



**Financial Services
Commission**

Insurance Guidance Note No. 10

Insurance Companies Ordinance 1987

The “Single Passport”

Guidance Notes For Gibraltar Insurers (Other Than Pure Reinsurers) Wishing To Carry On Insurance Business, Or Provide Insurance, In EEA States

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Table of Contents

Introduction.....	3
Background.....	3
Making An Application To Open A Branch Or Provide Insurance In An EEA State	3
Progress Of A Notification.....	4
To Provide Insurance On A Services Basis	4
To Open A Branch.....	4
Format Of A Formal Notification	5
To Provide Insurance On A Services Basis	5
To Open A Branch.....	5
Subsequent Changes	6
Translation	6
Reinsurance	6
Further Information	7
Annex 1	8
Gibraltar Insurers Carrying On Business Etc In EEA States.....	8

Published by:

Financial Services Commission
 PO Box 940, Suite 943, Europort, Gibraltar
 Tel (+350) 40283
 Fax (+350) 40282
 E-Mail: info@fsc.gi
www.fsc.gi

Introduction

1. The conclusion reached by the UK Government, following a review of the supervisory activities of the Financial Services Commission, that Gibraltar's supervisory regime for insurance matches standards of supervision in the UK has opened the way for Gibraltar insurers to take advantage of the "single passport" for insurance established by the third insurance directives. This Guidance Note explains the significance of the "single passport" and outlines the procedures a Gibraltar insurer must follow in order to open branches or provide insurance on a "services basis" in EEA States.

Background

2. In the past, if it wanted to set up a branch in, or provide insurance services into, an EEA State, a licensed insurer had to go through that State's separate licensing procedures. The third life and third non-life directives established the "single passport", or the principle of mutual recognition of licensing. This meant that a licence granted to an insurer by, say, France - the "home state" - might be extended to each and every EEA State. For example, if the French insurer wants to set up a branch in Germany - the "host state" - separate licensing in the host state is not required. Instead, in this example, the French company will apply to the French insurance supervisory authorities to open a branch in Germany. The host state (German) authorities will be consulted but it is only the home state (French) authorities which have the power to prevent the company opening the branch, or providing the services.
3. The UK Government's conclusion referred to above extends the "single passport" principle to Gibraltar. This means that Gibraltar insurers need approval only from the Commissioner of Insurance ("the Commissioner") if they wish to open a branch in an EEA State. They do not need, however, to obtain approval from the State in which the branch is to be established although they do need to comply with any provisions of the law of the State which are in the interests of the "general good" (see paragraph 13 below). Gibraltar insurers must also notify the Commissioner if they wish to provide insurance services in EEA States. The Commissioner will have sole supervisory responsibility for future prudential supervision of the EEA branch or services business of Gibraltar insurers.

Making An Application To Open A Branch Or Provide Insurance In An EEA State

4. You should familiarise yourself with the requirements of the legislation. Schedule 14 to the Insurance Companies Ordinance 1987 ("the Ordinance"), which is reproduced in Annex 1, gives effect to the third directive requirements relating to the "single passport" provisions as they affect Gibraltar. Paragraph 1 contains the legal requirements for the establishment of a branch in an EEA State, and paragraph 5 contains the requirements for the provision of insurance ("provision of insurance," the term used in the legislation, has become to be referred to as "provision of insurance on a services basis" and this expression is used throughout the remainder of this guidance note).
5. If you wish to carry on business through a branch in an EEA State, you should submit a notification containing the information specified in paragraph 4 of Annex 1.
6. If you wish to provide insurance into an EEA State on a services basis (i.e. underwrite in Gibraltar risks situated in that State), you should submit a notification containing the information specified in paragraph 7 of Annex 1.



7. In all cases where you wish to underwrite class 17 (legal expenses business), you should also state which administrative arrangement(s) has been adopted. Section 87G of the Ordinance requires companies underwriting legal expenses business to adopt at least one of three arrangements for avoiding conflicts of interest.

