

Flood insurance clauses

CONTENTS

PART 1

FLOOD INSURANCE

The Flood Reinsurance Scheme

- 1 The Flood Reinsurance Scheme
- 2 Scheme administrator
- 3 Scheme funding
- 4 Scheme administration

Flood insurance obligations

- 5 Flood insurance obligations
- 6 Flood insurance obligations: target number
- 7 Flood insurance obligations: information
- 8 Register of premises subject to high flood risk
- 9 The register: further provision
- 10 Reviews and appeals
- 11 Functions of the Financial Conduct Authority

General

- 12 Interpretation
- 13 Period of operation
- 14 Regulations and orders

PART 1

FLOOD INSURANCE

The Flood Reinsurance Scheme

1 The Flood Reinsurance Scheme

- (1) For the purposes of this Part, the Flood Reinsurance Scheme is a scheme which—
 - (a) is established for the purpose of providing reinsurance to relevant insurers in respect of such risks relating to flooding as are identified by the scheme, in such a way as to promote the availability and affordability of flood insurance for household premises while minimising the costs of doing so, and
 - (b) is designated for the purposes of this Part by regulations made by the Secretary of State.
- (2) In this Part, the Flood Reinsurance Scheme is called “the FR Scheme”.

2 Scheme administrator

- (1) The FR Scheme is to be administered by a body designated by regulations made by the Secretary of State.
- (2) The Secretary of State may under subsection (1) designate a company registered under the Companies Act 2006 or a body of another kind.
- (3) In this Part, the body designated under subsection (1) is called “the FR Scheme administrator”.
- (4) The FR Scheme administrator is not to be regarded as exercising functions of the Crown or as acting on behalf of the Crown.

3 Scheme funding

- (1) The Secretary of State may, with the consent of the Treasury, make regulations requiring relevant insurers to pay to the FR Scheme administrator—
 - (a) a levy, the amount and timing of which is to be determined in accordance with the regulations;
 - (b) such further amounts as may be requested by the FR Scheme administrator from time to time in accordance with the FR Scheme.
- (2) Regulations under subsection (1) may make provision as to—
 - (a) the circumstances in which a request under subsection (1)(b) may be made;
 - (b) the amounts that may be requested under subsection (1)(b).

- (3) The Secretary of State may by regulations may make provision for amounts payable under subsection (1) to be recoverable summarily as a civil debt.
- (4) The Secretary of State may by regulations may make provision as to the application of any amounts paid under subsection (1).

4 Scheme administration

- (1) The Secretary of State may by regulations make provision in connection with the administration of the FR Scheme.
- (2) Regulations under subsection (1) may require the FR Scheme administrator to have regard to the following in discharging its functions –
 - (a) the need to ensure economy, efficiency and effectiveness in the discharge of those functions,
 - (b) the need to act in the public interest,
 - (c) the need to ensure propriety and regularity, and
 - (d) the need to manage, over the period of operation of the scheme, the transition to risk-reflective pricing of household flood insurance.
- (3) Regulations under subsection (1) may –
 - (a) limit, to any extent, the power of the FR Scheme administrator to borrow money;
 - (b) provide for the form and contents of the FR Scheme’s accounts;
 - (c) provide for a copy of the audited FR Scheme’s accounts for each financial year and a copy of the auditor’s report on those accounts to be laid before Parliament;
 - (d) provide for the Comptroller and Auditor General to examine the economy, efficiency or effectiveness (or any combination of those matters) with which the FR Scheme administrator has used resources in discharging its functions, and for a report on any such examination to be laid before Parliament.
- (4) Regulations under subsection (1) may –
 - (a) require the FR Scheme administrator to designate an individual of a description specified in the regulations as the responsible officer of the FR Scheme;
 - (b) provide for the responsible officer to have such responsibilities in respect of –
 - (i) the FR Scheme’s finances,
 - (ii) the FR Scheme’s accounts,
 - (iii) accountability to Parliament for propriety and regularity in the operation of the FR Scheme, and
 - (iv) examinations and reports under subsection (3)(d),
 as are specified in the regulations.
- (5) Regulations under subsection (1) may make provision about the disclosure of information required for the purposes of the FR Scheme and may, in particular, require relevant insurers to provide the FR Scheme administrator with such information as it may request in relation to their insurance policies.
- (6) Subsections (2) to (5) are not exhaustive of what may be done under subsection (1).

- (7) In this section “the FR Scheme’s accounts” means the accounts for a financial year of the FR Scheme prepared by the FR Scheme administrator in respect of the FR Scheme.

