STATUTORY INSTRUMENTS

1983 No. 396

INSURANCE

The Insurance Companies (Advertisements) (Amendment) (No. 2) Regulations 1983

Made - - - -	14*th March* 1983
Laid before Parliament	22*nd March* 1983
Coming into Operation	
Regulations 1 and 2	12*th April* 1983
Regulation 3	1*st May* 1983

The Secretary of State, in exercise of his powers under sections 72(1) and (2) and 97(1) and (2) of the Insurance Companies Act 1982(**a**) and of all other powers enabling him in that behalf, hereby makes the following regulations:—

1. These Regulations may be cited as the Insurance Companies (Advertisements) (Amendment) (No. 2) Regulations 1983 and shall come into operation,—

(*a*) as respects this regulation and regulation 2, on 12th April 1983; and

(*b*) as respects regulation 3, on 1st May 1983.

2. The Insurance Companies (Advertisements) (Amendment) Regulations 1983(**b**) are hereby revoked.

3. For regulation 65 of the Insurance Companies Regulations 1981(**c**) there shall be substituted the following regulations:—

"*Interpretation of regulations 65A to 65C*

65.—(1) For the purposes of regulations 65A to 65C below—

(*a*) "authorised" in relation to an insurer, means authorised to carry on long term business in the United Kingdom by or under section 3 or 4 of the Insurance Companies Act 1982;

(*b*) "insurance advertisement" means an insurance advertisement which invites any person to enter into or to offer to enter into, or which contains information calculated to lead directly or indirectly to any person entering or offering to enter into, any contract of insurance

(**a**) 1982 c. 50.
(**b**) S.I. 1983/48.
(**c**) S.I. 1981/1654; there are no amendments relevant to the subject matter of these Regulations.

(other than a contract of reinsurance) the effecting of which would constitute the carrying on of ordinary long-term insurance business;

(*c*) "permitted", in relation to an insurer, means permitted to carry on long term business in the United Kingdom otherwise than by virtue of section 3 or 4 of the Insurance Companies Act 1982.

(2) For the purposes of regulations 65A to 65C below, an insurance advertisement shall be taken to refer to an insurer—

(*a*) if the insurer is named in the advertisement; or

(*b*) if the insurer is identifiable from information contained in the advertisement; or

(*c*) if particulars of any of the terms upon which the insurer may be prepared to effect contracts of insurance or of any of the benefits which may accrue to the insured under a contract of insurance are contained in the advertisement.

Contents of advertisements (non-specific)

65A.—(1) This regulation applies to every insurance advertisement unless—

(a) an insurer is named in the advertisement (whether by his full name or by a name under which he ordinarily carries on business), and

(b) the advertisement is issued at a time when the insurer named in the advertisement is an authorised or permitted insurer,

but does not apply to an advertisement to which regulation 65B below applies.

(2) An advertisement to which this regulation applies and which relates to a contract of insurance with an insurer who, at the time when the advertisement is issued, is not an authorised or permitted insurer but does not refer to an insurer shall include the following matters, that is to say—

(a) the words "This advertisement relates to an insurance company which does not, and is not authorised to, carry on in any part of the United Kingdom business of the class to which this advertisement relates. This means that the management and solvency of the company are not supervised by a United Kingdom Government Department. Holders of policies issued by the company will not be protected by the Policyholders Protection Act 1975 if the company should become unable to meet its liabilities to them"; and

(b) if it be the case, a statement—

(i) that the advertisement is also about securities; or

(ii) that the advertisement is also about securities or other investments, being securities or investments of a kind specified in the advertisement.

(3) Every insurance advertisement to which this regulation applies (other than an advertisement within paragraph (2) above) shall include, as may be appropriate, a statement—

(a) that the advertisement is about insurance; or

(b) that the advertisement is about insurance and securities; or

(c) that the advertisement is about insurance and securities or other investments, being securities or investments of a kind specified in the advertisement.

Contents of advertisements (overseas insurers)

65B.—(1) This regulation applies to any insurance advertisement which—

(a) relates to a contract of insurance with an insurer referred to in the advertisement, and

(b) is issued at a time when the insurer referred to in the advertisement is not an authorised or permitted insurer.

(2) Where an insurer referred to in an advertisement to which this regulation applies does not have his head office in a member State and either—

(a) he is not permitted under the laws of a member State to carry on business of a description similar to long term business, or

(b) he proposes to effect a contract of insurance to which the advertisement relates otherwise than through a branch or agency in a member State,

the advertisement shall contain the matters specified in paragraph (3) below.

(3) The matters referred to in paragraph (2) above are—

(a) the full name of the insurer and the country where the insurer is registered and the country where his principal office is situated (if different);

(b) the full name of any trustee of property of any description maintained by the insurer in respect of contracts of insurance to which the advertisement relates;

(c) an indication whether the investment of such property (or any part of it) is managed by the insurer (or his employee) or by another person and, where such investment is managed by such another person, the full name of every such investment manager;

(d) the registered office of any such trustee and of any such investment manager, and of his principal office (if different);

(e) where any person in the United Kingdom is to, or may, take any steps on behalf of the insurer with a view to the entering into of contracts of insurance to which the advertisement relates, the full name of, and the registered or principal office in the United Kingdom of, such United Kingdom agent or, if there is more than one, of a principal or main United Kingdom agent; and

(f) the words "An insurance company which does not, and is not authorised to, carry on in any part of the United Kingdom business of the class to which this advertisement relates. This means that the management and solvency of the company are not supervised by a United Kingdom Government Department. Holders of policies issued by the company will not be protected by the Policyholders Protection Act 1975 if the company should become unable to meet its liabilities to them."