Note

References in these notes to an EEA State are to a State which is a Contracting Party to the EEA Agreement. The EEA Agreement is the Agreement on the European Economic Area signed at Oporto on 2nd May 1992 as adjusted by the Protocol signed at Brussels on 17th March 1993.

The EEA States are therefore as follows:-

<i>Austria</i>	<i>Belgium</i>	<i>Denmark</i>
<i>Finland</i>	<i>France</i>	<i>Germany</i>
<i>Greece</i>	<i>Iceland</i>	<i>Republic of Ireland</i>
<i>Italy</i>	<i>Liechtenstein</i>	<i>Luxembourg</i>
<i>Netherlands</i>	<i>Norway</i>	<i>Portugal</i>
<i>Spain</i>	<i>Sweden</i>	<i>United Kingdom</i>

Progress Of A Notification

To Provide Insurance On A Services Basis

8. This is a relatively simple procedure. You should address your notification that you wish to provide insurance on a services basis in an EEA State to the Commissioner. If this is acceptable, we will forward it to the regulatory authorities in the State(s) into which the insurance is to be provided. We will attach to it a certificate stating that the company has the financial resources needed to cover the minimum solvency margin. We will tell you when we have done this. You may then start business.
9. In all cases, you should tell us when you start the new business.
10. If we are not satisfied with a notification, we will not forward it and you will be told the reasons.

To Open A Branch

11. You should send your notification that you wish to open a branch in an EEA State to the Commissioner. This is a more complex procedure and you are advised to contact either the Insurance Supervisor, or the Assistant Insurance Supervisor, at the Financial Services Commission (tel: 40283) before commencing the application. It is likely that they will ask you to submit the application in draft form initially. Once any difficulties over the draft notification have been resolved you will be invited to submit a formal notification. The Commissioner has three months in which to consider the formal notification, but if we have been able to comment previously on a draft application the timescale should be a lot shorter than that.
12. If your notification in respect of a branch is acceptable, we will forward the information contained in it to the regulatory authorities in the EEA State in which the branch will be established. We will attach to it a certificate stating that the company has the financial resources needed to cover the minimum required solvency margin; and will tell you when we have done this. Those authorities have a further two months in which to indicate the provisions that will apply in the interest of the general good to the conduct of business in that

State. We will pass this information to you when it is received. In the absence of any response from the state of the proposed branch, you may start business once those two months have lapsed.

13. "General good" relates to rules, other than the prudential rules under which an insurance company is supervised by the home state authorities, which govern the conduct of insurance business, e.g. as to how business may be advertised and sold. These rules are not harmonised as between EEA States. Host states retain the right to ensure that insurance companies which have either established branches in, or are providing insurance on a services basis into, their territories comply with their own local "general good" rules. However, such rules must be "objectively necessary and in proportion to the objective pursued". General good rules must therefore:
- Not be applied if they duplicate the legislation of the home State;
 - Be objectively necessary. Host states cannot make frivolous requirements, and
 - Not be discriminatory. They must apply equally to all insurance companies operating in an EEA State, irrespective of whether they are based in that state or elsewhere in the Community.

If you experience any particular difficulty establishing a branch or providing insurance on a services basis in a particular EEA State, please let us know.

Format Of A Formal Notification

To Provide Insurance On A Services Basis

14. A notification to the Commissioner that the company wishes to provide insurance on a services basis in an EEA State must contain the "requisite" details which are set out in paragraph 7 of Schedule 14 to the Ordinance (see Annex 1 attached). As these requisite details are fairly straightforward, no further guidance is provided in this note but should anything in the procedure be unclear, please consult either the Insurance Supervisor or the Assistant Insurance Supervisor (tel: 40283).

