Draft Order laid before Parliament under section 77(2) of the Deregulation and Contracting Out Act 1994 for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1998 No.

CONTRACTING OUT

The Contracting Out (Functions in Relation to Insurance) Order 1998

Made - - - -	*1998*
Coming into force - -	*1998*

Whereas a draft of this Order has been laid before, and approved by a resolution of, each House of Parliament pursuant to section 77(2) of the Deregulation and Contracting Out Act 1994(**1**),

Now, therefore, the Treasury, in exercise of the powers conferred on them by sections 69 and 77(1)(b) of that Act and of all other powers enabling them in that behalf, hereby make the following Order:–

Citation and commencement

1.—(1) This Order may be cited as the Contracting Out (Functions in Relation to Insurance) Order 1998.

(2) This Order shall come into force on the day after the day on which it is made.

Contracting out of functions of the Treasury

2. Any function of the Treasury which is listed in the Schedule to this Order(**2**) may, to such extent as is specified, be exercised by, or by employees of, such person (if any) as may be authorised in that behalf by the Treasury.

Supplementary

3. Anything which is authorised or required by or under any provision mentioned in the Schedule to this Order to be given, delivered, served, taken or done to, on or against the Treasury may be given, delivered, served, taken or done to, on or against such person (if any) as may be authorised by virtue of article 2 above.

(**1**) 1994 c. 40.
(**2**) The functions listed in the Schedule to this Order were transferred to the Treasury by the Transfer of Functions (Insurance) Order 1997 (S.I. 1997/2781).

Two of the Lords Commissioners of Her
1998 Majesty's Treasury

SCHEDULE Article 2

FUNCTIONS OF THE TREASURY ENABLED TO BE CONTRACTED OUT

PART I

INSURANCE COMPANIES ACT 1982 (c. 50)(**3**)

1. Functions conferred by or under any of the provisions of the Insurance Companies Act 1982(**4**) as follows.

2. Section 3 (authorisation by Treasury).

3. Section 5 (submission of proposals etc.).

4. Section 6 (combination of long term and general business).

5. Section 7 (United Kingdom applicants).

6. Section 8 (applicants from other member States).

7. Section 9 except subsection (7) (applicants from outside the Community).

8. Section 11 (withdrawal of authorisation in respect of new business).

9. Section 12 (notices of withdrawal under section 11).

10. Section 12A (suspension of authorisation in urgent cases).

11. Section 13 (final withdrawal of authorisation).

12. Section 19(2) (appointment of actuary by company with long term business).

13. Section 21A(1), (2), (3) and (5) (communication by auditor with Treasury) except insofar as it relates to the making of regulations by the Treasury applying to any auditor or class of auditor and specifying circumstances in which matters are to be communicated to the Treasury.

14. Section 22 (deposit of accounts etc. with Treasury).

15. Section 23 (rights of shareholders and policyholders to receive copies of deposited documents).

16. Section 24(1) (deposit of accounts etc. by registered society).

17. Section 25(4) and (5) (periodic statements by company with prescribed class of business) except insofar as it relates to prescribing such period within which copies of any statement must be deposited with the Treasury.

18. Section 26 (statements of transactions of prescribed class or description) except insofar as it relates to prescribing the classes or descriptions of agreements or arrangements appearing to the Treasury as likely to be undesirable in the interests of policyholders.

19. Section 29(3) (application of assets of company with long term business).

20. Section 30(3) (allocations to policyholders).

21. Section 32(4) (margins of solvency).

(**3**) For relevant amendments see the note on amendments following this instrument.

(**4**) The functions of the Secretary of State under or by virtue of sections 44, 47(1), 48(1) and (2), 54(1) to (4), 56(6) and Schedule 2B were made exercisable concurrently with the Treasury to the extent provided by the Transfer of Functions (Insurance) Order 1997 (S.I. 1997/2781), article 4(1) and (2); the functions of the Secretary of State under the other provisions listed in Part I of the Schedule to this Order were transferred to the Treasury by S.I. 1997/2781, article 2(1)(c).

22. Section 33(1) and (2) (failure to maintain minimum margin).

23. Section 37 (grounds on which powers are exercisable) except insofar as it relates to the functions under sections 43A, 44(2)(b) and (4A) and 44A.

