STATUTORY INSTRUMENTS

2004 No. 3273

TAXES

The Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2004

Made - - - -	*10th December 2004*
Laid before the House of Commons	*10th December 2004*
Coming into force - -	*31st December 2004*

The Commissioners of Inland Revenue, in exercise of the powers conferred upon them by section 431E of the Income and Corporation Taxes Act 1988(**a**), make the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Insurance Companies (Overseas Life Assurance Business) (Compliance) (Amendment) Regulations 2004 and shall come into force on 31st December 2004.

Amendment of the Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995

2. The Insurance Companies (Overseas Life Assurance Business) (Compliance) Regulations 1995(**b**) are amended as follows.

Amendment of regulation 2

3.—(1) Amend regulation 2(**c**) (interpretation) as follows.

(2) After the definition of "company tax return" insert—

> ""the Consolidated Life Assurance Directive" means the Directive of the European Parliament and of the Council of 5th November 2002 concerning life assurance (2002/83/EC)(**d**);".

Amendment of regulation 5

4.—(1) Amend regulation 5 (business other than reinsurance, effected by a company resident in the United Kingdom) as follows.

(2) After paragraph (1A)(**e**) insert—

(**a**) 1988 c. 1. Section 431E was inserted by paragraphs 2 and 55 of Schedule 8 to the Finance Act 1995 (c. 4).
(**b**) S.I. 1995/3237: the relevant amending instruments are S.I. 1999/2839, 2000/2104 and 2001/3629.
(**c**) Regulation 2 has been amended: the relevant amendment was that made by regulation 3(2) of S.I. 1999/2839.
(**d**) O.J. No. L 345, 19.12. 2002, p. 1.
(**e**) Paragraph (1A) was inserted by regulation 5 of S.I.1999/2839, and amended by regulation 4(3) of S.I. 2000/ 2104 and article 145(2)(b) of S.I. 2001/3629.

"(1B) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business is with a policy holder not residing in the United Kingdom,

(c) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, and

(d) to the best of the company's knowledge and belief the policy or contract is not for excluded business.".

(3) In paragraph (2)(**a**) for "and (1A)" substitute "to (1B)".

(4) In paragraph (6)(a)(**b**) after " (1A)" insert "or (1B)".

(5) In paragraph (8)(**c**) after "(1A)" insert "or (1B)".

Amendment of regulation 7

5.—(1) Amend regulation 7 (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company— policies or contracts made on or after 1st January 1996) as follows.

(2) After paragraph (1A)(**d**) insert—

"(1B) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business;

(c) that business is with a policy holder who is an individual not residing in the United Kingdom and either—

(i) is a British citizen, or

(ii) is a person in respect of whose business the company has treated this regulation as applying, and

(d) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company.".

(3) In paragraph (4)(**e**) after "paragraph (1A)" insert "or (1B)".

Amendment of regulation 7A

6.—(1) Amend regulation 7A(**f**) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company — policy holder not within regulation 7) as follows.

(2) After paragraph (2) insert—

"(2A) This regulation also applies in circumstances where—

(**a**) Substituted by regulation 5(4) of S.I. 1999/2839.
(**b**) Paragraph (6)(a) was amended by regulation 5(6) of S.I. 1999/2839.
(**c**) Paragraph (8) was amended by regulation 5(8) of S.I. 1999/2839.
(**d**) Paragraph (1A) was inserted by regulation 6(3) of S.I. 1999/2839.
(**e**) Paragraph (4) was amended by regulation 6(5) of S.I. 1999/2839.
(**f**) Regulation 7A was inserted by regulation 7 of S.I. 1999/2839: there are amendments which are not relevant for present purposes.

(a) on or after 19th December 2002 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business;

(c) that business is with a policy holder not residing in the United Kingdom who—

(i) is not an individual, or

(ii) if an individual is not one falling within regulation 7(1)(b)(i) or (ii), and

(d) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company.".

(3) In paragraph (4)(e) after "paragraph (2)" insert "or (2A)".

(4) In paragraph (7) after "paragraph (2)" insert "or (2A)".

(5) In paragraph (9) after "paragraph (2)" insert "or (2A)".

Amendment of regulation 8

7.—(1) Amend regulation 8 (certain business other than reinsurance business where the company comes into possession of additional information) as follows.