To Open A Branch

15. A formal notification to the Commissioner that the company wishes to open a branch, in another EEA State must contain the requisite details set out in paragraph 4 of Schedule 14 to the Ordinance (see Annex 1 to this note). The notification should be complete and self explanatory. It should be on plain white paper and both the question and the answer should be given. You must answer all questions. If you need further guidance on submitting an application, please contact the Insurance Supervisor or the Assistant Insurance Supervisor. Since the information required is very similar to that required for a new licence application, our Guidance Note No. 1, "Guidance Notes for Applicants to Carry on Insurance Business in Gibraltar," may also be of assistance.
16. At the end of the notification there should be a certificate which says:
- "We certify that to the best of our knowledge and belief all the information given in this notification is true and correct and that all estimates given are true estimates based upon facts which have been carefully considered and assessed".
17. Each person who signs the notification must initial each page, including any annexes attached to the notification (other than printed annexes such as

company reports and accounts). Fasten the pages of the notification securely together and number them.

18. The notification should be dated and signed by the following:
For new Gibraltar insurers - by the promoter or by each of the promoters if there are more than one.
For existing Gibraltar insurers - by two directors and the secretary.
19. All documents in a foreign language should be accompanied by an English translation. Show values in sterling or ECU, stating the rate of conversion.
20. If you are notifying an intention to do long-term business, send two copies of the notification and supporting information.

Subsequent Changes

21. Paragraphs 2, 3, 6, 8 and 9(3) of Schedule 14 to the Ordinance (reproduced in Annex 1) deal with subsequent changes to the information provided with a notification.
22. If you intend to develop or change the business carried on through a branch, after it has been opened in an EEA State, in a way which affects the information provided in accordance with paragraph 4 of Schedule 14, you should notify the Commissioner at least one month in advance of the date the proposed change is to take effect. If the change affects the information provided in accordance with subparagraphs (1), (2) or (3) of paragraph 4 of Schedule 14, you should, at the same time, notify the supervisory authorities in the State in which the branch is situated. Within one month, you will be notified whether you may proceed to make the change. If your proposals would involve a substantial change in the business of the company, it is advisable to give more than one month's notice and to contact the Insurance Supervisor or Assistant Insurance Supervisor to discuss your proposals.
23. If you intend to develop or change your business in an EEA State where you are providing insurance on a services basis in a way which affects the information provided in accordance with paragraph 7 of Schedule 14, you should notify the Commissioner in advance of the date the proposed change is to take effect. As soon as practicable, you will be notified whether you may proceed to make the change.
24. If you cease to carry on insurance business in, or provide insurance into, an EEA State, you should notify the Commissioner.

Translation

25. The requisite EEA details (as set out in paragraph 4(1) of Schedule 14) for branches and the requisite details (as set out in paragraph 7 of Schedule 14) for services business should be submitted in English and the language of the host State.

Reinsurance

26. Both the "single passport" and "home State control" only apply to direct insurance. The regulation of reinsurance business is not harmonised in the third EEA insurance directives. A Gibraltar company wishing to establish a branch in an EEA State to carry on reinsurance business, (either exclusively or together with direct insurance business), must comply with the financial and fitness rules, if any, of that State in respect of its reinsurance business, (in addition to complying with the Gibraltar rules). However, not all States have such rules for regulation of reinsurance.



Further Information

27. Any enquiries or requests for further information may be addressed to the Insurance Supervisor or Assistant Insurance Supervisor at the Financial Services Commission, P.O. Box 940, Suite 943, Europort, Gibraltar (tel: (350) 40283; fax (350) 40282).