(4) Every insurance advertisement to which this regulation applies (other than an advertisement within paragraph (2) above) shall include—

(a) the full name of the insurer and the country where the insurer is registered and the country where his principal office is situated (if different); and

(b) the words "Holders of policies issued by the company will not be protected by the Policyholders Protection Act 1975 if the company should become unable to meet its liabilities to them".

Provisions supplemental to regulations 65A and 65B

65C.—(1) The matters required to be included in an advertisement pursuant to regulation 65A or 65B above shall be shown prominently, clearly and legibly.

(2) The words specified in regulation 65B(3)*(f)* or (4)*(b)* above shall appear prominently—

(a) immediately after or alongside the statement of the full name of the insurer, or

(b) if the name (whether the full name or any other name) of the insurer is stated more than once in the advertisement, immediately after or alongside the most prominent of the statements of the name; and, for this purpose, if two or more statements of the name are equally prominent that which appears first in the advertisement shall be treated as the most prominent.

(3) An insurance advertisement to which regulation 65B above applies, if it states the name of any trustee, investment manager or United Kingdom agent of the insurer referred to in the advertisement and that trustee, investment manager or United Kingdom agent is not independent of the insurer referred to in the advertisement, shall contain a statement naming the insurer and stating that the trustee, investment manager or United Kingdom agent, as the case may require, is a person who is not independent of the insurer; and that statement shall appear prominently—

(a) immediately after or alongside the statement of the full name of the trustee, investment manager or United Kingdom agent, as the case may be, or

(b) if the name (whether the full name or any other name) of the trustee, investment manager or United Kingdom agent, as the case may be, of the insurer is stated more than once in the advertisement, immediately after or alongside the most prominent of the statements of the name; and, for this purpose, if two or more statements of a name are equally prominent that which appears first in the advertisement shall be treated as the most prominent.

(4) For the purposes of paragraph (3) above, a trustee, investment manager or United Kingdom agent of an insurer shall be regarded as not independent of the insurer at a particular time if, at that time—

(a) the person in question, his spouse or any partner, director, controller or manager of his is a partner, director, controller or manager of the insurer,

(b) the insurer or any partner, director, controller or manager of the insurer is the spouse or a partner, director, controller or manager of that person,

(c) that person is a body corporate and the insurer has any interest in any shares or debentures of it, or

(d) the insurer is a body corporate and that person, his spouse or any partner, director, controller or manager of his has any interest in any of the shares or debentures of the insurer;

and for this purpose a person shall be deemed to be interested in shares or debentures of a body corporate if he is interested in them according to the rules set out in section 28 of the Companies Act 1967(**a**) with the addition, in sub-section (9) of that section of a reference to a scheme made under section 20 of the Charities Act (Northern Ireland) 1964(**b**) and to an authorised unit trust scheme within the meaning of the Prevention of Fraud (Investments) Act (Northern Ireland) 1940(**c**).

(5) In regulations 65A and 65B above and this regulation, "full name" means—

(a) in the case of a body corporate, its corporate name, and

(b) in the case of an individual or an unincorporated body, the name under which the individual or body lawfully carries on business."

Gerard Vaughan,
Minister of State,
Department of Trade.

14th March 1983.

(**a**) 1967 c. 81.
(**b**) 1964 c. 33 (N.I.)
(**c**) 1940 c. 9 (N.I.).

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations replace the Insurance Companies (Advertisements) (Amendment) Regulations 1983 which contained a defect in drafting and are therefore revoked. The present Regulations come into force on the same day as those Regulations would have come into force, namely, 1st May 1983.

These Regulations contain new and extended requirements (differing in certain respects from those in the Regulations now revoked) to replace those contained in Regulation 65 of the Insurance Companies Regulations 1981.

The present Regulations have no application where the insurer to which an insurance advertisement relates is authorised or permitted to carry on long term business in the United Kingdom and is named in the advertisement—regulation 65A(1).

Where the insurer to which an advertisement relates is authorised or permitted but is not named in the advertisement (whether he is referred to or not) the advertisement is required only to state whether it is about insurance alone or about securities or other investments—regulation 65A(3).

Where the insurer is not authorised or permitted but is named or otherwise referred to in the advertisement (and an extended meaning is now given to the expression "referred to" by new regulation 65(2)) the requirements under regulation 65B depend upon whether he is permitted to carry on business in another member State of the European Communities. If he is, the advertisement need contain only the insurer's full name, the country where he is registered and, if different, has his principal office, together with a warning that the Policyholders Protection Act 1975 (c. 75) does not apply—regulation 65B(4). In all other cases, the advertisement must contain the fuller details and statement set out in regulation 65B(3)—regulation 65B(2).

Where the insurer is not authorised or permitted and is not named or otherwise referred to in the advertisement, the advertisement is required to include a warning that the insurer is not authorised in the United Kingdom and is not supervised by a United Kingdom Government Department and that there is no protection for policyholders under the Policyholders Protection Act. (This requirement was not included in the Regulations now revoked.) In addition, the advertisement is required to state, if it be the case, that it is also about securities or other investments—regulation 65A(2).

Regulation 65C contains supplemental provisions including requirements as to the prominence, clarity and legibility of matters which are to be included in the advertisement and the position of warning statements.

SI 1983/396
ISBN 0-11-036396-5

