect of such business.

Sealed on the twenty-ninth day of March 1979

Attested by:

Francis Perkins,
Member of Council.

J. E. Fryer,
Registrar.

APPENDIX

GRANTS SCHEME

FORM OF APPLICATION FOR GRANT

Name(s) of insurance broker(s) in respect of whom this Notice is delivered .....

.....

.....

Address .....

I/We .....

.....

.....

(full name(s) in block capitals)

of .....

.....

(full address in block capitals)

hereby give Notice that I (we) have sustained a loss of (or approximately of)

.....

which I (we) believe to be in consequence of the negligence or fraud or dishonesty of the insurance broker(s) named above or employees of his (theirs), or which I (we) allege to be through failure on the part of the insurance broker(s) named above to account to me (us) for money received by him (them) or employees of his (theirs).

I (we) apply to the Insurance Brokers Registration Council that in the exercise of the discretion conferred upon them by the Insurance Brokers Registration Council (Indemnity Insurance and Grants Scheme) Rules 1979 they make a grant to me (us) in respect of my (our) loss of any sum which they may think proper out of the Grants Scheme for the purpose of relieving or mitigating the loss which I (we) have suffered in consequence of the negligence, fraud or dishonesty of or failure to account by the insurance broker(s).

Full details relative to this claim are set out in the Schedule of Particulars attached to this application.

Signed .....

.....

Date..... .....

(NOTE: The Council reserve the right in their absolute discretion to require the applicant to make a statutory declaration in support of this application).

To: The Registrar,
Insurance Brokers Registration Council,
15 St. Helen's Place,
London EC3A 6DS.

SCHEDULE OF PARTICULARS

This should contain the following information which should be given in numbered paragraphs:

1. The circumstances in which and the date or dates upon which the money in respect of which the loss has been sustained came into possession of the insurance broker(s) or his (their) employee(s).

2. Full particulars of the money.

3. The facts relied upon in support of the allegation of negligence or fraud or dishonesty or failure to account.

4. The circumstances in and date upon which the loss first came to the knowledge of the applicant.

5. Particulars of any relevant documents which can be produced in support of this application.

6. Whether it is known that any other application is likely to be made in respect of the facts set out in this Schedule.

7. Whether any civil, criminal or disciplinary proceedings have been or will be taken in respect of the facts set out in this application. If proceedings have already been taken give the result.

8. The name and address of any solicitor instructed on behalf of the applicant.

9. Whether there are any sums due to the insurance broker(s) relating to the transaction(s) giving rise to the loss or relating to any other transaction in which the insurance broker(s) acted for the applicant.

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order approves rules made by the Insurance Brokers Registration Council in exercise of their powers under section 12 of the Insurance Brokers (Registration) Act 1977. The rules require practising insurance brokers and enrolled bodies corporate to take out professional indemnity insurance and also provide for the making of grants to persons who have suffered loss as a result of the negligence or fraud or other dishonesty of insurance broking firms or their employees. Part II of the rules contains the detailed provisions requiring professional indemnity insurance, while Part III deals with the grants scheme. Payment of grants may be financed by a levy on all practising insurance brokers and enrolled bodies corporate. Part IV contains miscellaneous additional provisions. In particular the Council is authorised to enter into indemnity insurance for certain purposes and the Council or an insurer, if it has made a payment in pursuance of the rules, is authorised to recover the amount of such payment.

SI 1979/408
ISBN 0-11-093408-3