Annex 1

Gibraltar Insurers Carrying On Business Etc In EEA States

Requirements for carrying on direct insurance business

1. (1) A Gibraltar insurer shall not carry on direct insurance business of a class or part of a class through a branch in an EEA State unless -
 - (a) the insurer is licensed under this Ordinance to carry on insurance business of that class or part of a class; and
 - (b) the requirements of this paragraph have been complied with in respect of that branch.
- (2) The requirements of this paragraph are -
 - (a) that the insurer has given to the Commissioner a notice containing the requisite EEA details and the requisite Gibraltar details;
 - (b) that the Commissioner has given to the supervisory authority of the EEA State in which the branch is to be established ("the EEA State of the branch") -
 - (i) a notice which contains the requisite EEA details; and
 - (ii) a certificate in accordance with sub-paragraph (3); and
 - (c) that either -
 - (i) that authority has informed the Commissioner of the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the Commissioner gave that authority the certificate mentioned in paragraph (b) has elapsed.
- (3) A certificate is in accordance with this sub-paragraph if it -
 - (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate -
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in Gibraltar.
- (4) The Commissioner shall, within the period of three months beginning with the date on which he insurer's notice was received -
 - (a) give the notice and certificate referred to in sub-paragraph (2)(b); or
 - (b) refuse to give either or both of those documents.
- (5) The Commissioner shall, within the period of three months referred to in sub-paragraph (4), notify the insurer -
 - (a) that he has given the notice and certificate referred to in sub-paragraph (2)(b), stating the date on which he did so; or
 - (b) that he has refused to give either or both of those documents, stating the reasons for the refusal.

- (6) In the case of a Gibraltar insurer, the Commissioner shall not refuse to give the notice referred to in sub-paragraph (2)(b) unless, having regard to the business to be carried on through the branch, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the insurer.
- (7) Where the supervisory authority of the EEA State of the branch has informed the Commissioner as mentioned in sub-paragraph (2)(c)(i), he shall forward the information to the insurer.
2. (1) A Gibraltar insurer shall not change the requisite EEA details of a branch -
- (a) which has been established by it in an EEA State ("the EEA State of the branch"); and
 - (b) through which it carries on direct insurance business,
- unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) Subject to sub-paragraph (3), the requirements of this paragraph are -
- (a) that the insurer has given a notice to the Commissioner, and to the supervisory authority in the EEA State of the branch, stating the details of the proposed change not less than one month before the change is to take place;
 - (b) that the Commissioner has sent to that authority a notice in accordance with sub-paragraph (4)(a); and
 - (c) that either -
 - (i) that authority has informed the insurer of any consequential changes in the conditions which, in the interest of the general good, must be complied with by the insurer in carrying on insurance business through the branch; or
 - (ii) the period of two months beginning with the day on which the insurer gave that authority the notice of the proposed change in accordance with paragraph (a) has elapsed.
- (3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable (whether before or after the change) give a notice to the Commissioner, and to the supervisory authority in the EEA State of the branch, stating the details of the change.
- (4) The Commissioner shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) -
- (a) give notice to the supervisory authority in the EEA State of the branch informing it of the proposed change; or
 - (b) refuse to give such notice.
- (5) The Commissioner shall, as soon as practicable after making a decision under sub-paragraph (4), notify the insurer -
- (a) that he has given the notice referred to in that sub-paragraph, stating the date on which he did so; or
 - (b) that he has refused to give the notice, stating the reasons for that refusal.
- (6) In the case of a Gibraltar insurer, the Commissioner shall not refuse to give the notice referred to in sub-paragraph (4)(a) unless, having regard to the proposed

change, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the insurer.

3. (1) A Gibraltar insurer shall not change the requisite Gibraltar details of a branch -
 - (a) which has been established by it in an EEA State; and
 - (b) through which it carries on direct insurance business,unless the requirements of this paragraph have been complied with in relation to its making of the change.
 - (2) Subject to sub-paragraph (3), the requirements of this paragraph are that the insurer has given a notice to the Commissioner stating the details of the proposed change at least one month before the change is effected.
 - (3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable (whether before or after the change) give a notice to the Commissioner stating the details of the change.