24. Section 38 (requirements about investments).

25. Section 39 (maintenance of assets in the United Kingdom).

26. Section 40 (custody of assets).

27. Section 40A (prohibition on disposal of assets).

28. Section 41 (limitation of premium income).

29. Section 42 (actuarial investigations).

30. Section 43 (acceleration of information required by accounting provisions).

31. Section 44(1), (2)(a), (2A), (2B), (3) and (4) (power to obtain information and require production of documents) except insofar as the exercise of any of those functions would require any individual to produce any documents at such time and place as may be specified.

32. Section 45 (residual power to impose requirements for protection of policyholders).

33. Section 46 (notice of proposed exercise of powers on ground of unfitness of certain persons) except insofar as it relates to the functions under sections 43A, 44(2)(b) and (4A) and 44A.

34. Section 47(1) and (3) (rescission, variation and publication of requirements) except insofar as it relates to a requirement imposed under sections 43A and 44(2)(b).

35. Section 48(2A) (power of Treasury to bring civil proceedings on behalf of insurance company).

36. Section 52A (issue of certificates by Treasury).

37. Section 52B (effect of transfers authorised in other EEA States).

38. Section 54 (winding up on petition of Treasury).

39. Section 56(6) (continuation of long term business of insurance companies in liquidation).

40. Section 60 (approval of proposed managing director or chief executive of insurance company).

41. Section 61 (approval of person proposing to become controller of insurance company where section 60 does not apply).

42. Section 61A (approval of acquisition of notifiable holding in UK company).

43. Section 62(2) (duty to notify change of director, controller or manager).

44. Section 63 (change of manager etc of company from outside United Kingdom).

45. Section 64(1) (duty to notify change of main agent).

46. Section 65(1) (documents deposited with Treasury).

47. Section 69 (power to alter insurance company's financial year).

48. Section 70(3) (service of notices).

49. Section 75(3) (statutory notice by insurer in relation to long term policy).

50. Section 78(4) (linked long term policies).

51. Section 83 (requirements to be complied with by Lloyd's underwriters).

52. Section 83A (Lloyd's underwriters–insurance Directives) except insofar as it relates to the functions under section 44(2)(b) and (4A).

53. Section 84 (Lloyd's underwriters–financial resources) except insofar as it relates to such modifications as may be prescribed by the Treasury and to the functions under section 44(2)(b) and (4A).

54. Section 85 (Lloyd's underwriters–transfer of business).

55. Section 86(1) (statement of business by Committee of Lloyd's).

56. Schedule 2A (criteria of sound and prudent management).

57. Schedule 2B (restriction on disclosure of information).

58. Schedule 2C (transfers of insurance business).

59. Schedule 2D (further provisions with respect of controllers of UK companies).

60. Schedule 2F (recognition in the United Kingdom of EC and EFTA companies) except insofar as it relates to the functions under section 44(2)(b) and (4A).

61. Schedule 2G (recognition in other EEA States of UK insurers).

PART II

OTHER ENACTMENTS(**5**)

Lloyd's Act 1871 (34 Vict. c. xxi)

62. Functions conferred by or under any of the following provisions of the Lloyd's Act 1871(**6**):

(a) section 35 (salvage operations as to wreck of Lutine); and

(b) section 39 (agreements for incorporation of other Societies etc).

Policyholders Protection Act 1975 (c. 75)

63. Functions conferred by or under any of the following provisions of the Policyholders Protection Act 1975(**7**):

(a) section 21(2A) (levies on authorised insurance companies);

(b) section 26 (overseas companies);

(c) section 29 (disclosure of documents and information to insurance advisers appointed by the Treasury);

(d) Schedule 1 (additional provisions with respect to the Policyholders Protection Board) other than the functions under paragraphs 5 and 6 of that Schedule; and

(e) Schedule 3 (additional provisions with respect to levies on authorised insurance companies).

(**5**) For relevant amendments see the note on amendments following this instrument.

(**6**) The functions exercisable by the Board of Trade and the Secretary of State concurrently under these provisions were transferred to the Treasury by S.I. 1997/2781, article 2(4)(a).

(**7**) The functions of the Secretary of State under these provisions were transferred to the Treasury by S.I. 1997/2781, article 2(1)(a).