***Changes to legislation:*** *There are outstanding changes not yet made by the legislation.gov.uk editorial team to The Flood Reinsurance (Scheme Funding and Administration) Regulations 2015. Any changes that have already been made by the team appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes*

STATUTORY INSTRUMENTS

# 2015 No. 1902

# INSURANCE

# The Flood Reinsurance (Scheme Funding and Administration) Regulations 2015

*Made - - - - 10th November 2015*

*Coming into force in accordance with regulation 1(b)*

The Secretary of State makes the following Regulations, with the consent of the Treasury, in exercise of the powers conferred by sections 64(3) and (4), 66(1) to (4), 67(1) to (7) and (9), 69(4), 82(3), (5) and (7) and 84(3) and (4) of the Water Act 2014(**1**) ("the Act").

The Secretary of State has consulted the Commissioners for Her Majesty's Revenue and Customs in accordance with section 69(7) of the Act.

The Secretary of State has consulted such persons as the Secretary of State thinks appropriate in accordance with section 82(4) of the Act.

A draft of these Regulations has been laid before and approved by a resolution of each House of Parliament pursuant to section 84(6) of the Act.

## PART 1

## Introduction

### Citation and commencement

**1.** These Regulations—

(a) may be cited as the Flood Reinsurance (Scheme Funding and Administration) Regulations 2015; and

(b) come into force on the day after the day on which they were made.

**Commencement Information**

**I1** Reg. 1 in force at 11.11.2015 in accordance with reg. 1(b)

(**1**) 2014 c.21.

## Interpretation

**2.** In these Regulations—

"the Act" means the Water Act 2014;

"buildings policy" means a contract of insurance covering the structure of household premises, which may include fixtures and fittings, swimming pools, permanently fixed hot tubs, tennis courts, patios, terraces, service tanks, drains, septic tanks, pipes and cables, central heating fuel storage tanks, driveways, footpaths, garden walls, hedges, gates and fences;

"combined policy" means a contract of insurance which comprises a buildings policy and a contents policy;

"contents", in relation to a dwelling, means household goods and personal possessions, which may include valuables (except fine art), clothes, sports equipment and bicycles, camping equipment, money, satellite dishes, aerials and other articles, which belong to persons who live in the dwelling or for which they are responsible, or which belong to guests in the dwelling (except paying guests);

"contents policy" means a contract of insurance covering the contents of household premises which consist of a dwelling;

"contribution" means a sum payable by way of capital contribution by a relevant insurer to the FR Scheme administrator pursuant to a contractual obligation under or by virtue of the FR Scheme;

"dwelling" means any building, or part of a building, or mobile home in the United Kingdom that is held for private, residential use as a single residential unit, and includes any garage, shed or other building which forms part of, and is enjoyed with, the residential unit;

"financial year" means a period of 12 months ending on the 31st March;

"the FR Scheme administrator" means the body designated by the Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015(**2**);

"the FR Scheme" means the scheme described in the Scheme Document dated 22nd June 2015 and designated as the Flood Reinsurance Scheme by the Flood Reinsurance (Scheme and Scheme Administrator Designation) Regulations 2015(**3**);

"home insurance" means a contract of insurance which—

(a) includes cover for any risk of damage to, or loss or destruction of, either or both—

(i) a dwelling;

(ii) the contents of a dwelling; and

(b) meets the criteria relating to "home insurance" set out in section 4.4 of the FR Scheme;

"mobile home" means a caravan within the meaning of Part 1 of the Caravan Sites and Control of Development Act 1960(**4**) (disregarding the effect of section 13(2) of the Caravan Sites Act 1968(**5**)) which is occupied by the occupier as their only or main residence;

"preceding calendar year", in relation to a financial year, means the year ending on 31st December immediately preceding the financial year.

(**2**) S.I. 2015/1875

(**3**) The Scheme Document is annexed to the Explanatory Memorandum available alongside these Regulations and can be found at www.legislation.gov.uk. A copy can also be obtained from Flood Re Limited at their current registered office which is 51 Gresham Street, London, EC2V 7HQ.

(**4**) 1960 c.62. This Act was amended by the Mobile Homes Act 2013 (c.14) but those amendments are not relevant for the purposes of these Regulations.

(**5**) 1968 c.52. Section 13(2) was amended by S.I. 2006/2374 and S.I. 2007/3163.

**Commencement Information**
**I2** Reg. 2 in force at 11.11.2015 in accordance with reg. 1(b)

# PART 2

## Definitions for the purposes of the Act

### Definition of "relevant insurer"

**3.**—(1) For the purposes of Part 4 of the Act, an insurer(**6**) is a relevant insurer in a financial year if the insurer—

(a) (i) effected any home insurance in the period of 12 months immediately preceding the first day of the financial year, and

(ii) has permission under the Financial Services and Markets Act 2000(**7**) which allows the insurer to effect and carry out home insurance on the first day of the financial year; or

(b) is a member of the Society (within the meaning of the Lloyd's Act 1982(**8**)) and, as such a member—

(i) effected any home insurance during the period of 12 months immediately preceding the first day of the financial year; and

(ii) on the first day of the financial year, intends to effect further home insurance during the financial year.