Requisite details for purposes of paragraphs 1 to 3

4. (1) The requisite EEA details for the purposes of paragraphs 1 and 2 are -
 - (a) the EEA State in which the branch is to be or has been established ("the EEA State of the branch");
 - (b) the address of the branch and confirmation that it is an address for service on the insurer's authorised agent;
 - (c) the name of the insurer's authorised agent;
 - (d) the classes or parts of classes of business to be carried on, and nature of the risks or commitments to be covered, in the EEA State of the branch;
 - (e) details of the structural organisation of the branch;
 - (f) the guiding principles as to reinsurance of business to be carried on in the EEA State of the branch, including the insurer's maximum retention per risk or event after all reinsurance ceded;
 - (g) estimates of the following, namely -
 - (i) the costs of installing administrative services and the organisation for securing business in the EEA State of the branch;
 - (ii) the resources available to cover those costs; and
 - (iii) if risks within class 18 of Schedule 1 to this Ordinance are to be covered, the resources available for providing assistance;
 - (h) for each of the first three financial years following the establishment of the branch -
 - (i) estimates of the insurer's margin of solvency and the margin of solvency required, and a statement showing how both have been calculated;
 - (ii) in the case of an insurer which intends to carry on long term business, the details mentioned in sub-paragraph (2) as respects the business to be carried on in the EEA State of the branch; and

- (iii) in the case of an insurer which intends to carry on general business, the details mentioned in sub-paragraph (3) as respects the business to be so carried on;
 - (i) in the case of an insurer which intends to cover relevant motor vehicle risks, confirmation that it has become a member of the national bureau and the national guarantee fund in the EEA State of the branch; and
 - (j) in the case of an insurer which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.
- (2) The details referred to in sub-paragraph (1)(h)(ii) are -
 - (a) a statement showing, on both optimistic and pessimistic bases, for each type of contract or treaty -
 - (i) the number of contracts or treaties expected to be issued;
 - (ii) the total premium income, both gross and net of reinsurance ceded;
 - (iii) the total sums assured or the total amounts payable each year by way of annuity;
 - (b) a statement setting out, on both optimistic and pessimistic bases, detailed estimates of income and expenditure in respect of direct business, reinsurance acceptances and reinsurance cessions; and
 - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (3) The details referred to in sub-paragraph (1)(h)(iii) are -
 - (a) estimates relating to expenses of management (other than costs of installation), and in particular those relating to current general expenses and commissions;
 - (b) estimates relating to premiums or contributions (both gross and net of all reinsurance ceded) and to claims (after all reinsurance recoveries); and
 - (c) estimates relating to the financial resources intended to cover underwriting liabilities.
- (4) The requisite Gibraltar details for the purposes of paragraphs 1 and 3 are -
 - (a) the names of the insurer's managers and main agents in the EEA State of the branch;
 - (b) particulars of any association which exists or is proposed to exist between
 - (i) the directors and the controllers of the insurer; and
 - (ii) any person who will act as an insurance broker, agent, loss adjuster or reinsurer for the insurer in the EEA State of the branch;
 - (c) the names of the principal reinsurers of business to be carried on in the EEA State of the branch;
 - (d) the sources of business in the EEA State of the branch (for example, insurance brokers, agents, own employees or direct selling) with the approximate percentage expected from each of those sources;
 - (e) copies or drafts of the following, namely -

- (i) any separate reinsurance treaties covering business to be written in the EEA State of the branch;
 - (ii) any standard agreements which the insurer will enter into with brokers or agents in the EEA State of the branch;
 - (iii) any agreements which the insurer will enter into with persons (other than employees of the insurer) who will manage the business to be carried on in the EEA State of the branch;
- (f) in the case of an insurer which intends to carry on long term business -
- (i) the technical bases which the actuary appointed in accordance with section 76 proposes to use for each class of business to be carried on in the EEA State of the branch, including the bases needed for calculating premium rates and mathematical reserves;
 - (ii) a statement by the actuary so appointed as to whether he considers that the premium rates which will be used in the EEA State of the branch are suitable;
 - (iii) a statement by that actuary as to whether he agrees with the information provided under sub-paragraphs (1)(f) and (2)(b) and (c); and
 - (iv) the technical bases used to calculate the statements and estimates referred to in sub-paragraph (2); and
- (g) in the case of an insurer which intends to carry on general business, copies or drafts of any agreements which the insurer will have with main agents in the EEA State of the branch.
- (5) In this paragraph "authorised agent" means an agent or employee of the insurer who has authority -
- (a) to bind the insurer in its relations with third parties; and
 - (b) to represent the insurer in its relations with supervisory authorities and courts in the EEA State of the branch.

