1975 No. 91

INSURANCE

Insurance Companies (Valuation of Assets) Regulations (Northern Ireland) 1975

Made . . . . . *7th April* 1975

Coming into operation . . . . *1st June* 1975

The Department of Commerce(a), in exercise of the powers conferred upon it by sections 32 and 53 of and Schedule 3 to the Insurance Companies Amendment Act 1973(b), section 69 of the Insurance Companies Act (Northern Ireland) 1968(c) and of all other powers enabling it in that behalf, hereby makes the following regulations:

Citation and commencement

1. These regulations may be cited as the Insurance Companies (Valuation of Assets) Regulations (Northern Ireland) 1975 and shall come into operation on 1st June 1975.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954(d) shall apply to these regulations as it applies to a Measure of the Northern Ireland Assembly.

(2) In these regulations—

"the Act of 1968" means the Insurance Companies Act (Northern Ireland) 1968;

"the Act of 1973" means the Insurance Companies Amendment Act 1973;

"asset" includes part of an asset;

"building society" means a building society within the meaning of the Building Societies Act (Northern Ireland) 1967(e) or the Building Societies Act 1962(f);

"computer equipment" means the electro-mechanical and electronic units which make up a computer configuration;

"debenture" includes debenture stock and bonds, whether constituting a charge on assets or not, and loan stock or notes;

"debenture option" means a right exercisable within a specified period, at the option of the holder of the right, to acquire or dispose of any debenture at a specified price;

"debt" includes an obligation to pay a sum of money under a negotiable instrument;

"dependent company" means, in relation to an insurance company, any body corporate of which (if that body corporate were also an insurance company) the insurance company would be a controller within the meaning of section 2 of the Act of 1973;

(a) Formerly the Ministry of Commerce: *see* 1973 c. 36
(b) 1973 c. 58
(c) 1968 c. 6 (N.I.)
(d) 1954. c. 33 (N.I.)
(e) 1967 c. 31 (N.I.)
(f) 1962 c. 37

"equity share capital" has the same meaning as in section 148(5) of the Companies Act (Northern Ireland) 1960(g) and "equity share" shall be construed accordingly;

"general business assets" and "general business liabilities" mean respectively assets and liabilities of an insurance company which are not long term business assets or long term business liabilities;

"industrial and provident society" means any society registered (or deemed to be registered) under the Industrial and Provident Societies Act (Northern Ireland) 1969(h) or the Industrial and Provident Societies Act 1965(i);

"insurance company" includes, in relation to the application of these regulations for the purposes of section 5 of the Act of 1968, a body proposing to carry on insurance business;

"intermediary" means a person who in the course of any business or profession invites other persons to make offers or proposals or to take other steps with a view to entering into contracts of insurance with an insurance company, other than a person who only publishes such invitations on behalf of, or to the order of, some other person;

"liability" includes part of a liability;

"linked assets" means, in relation to an insurance company, long term business assets of the company which are, for the time being, identified in the records of the company as being assets by reference to the value of which property linked benefits are to be determined;

"long term business assets" and "long term business liabilities" mean respectively assets of an insurance company which are for the time being identified as representing the long term fund or funds maintained by the company in respect of its long term business and liabilities of the company which are attributable to its long term business;

"middle market price" means—

(*a*) in relation to an investment for which two prices are quoted in the official list published for the relevant market, the average of the two prices so quoted for the day on which the investment falls to be valued or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published;

(*b*) in relation to an investment for which one price is quoted in the official list for the relevant market, the price so quoted for the day on which the investment falls to be valued or, if no official list has been published for that day, for the most recent day prior to that day for which the official list has been published; and

(*c*) in any other case, the nearest equivalent to the average referred to in sub-paragraph (*a*) which is published or can be reasonably ascertained from information which is published;

"price earnings ratio" means the Financial Times-Actuaries estimated price earnings ratio (net) relating to the Industrial Group;

"property linked benefits" means benefits provided for under any contracts of the kind mentioned in section 72(1) of the Act of 1968 under the definition of "ordinary long term insurance business", the amount of which is to be determined by reference to the value of property of any description (whether specified in the contracts or not);

(g) 1960 c. 22 (N.I.)
(h) 1969 c. 24 (N.I.)
(i) 1965 c. 12

"quoted" means, in relation to an investment—

(*a*) that there has been granted a quotation or permission to deal in respect of that investment on a stock exchange which is a recognised stock exchange within the meaning of the Companies Act (Northern Ireland) 1960;

(*b*) that there has been granted such a quotation or permission on any stock exchange of repute outside the United Kingdom; or

(*c*) that dealings in that investment are effected in a securities market of repute outside the United Kingdom being a market in which prices of all securities of which there are dealings are publicly quoted and which is supervised by a public authority;

and "unquoted" shall be construed accordingly;

"salvage right" means any right of an insurance company under a contract of insurance to take possession of and to dispose of property by virtue of the fact that the company has made a payment or has become liable to make a payment in respect of a loss thereof;

"share" includes stock;

"share option" means a right exercisable within a specified period at the option of the holder of the right to acquire or dispose of any share at a specified price.