Flood insurance obligations

5 Flood insurance obligations

- (1) The Secretary of State may by regulations require a relevant insurer to issue in a prescribed period insurance policies that provide cover against prescribed descriptions of risk for a prescribed number of registered premises.
- (2) The regulations may prescribe different numbers of registered premises for different descriptions of risk.
- (3) The risks that may be prescribed are risks relating to flooding.
- (4) The regulations may provide for a prescribed number relating to a relevant insurer to be determined by reference to factors that include in particular –
 - (a) a target number (see section 6);
 - (b) the relevant insurer’s share of insurance business of a prescribed description.
- (5) The regulations may –
 - (a) make provision about determining the size of a relevant insurer’s share of insurance business of a prescribed description;
 - (b) provide for a relevant insurer to be exempt from the obligation described in subsection (1) in prescribed circumstances, including circumstances relating to the amount of insurance business done by the relevant insurer;
 - (c) make provision about the circumstances in which issuing an insurance policy is not to count towards discharging an obligation imposed on a relevant insurer by the regulations;
 - (d) make provision about the circumstances in which an insurance policy issued by another is to count towards discharging an obligation imposed on a relevant insurer by the regulations.
- (6) Provision under subsection (5)(a) may require an insurer, in determining the insurer’s share of insurance business of a prescribed description, to use information about that insurance business held by –
 - (a) the Secretary of State,
 - (b) a person acting on behalf of the Secretary of State, or
 - (c) the Financial Conduct Authority.

6 Flood insurance obligations: target number

- (1) The Secretary of State may, from time to time, by regulations prescribe a number to be a target number for the purposes of regulations under section 5.
- (2) The target number is the number of registered premises to be covered against prescribed descriptions of risk by insurance policies issued in a prescribed period by those relevant insurers upon whom obligations are imposed by regulations under section 5.

- (3) The regulations may prescribe different target numbers for different descriptions of risk.
- (4) The regulations may in particular provide for a target number to be expressed as a percentage of the number of registered premises.

7 Flood insurance obligations: information

- (1) The Secretary of State may by regulations make provision about—
 - (a) the provision of information, and
 - (b) the production of documents,by insurers for the purposes of regulations under section 5.
- (2) The regulations may in particular require an insurer to provide information of a prescribed description or produce documents of a prescribed description for the purpose of showing, in relation to a prescribed period—
 - (a) whether or not an insurer is a relevant insurer;
 - (b) whether or not an exemption applies (see section 5(5)(b)).
- (3) The regulations may in particular require an insurer to provide information or produce documents about—
 - (a) the insurance policies issued by it in a prescribed period that provide cover against prescribed descriptions of risk for registered premises;
 - (b) the value of the insurance policies so issued;
 - (c) insurance policies so issued that do not remain in force to the end of the period of cover;
 - (d) the value of such insurance policies.
- (4) The regulations may provide for information to be provided or documents to be produced to—
 - (a) the Secretary of State
 - (b) a person acting on behalf of the Secretary of State, or
 - (c) the Financial Conduct Authority.
- (5) The regulations may make provision—
 - (a) about the time within which information must be provided or documents produced;
 - (b) about the form in which information is to be provided;
 - (c) about the place where documents are to be produced;
 - (d) requiring information to be verified in a prescribed manner;
 - (e) requiring documents to be authenticated in a prescribed manner.
- (6) The regulations may make provision about the persons to whom, and the purposes for which, information supplied by an insurer may be disclosed.
- (7) The power to make regulations under this section is exercisable by the Treasury so far as regards—
 - (a) making provision under subsection (4)(c);
 - (b) making provision under subsection (5)(c), (d) or (e) or (6) in relation to the Financial Conduct Authority.

8 Register of premises subject to high flood risk

- (1) The Secretary of State may by regulations provide for the creation and maintenance of a register of household premises in the United Kingdom that are subject to high flood risk.
- (2) The regulations may provide for premises of a prescribed description to be excluded from the register, and the premises excluded may include in particular –
 - (a) premises subject to very high flood risk;
 - (b) premises where construction is completed on or after a prescribed date.
- (3) The regulations may –
 - (a) specify the information to be contained in the register;
 - (b) make provision about access to the information contained in the register;
 - (c) provide for the publication of the register in whole or in part;
 - (d) provide for the disclosure of information contained in the register;
 - (e) provide for notification if premises are entered in, or omitted from, the register.
- (4) Regulations made under subsection (3)(d) may provide for –
 - (a) the persons to whom information or any description of information contained in the register may be disclosed,
 - (b) the imposition of conditions on persons to whom information contained in the register is disclosed, including conditions limiting further disclosure;
 - (c) penalties for non-compliance with conditions imposed under paragraph (b).
- (5) The regulations may require applications for premises to be entered in the register to be made by or on behalf of the person who has the qualifying interest in the premises.
- (6) The regulations may provide for premises to be omitted from the register at the request of the person who has the qualifying interest in the premises.