Requirements for providing insurance

5. (1) A Gibraltar insurer shall not provide insurance of any class or part of a class in an EEA State unless the insurer is licensed under this Ordinance to carry on insurance of that class or part of a class and either -
- (a) the requirements of this paragraph have been complied with in relation to the provision of the insurance in that EEA State; or
 - (b) the insurance is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer.
- (2) The requirements of this paragraph are -
- (a) that the insurer has given to the Commissioner a notice containing the requisite details; and
 - (b) that the Commissioner has given to the supervisory authority in the EEA State in which the insurance is to be provided -
 - (i) a notice which contains the requisite details; and
 - (ii) a certificate in accordance with sub-paragraph (3).
- (3) A certificate is in accordance with this sub-paragraph if it -

- (a) attests that the insurer has the minimum margin of solvency calculated in accordance with such of the following as are appropriate -
 - (i) Articles 16 and 17 of the first general insurance Directive, and
 - (ii) Articles 18, 19 and 20 of the first long term insurance Directive; and
 - (b) indicates the classes of insurance business which the insurer is authorised to carry on in Gibraltar.
- (4) Where the insurer intends to provide insurance in more than one EEA State, the requisite details may be contained in a single notification but must be set out separately in relation to each EEA State.
- (5) The Commissioner shall, within the period of one month beginning with the date on which the insurer's notice was received -
- (a) give the notice and certificate referred to in sub-paragraph (2)(b) to the supervisory authority in the EEA State in which the insurer intends to provide insurance; or
 - (b) refuse to give either or both of those documents.
- (6) The Commissioner shall, within the period of one month referred to in sub-paragraph (5), notify the insurer -
- (a) that he has given the notice and certificate referred to in sub-paragraph (2)(b) to the supervisory authority in the EEA State in which the insurer intends to provide insurance, stating the date on which he did so; or
 - (b) that he has refused to give either or both those documents, stating the reasons for the refusal.
- (7) In the case of a Gibraltar insurer, the Commissioner shall not refuse to give the notice referred to in sub-paragraph (2)(b) unless, having regard to the insurance to be provided in the EEA State, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the insurer.
6. (1) A Gibraltar insurer shall not change the requisite details of the provision of insurance in an EEA State unless the requirements of this paragraph have been complied with in relation to its making of the change.
- (2) The requirements of this paragraph are -
- (a) that the insurer has given a notice to the Commissioner stating the details of the proposed change;
 - (b) that the Commissioner has sent to the supervisory authority in the EEA State in which the insurance is provided a notice in accordance with sub-paragraph (4)(a).
- (3) In the case of a change occasioned by circumstances beyond the insurer's control, the requirements of this paragraph are that the insurer shall as soon as practicable give a notice to the Commissioner stating the details of the change.
- (4) The Commissioner shall, as soon as practicable after receiving a notice under sub-paragraph (2)(a) either -
- (a) give notice to the supervisory authority in the EEA State in which the insurance is provided informing it of the proposed change; or
 - (b) refuse to give such notice.

- (5) The Commissioner shall, as soon as practicable after making a decision under sub-paragraph (4), notify the insurer -
- (a) that he has given the notice referred to in that sub-paragraph, stating the date on which he did so; or
 - (b) that he has refused to give the notice, stating the reasons for the refusal.
- (6) In the case of a Gibraltar insurer, the Commissioner shall not refuse to give the notice referred to in sub-paragraph (4)(a) unless, having regard to the proposed change, it appears to him that the criteria of sound and prudent management would not or might not continue to be fulfilled in respect of the insurer.

Requisite details for the purposes of paragraphs 5 and 6

7. The requisite details for the purposes of paragraphs 5 and 6 are -
- (a) the EEA State in which the insurance is to be provided;
 - (b) the nature of the risks or commitments which the insurer proposes to cover in that State;
 - (c) in the case of an insurer which intends to provide insurance to cover relevant motor vehicle risks -
 - (i) a notice stating the name and address of the claims representative; and
 - (ii) a declaration that the insurer has become a member of the national bureau and the national guarantee fund in that State; and
 - (d) in the case of an insurer which intends to cover health insurance risks, the technical bases which will be used for calculating premiums in respect of such risks.