Application

3.—(1) Subject to the provisions of paragraph (2), these regulations apply with respect to the determination of the value of assets of insurance companies for the purposes of sections 5 and 25 of the Act of 1968 and sections 8(6), 10, 12(2)(*b*), 15 and 28(4)(5) of the Act of 1973, any investigation to which section 16 of the Act of 1968 applies and any investigation made in pursuance of a requirement under section 18 of the Act of 1973.

(2) Where an insurance company has entered into any contracts providing for the payment of property linked benefits the amount of which is to be determined by reference to the value of any linked assets then—

(*a*) if the value of the linked assets, as determined in accordance with the terms of the contracts providing for the property linked benefits, is equal to or less than the amount of the liabilities of the company in respect of the property linked benefits, these regulations shall not apply with respect to the determination of the value of the linked assets, and

(*b*) if the value of the linked assets, as so determined, exceeds the amount of the liabilities of the company in respect of the property linked benefits, these regulations shall not apply with respect to the determination of the value of that proportion of each of the linked assets which the amount of such liabilities bears to the value of the linked assets, as so determined.

(3) Any asset to which these regulations apply (other than cash) for the valuation of which no provision is made in these regulations shall be left out of account for the purposes specified in paragraph (1).

(4) Where in accordance with these regulations the value of any asset is to be not greater than any specified amount and, in all the circumstances of the case, it appears that the asset is of a lesser value than that amount, such lesser value shall be the value of the asset.

Shares in dependent companies

4.—(1) The value of any share in a dependent company shall not be greater than that part of the net asset value of the dependent company which would be payable in respect of the share if the dependent company were in liquidation and the net asset value were the amount distributable to the shareholders in the winding up.

(2) For the purposes of this regulation "net asset value", in relation to a dependent company, means the amount by which the value of its assets, as determined in accordance with paragraph (3) or (4), exceeds the amount of its liabilities, as so determined, contingent and prospective liabilities being taken into account but not liabilities in respect of share capital.

(3) In determining for the purposes of this regulation the net asset value of a dependent company which is an insurance company (whether or not it is a company to which Part I of the Act of 1968 applies)—

(*a*) the value of its assets and the amount of its liabilities shall be determined in accordance with any valuation regulations applicable for the purpose of section 25 of the Act of 1968 and section 28(4)(5) of the Act of 1973, in the case of general business assets and liabilities, and for the purpose of any investigation to which section 16 of the Act of 1968 applies, in the case of long term business assets and liabilities; and

(*b*) where the dependent company carries on general business, an amount equal to—

(i) in the case of a dependent company which has completed its first financial year, the relevant amount, for the time being, for the purposes of section 5(1)(*a*) of the Act of 1968; and

(ii) in any other case the amount specified, for the time being, in section 5(1)(*b*) of the said Act,

shall be deemed to be a liability of the dependent company.

(4) In determining for the purpose of this regulation the net asset value of a dependent company, which is not an insurance company, the value of the assets of the dependent company shall be determined in accordance with these regulations as if they were assets of an insurance company to which these regulations applied.

(5) Any shares in a dependent company in which there is no such excess of assets over liabilities as is mentioned in paragraph (2) shall be left out of account for the purposes for which these regulations apply.

Debts and other rights

5.—(1) The value of any debt due, or to become due, to an insurance company, other than a debt of a kind or description referred to in paragraph (2), (3) or (4) or in regulation 8, 11 or 13, shall be—

(*a*) in the case of any such debt which is due, or will become due, within twelve months of the date on which it falls to be valued (including any debt which would become due within that period if the company were to exercise any right to which it is entitled to require payment of the same), the amount which can reasonably be expected to be recovered in respect of that debt (due account being taken of any security being held in respect thereof); and

(*b*) in the case of any other such debt, the amount which would reasonably be paid by way of consideration for an immediate assignment of the debt together with the benefit of any security held in respect thereof.