(2) For the purposes of paragraph (1)(b), an insurer who falls within paragraph (1)(b)(i) shall be taken to fall within paragraph (1)(b)(ii), unless the contrary is shown by the insurer to the reasonable satisfaction of the FR Scheme administrator.

**Commencement Information**
**I3** Reg. 3 in force at 11.11.2015 in accordance with reg. 1(b)

### Definition of "flood"

**4.**—(1) For the purposes of sections 64 to 69 of the Act, "flood" means water, from any source external to a building, which enters a building—

(a) (i) at or below ground level; or

(ii) above ground level, provided that part of the body of such water is at ground level; and

(b) does so with a volume, weight or force which is substantial and abnormal.

(2) For the purposes of paragraph (1), the following do not constitute a flood—

(a) the gradual seepage or percolation of water into a building (such as rising damp);

(**6**) For the definition of insurer, see section 82(1) of the Act.
(**7**) 2000 c.8.
(**8**) 1982 c.xiv.

(b) water escaping from a water main, drain, sewer, pipe or other thing inside a building, unless such escape was solely the consequence of a flood falling within paragraph (1).

**Commencement Information**
**I4** Reg. 4 in force at 11.11.2015 in accordance with reg. 1(b)

### Definition of "household premises"

**5.** For the purposes of sections 64 to 69 of the Act, "household premises" means—

(a) a dwelling which meets the criteria relating to "household premises" set out in sections 4.7 to 4.9 of the FR Scheme; or

(b) a building in the United Kingdom which:

(i) is held for private residential use and comprises two or three residential units, and includes any garage, shed or other building which forms part of, and is enjoyed with, the building; and

(ii) meets the criteria relating to "household premises" set out in sections 4.7 to 4.9 of the FR Scheme.

**Commencement Information**
**I5** Reg. 5 in force at 11.11.2015 in accordance with reg. 1(b)

## PART 3

## FR Scheme Funding

### Gross written premium

**6.**—(1) For the purposes of this Part, a relevant insurer's "gross written premium" means the aggregate sterling amount paid or payable by, or on behalf of, holders of home insurance for the relevant risk element of home insurance, before the deduction of any amount (including commission), but after the deduction of insurance premium tax(**9**).

(2) A relevant insurer's gross written premium must be increased by the amount of any gross written premium paid or payable for the relevant preceding calendar year for transferred home insurance.

(3) For the purposes of paragraph (2), "transferred home insurance" means the rights and liabilities arising out of, or in connection with, home insurance, where the home insurance—

(a) formed the whole, or part, of an insurance business carried on by a person ("A"),

(b) the insurance business, or that part, has been transferred to, or has otherwise vested in, the relevant insurer in the preceding calendar year, and

(c) A is not a relevant insurer on the date on which the levy is due under regulation 9.

(**9**) Insurance premium tax is charged on receipt of an insurance premium by a relevant insurer under a taxable insurance contract on or after 1st October 1994. Insurance premium tax was established by sections 48 to 74 of, and Schedules 6A, 7 and 7A to, the Finance Act 1994 (c.9).

(4) When calculating a relevant insurer's gross written premium under paragraphs (1) and (2), home insurance shall be taken to cover only the relevant risk element unless the contrary is shown by the relevant insurer to the reasonable satisfaction of the FR Scheme administrator.

(5) For the purposes of this regulation, "the relevant risk element", in relation to home insurance, is any risk of damage to, or loss or destruction of, either or both of the following—

(a) a dwelling;

(b) the contents of a dwelling.

**Commencement Information**

**I6** Reg. 6 in force at 11.11.2015 in accordance with reg. 1(b)

### Provision of information by relevant insurers

**7.** Within 30 days of receipt of a written request, a relevant insurer must provide to the FR Scheme administrator such information as the FR Scheme administrator may request relating to the gross written premium for that relevant insurer for the preceding calendar year.

**Commencement Information**

**I7** Reg. 7 in force at 11.11.2015 in accordance with reg. 1(b)

### Calculation of the levy

**8.**—(1) A relevant insurer must pay to the FR Scheme administrator a levy for each financial year from (and including) the financial year commencing 1st April 2016, calculated in accordance with the following formula—

$$TL \times \frac{X}{Y}.$$

(2) For the purposes of the formula in paragraph (1)—

(a) "TL" means the total levy of £180 million;

(b) "X" means the relevant insurer's gross written premium for the preceding calendar year unless paragraph (3) applies, in which case, "X" is determined in accordance with that paragraph; and

(c) "Y" means the sum of all relevant insurers' "X" for the preceding calendar year.

(3) If a relevant insurer fails to provide the information requested under regulation 7 within the period required by that regulation, "X" is the amount considered by the FR Scheme administrator to be a reasonable estimate of the gross written premium of the relevant insurer for the preceding calendar year, on the basis of information reasonably available.

(4) The FR Scheme administrator must calculate the levy payable under paragraph (1) by a relevant insurer on the basis of the information reasonably available at the time a request for an instalment is made under regulation 9(1) or (2).

**Commencement Information**

**I8** Reg. 8 in force at 11.11.2015 in accordance with reg. 1(b)