Requirement to notify cessation of insurance business etc

8. (1) A Gibraltar insurer which has ceased -
- (a) to carry on direct insurance business through a branch in an EEA State; or
 - (b) to provide insurance in such an EEA State,
- shall as soon as practicable notify the Commissioner in writing that it has done so.
- (2) Any insurance which is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

GIBRALTAR INSURERS PROVIDING INSURANCE IN GIBRALTAR THROUGH BRANCHES IN EEA STATES

9. (1) Where a Gibraltar insurer intends to provide insurance in Gibraltar, it shall before doing so notify the Commissioner in writing of its intention.
- (2) The notification shall indicate -
- (a) the EEA state in which is situated the branch through which the insurer intends to provide insurance in Gibraltar; and
 - (b) the nature of the risks or commitments which the insurer proposes to cover in Gibraltar.
- (3) The insurer shall notify the Commissioner in writing if -



- (a) it changes either of the details notified to the Commissioner under sub-paragraph (2); or
 - (b) it ceases to provide insurance in Gibraltar.
- (4) Any insurance which is provided by the insurer participating in a Community co-insurance operation otherwise than as the leading insurer shall be disregarded for the purposes of this paragraph.

SUPPLEMENTAL

Offences

10. (1) A Gibraltar insurer commits an offence if -
- (a) it carries on insurance business in an EEA State in contravention of paragraph 1;
 - (b) in contravention of paragraph 2 or 3, it changes the requisite EEA details or, as the case may be, the requisite Gibraltar details of a branch established by it in such an EEA State;
 - (c) it provides insurance in such an EEA State in contravention of paragraph 5;
 - (d) in contravention of paragraph 6, it changes the requisite details relating to the provision of insurance in such an EEA State; or
 - (e) it makes default in complying with, or with a requirement imposed under, any other provision of this Schedule.
- (2) A person commits an offence if he causes or permits to be included in a notification sent to the Commissioner under paragraph 1, 2, 3, 5 or 6 a statement which he knows to be false in a material particular or recklessly causes or permits to be so included a statement which is false in a material particular.
- (3) A person committing an offence under this paragraph is liable on conviction on indictment, to a fine or, on summary conviction, to a fine at level 3 on the standard scale.

Interpretation

11. (1) In this Schedule -
- "direct insurance business" means insurance business other than reinsurance business;
- "health insurance risks", in relation to an EEA State, means risks falling within class 2 of Schedule 1 to this Ordinance (sickness) where -
- (a) insurance contracts covering those risks serve as a partial or complete alternative to the health cover provided by the statutory social security system in that State; and
 - (b) the law of that State requires such contracts to be operated on a technical basis similar to life assurance in accordance with all the conditions listed in the first sub-paragraph of Article 54(2) of the third general insurance Directive;
- "national bureau", in relation to an EEA State, means a professional organisation -
- (a) which has been constituted in that State in accordance with Recommendation No 5 adopted on 25th January 1949 by the Road



Transport Sub-committee of the Inland Transport Committee of the United Nations Economic Commission for Europe; and

- (b) which groups together insurance undertakings which in that State are authorised to conduct the business of motor vehicle liability insurance;

"national guarantee fund", in relation to an EEA State, means a body -

- (a) which has been set up or authorised in that State in accordance with Article 1(4) of Council Directive 84/5/EEC; and
- (b) which provides compensation for damage to property or personal injuries caused by unidentified vehicles or vehicles for which the insurance obligation provided for in Article 1(1) of that Directive has not been satisfied;

(2) In this Schedule -

- (a) references in Part I to the provision of insurance in an EEA State are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in that EEA State through an establishment in another EEA territory;
- (b) references in Part II to the provision of insurance in Gibraltar are references to the covering (otherwise than by way of reinsurance) of a risk or commitment situated in Gibraltar through an establishment in an EEA State.