(2) After paragraph (1A)(**a**) insert—

"(1B) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business was entered into with a policy holder referred to in regulation 7(1)(b);

(c) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company, and

(d) the insurance company to whom the business is transferred comes to be in possession of information making it reasonable for the company to assume either—

(i) that there has been a change in the identity of the policy holder and the new policy holder is a person referred to in regulation 7(1)(b), or

(ii) that the policy holder (being a person referred to in regulation 7(1)(b)) has ceased to be entitled to the rights conferred by the policy or contract.".

Amendment of regulation 13

8.—(1) Amend regulation 13 (business other than reinsurance business effected by a company resident in the United Kingdom) as follows.

(2) In paragraph (1)(a) for "paragraph (1) or (1A)" substitute "paragraph (1), (1A) or (1B)"

(3) After paragraph (1A)(**b**) insert—

"(1B) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in

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(**a**) Paragraph (1A) was inserted by regulation 8(3) of S.I. 1999/2839.
(**b**) Paragraph (1A) was inserted by regulation 13(3) of S.I. 1999/2839

accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive, and

(c) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom at or through a branch or agency outside the United Kingdom.".

Amendment of regulation 14

9.—(1) Amend regulation 14 (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company) as follows.

(2) After paragraph (1A)(**a**) insert—

"(1B) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business,

(c) that business is, immediately after the transfer, carried on by an insurance company resident in the United Kingdom at or through a branch outside the United Kingdom, or by an overseas life insurance company; and

(d) that business is with a policy holder referred to in regulation 7(1)(b).".

(3) In paragraph (2)(**b**) after "paragraph (1A)" insert "or (1B)".

Amendment of regulation14A

10.—(1) Amend regulation 14A(**c**) (business other than reinsurance business effected either by a company resident in the United Kingdom otherwise than outside the United Kingdom or by an overseas life insurance company – policy holder not within regulation 7) as follows.

(2) After paragraph (2) insert—

"(2A) This regulation also applies in circumstances where—

(a) on or after 19th December 2002 relevant business which is neither reinsurance business nor term assurance business is transferred to an insurance company in accordance with an authorisation granted outside the United Kingdom for the purposes of Article 14 or 53(2) of the Consolidated Life Assurance Directive,

(b) that business has not been treated by the transferor as relating to overseas life assurance business;

(c) that business is with a policy holder not residing in the United Kingdom who—

(i) is not an individual, or

(ii) if an individual is not one falling within regulation 7(1)(b)(i) or (ii), and

(d) that business is, immediately after the transfer carried on by an insurance company resident in the United Kingdom otherwise than at or through a branch outside the United Kingdom, or by an overseas life insurance company.".

(3) In paragraph (3)(**d**) after "paragraph (2)" insert "or paragraph (2A)".

(**a**) Paragraph (1A) was inserted by regulation 14(3) of S.I. 1999/2839.
(**b**) Paragraph (2) was amended by regulation 14(4) of S.I. 1999/2839 and regulation 13(2) of S.I. 2000/2104.
(**c**) Regulation 14A was inserted by regulation 15 of S.I. 1999/2839.
(**d**) Paragraph (3) has been amended by regulation 14(2) of S.I. 2000/2104.

Amendment of regulation 18A

11.—(1) Amend regulation 18A (reclassification of policy or contract as relating to overseas life assurance business from date when made or transferred) as follows.

(2) In paragraph (1)(a)(**a**) for "or (1A)" substitute ", (1A) or (1B)".

Signatory text

David Varney
Helen Ghosh

10th December 2004 — Two of the Commissioners of Inland Revenue

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(**a**) Regulation 18A was inserted by regulation 20 of S.I. 1999/2839, and amended by regulation 18 of S.I. 2000/2104.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Insurance Companies (Overseas Life Assurance Business) Regulations 1995 ("the principal Regulations") in consequence of the adoption, by the European Parliament and the Council of the European Union of Directive 2002/83/EC ("the Consolidated Life Assurance Directive").

Regulation 1 provides for the citation and commencement of this instrument.

Regulation 2 introduces the amendments.

Regulation 3 inserts a definition of the Consolidated Life Assurance Directive into regulation 2 of the principal Regulations.

Regulations 4 to 11 amend respectively regulation 5, 7, 7A, 8, 13, 14, 14A and 18A of the principal Regulations to secure that the same consequences flow in respect of an authorisation given outside the United Kingdom under the Consolidated Life Assurance Directive as flow from one given in similar circumstances under the first and third long-term life assurance directives (as defined in regulation 2 of the principal Regulations).

These Regulations do not impose new costs on business.

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