9 The register: further provision

- (1) Regulations under section 8 may provide for a relevant body to carry out functions in connection with –
 - (a) the creation and maintenance of the register;
 - (b) giving access to information contained in the register;
 - (c) publication of the register;
 - (d) disclosure of information contained in the register;
 - (e) notification when premises are entered in, or omitted from, the register.
- (2) The following are relevant bodies for the purposes of this Part –
 - (a) the Environment Agency;
 - (b) the Scottish Environment Protection Agency, in relation to premises wholly or mainly in Scotland;
 - (c) the Natural Resources Body for Wales, in relation to premises wholly or mainly in Wales;

- (d) the Department of Agriculture and Rural Development in Northern Ireland, in relation to premises in Northern Ireland.
- (3) The regulations may enable a relevant body to require other public authorities to provide information about premises that are subject to flood risk.
- (4) The regulations may provide for the Environment Agency –
 - (a) to coordinate the carrying out of functions conferred or imposed under subsection (1);
 - (b) to promote consistency in the carrying out of those functions.
- (5) The regulations may –
 - (a) require the relevant bodies to cooperate with each other as regards the functions conferred or imposed on any of them under subsection (1);
 - (b) require the relevant bodies (other than the Environment Agency) to cooperate with the Environment Agency as regards the carrying out of functions conferred or imposed on the Environment Agency under subsection (4).

10 Reviews and appeals

- (1) Regulations under section 8 may make provision for a person with the qualifying interest in particular premises –
 - (a) to request a review of a decision by a relevant body that the premises are not eligible to be entered in the register;
 - (b) to appeal to the First-tier Tribunal against a decision by a relevant body that the premises are not eligible to be entered in the register.
- (2) For “relevant body”, see section 9(2).

11 Functions of the Financial Conduct Authority

- (1) The Treasury may by regulations provide for the Financial Conduct Authority to take action for monitoring and enforcing compliance with –
 - (a) such of the requirements imposed on relevant insurers by regulations under section 5 as may be prescribed;
 - (b) such description of those requirements as may be prescribed.
- (2) The regulations may apply, or make provision corresponding to, any of the provisions of the Financial Services and Markets Act 2000, with or without modification.
- (3) The provisions of the Financial Services and Markets Act 2000 referred to in subsection (2) include in particular –
 - (a) provisions as to investigations, including powers of entry and search;
 - (b) provisions as to criminal offences;
 - (c) provisions for the grant of an injunction in relation to a contravention or anticipated contravention;
 - (d) provisions giving the Treasury or the Financial Conduct Authority powers to make subordinate legislation;
 - (e) provisions for the Financial Conduct Authority to charge fees.
- (4) The regulations may make provision enabling the Financial Conduct Authority, to such extent as the regulations may prescribe, to make arrangements for the performance of functions on its behalf.

General

12 Interpretation

- (1) The Secretary of State may by regulations define for the purposes of this Part—
 - “household premises”;
 - “insurer”;
 - “relevant insurer”.
- (2) The Secretary of State may by regulations define for the purposes of sections 5 to 11—
 - “flood”;
 - “flood risk”;
 - “high flood risk”;
 - “issue”, in relation to an insurance policy;
 - “the qualifying interest”;
 - “very high flood risk”.
- (3) Regulations under subsection (2) as to the meaning of “flood” may specify descriptions of water that are, or are not, to be taken into account.
- (4) In sections 5 to 11—
 - “prescribed”, in the context of a power to make regulations, means specified in or determined in accordance with the regulations;
 - “registered premises” means premises registered in the register maintained under section 8.

13 Period of operation

- (1) Sections 1 to 11 are repealed at the end of the period of 25 years beginning with the day on which this Act is passed.
- (2) The Secretary of State may by order amend subsection (1) so as to make different provision about the day on which—
 - (a) sections 1 to 4 are repealed;
 - (b) sections 5 to 10 are repealed.
- (3) The Secretary of State may by order make provision in consequence of the repeal of—
 - (a) sections 1 to 4, or
 - (b) sections 5 to 10,including provision amending or repealing an enactment
- (4) The Treasury may by order amend subsection (1) so as to make different provision about the day on which section 11 is repealed.
- (5) The Treasury may by order make provision in consequence of the repeal of section 11, including provision amending or repealing an enactment.
- (6) The powers in subsections (2) and (4) may not be exercised so as to postpone the day on which any of sections 1 to 11 falls to be repealed.

14 Regulations and orders

- (1) A power to make regulations or an order under this Part is exercisable by statutory instrument.
- (2) A power to make regulations or an order under this Part includes power to make different provision for different purposes and different areas.
- (3) A power to make regulations or an order under this Part includes power to make incidental, supplementary, consequential, transitional or transitory provision or savings.
- (4) Subject to subsection (5), a statutory instrument containing regulations or an order made under this Part is subject to annulment in pursuance of a resolution of either House of Parliament.
- (5) A statutory instrument containing—
 - (a) regulations under section 3(1) (FR Scheme funding),
 - (b) regulations under section 11 (functions of FCA), or
 - (c) an order under section 13 (period of operation),may not be made unless a draft of the instrument has been laid before, and approved by a resolution of, each House of Parliament.