



**ACCIDENT INSURANCE (TOTAL GROSS PREMIUMS)
REGULATIONS 1999**

SIAN ELIAS, Administrator of the Government

ORDER IN COUNCIL

At Wellington this 14th day of June 1999

Present:

HER EXCELLENCY THE ADMINISTRATOR OF THE GOVERNMENT IN COUNCIL
PURSUANT to sections 194, 406, and 412 of the Accident Insurance Act 1998, Her Excellency the Administrator of the Government, acting by and with the advice and consent of the Executive Council, and on the recommendation of the Minister for Accident Rehabilitation and Compensation Insurance, makes the following regulations.

ANALYSIS

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| 1. Title and commencement | 5. Risk sharing |
| 2. Interpretation | 6. Captive insurers |
| <i>Returns by Insurers of Total Gross Premiums</i> | 7. Items excluded from gross income |
| 3. Insurers must give returns | <i>General Provisions</i> |
| <i>Determining Gross Income</i> | 8. Generally accepted accounting practice applies |
| 4. Items included in gross income | 9. Powers of Regulator not fettered |

REGULATIONS

- 1. Title and commencement**—(1) These regulations may be cited as the Accident Insurance (Total Gross Premiums) Regulations 1999.
(2) These regulations come into force on 15 July 1999.

2. Interpretation—(1) In these regulations, unless the context otherwise requires,—

“Act” means the Accident Insurance Act 1998:

“Calendar year” means a period of 12 months ending with each 31 December:

“Captive insurer” has the same meaning as in section 186 (4) of the Act:

“Generally accepted accounting practice” has the same meaning as in section 3 of the Financial Reporting Act 1993:

“Insurance intermediary” has the same meaning as in section 2 of the Insurance Intermediaries Act 1994:

“Insurer” has the same meaning as in section 13 of the Act, and includes persons to whom sections 247 (8) and 266 (6) apply:

“Inwards reinsurance” includes any arrangement by which a reinsurer accepts risk, by way of reinsurance, that is risk referable to an accident insurance contract:

“Outwards reinsurance” includes any arrangement by which a direct insurer transfers risk, by way of reinsurance, that is risk referable to an accident insurance contract:

“Premium” includes valuable consideration to which an insurer is entitled for providing cover and statutory entitlements under an accident insurance contract, regardless of the form in which the consideration or entitlement comes:

“Reserve for unexpired risks” means a reserve within the meaning of section DK 5 of the Income Tax Act 1994:

“Risk sharing agreement” means any agreement reached under section 185 of the Act:

“Transitional accident insurance contract” has the same meaning as in the Accident Insurance (Transitional Contracts) Regulations 1999.

(2) Expressions not defined in these regulations but defined in the Act have, in these regulations, the same meanings as in the Act.

(3) A transitional accident insurance contract is an accident insurance contract for the purposes of these regulations.

(4) The accident insurance contracts from which the calculation of total gross premiums is derived include any such contracts in force at any point in a calendar year, whether or not the contract was entered into or created during the calendar year.

Returns by Insurers of Total Gross Premiums

3. Insurers must give returns—(1) An insurer must give the Regulator returns specifying the insurer’s total gross premiums from accident insurance contracts for each calendar year.

(2) Returns under subclause (1) must be given within 5 months of the end of a calendar year unless the insurer and the Regulator agree to some other timing.

Determining Gross Income

4. Items included in gross income—(1) In the definition of the term “total gross premiums” in section 13 of the Act, gross income includes the gross income earned by an insurer from premiums in a calendar year from accident insurance contracts.

(2) In determining gross income earned by an insurer in a calendar year, an insurer—

- (a) Must include income earned by the insurer whether or not the premium is paid or payable in the calendar year; and
- (b) Must include income earned by the insurer even though a counter party to an accident insurance contract fails for any reason, or is expected to fail, to honour the premium; but
- (c) Must not make any deduction for—
 - (i) Premium ceded because of outwards reinsurance; or
 - (ii) Any consideration or benefit to which insurance intermediaries become entitled from their functions with, and in respect of, accident insurance contracts; or
 - (iii) Commissions or other agency charges in respect of accident insurance contracts; or
 - (iv) Any reserve for unexpired risks.

5. Risk sharing—(1) Insurers must calculate gross income from accident insurance contracts to which risk sharing agreements apply as if the risk sharing agreements did not apply.

(2) In calculating gross income attributable to premium from an accident insurance contract to which subclause (1) applies, insurers must have regard to the premium that would apply to the accident insurance contract,—

- (a) With a counter party of the same or similar classification, category, or experience rating; and
- (b) To which no risk sharing agreement applies.

6. Captive insurers—In assessing its gross income from accident insurance contracts, a captive insurer must—

- (a) Comply with regulation 5, as applicable; and
- (b) Allow for and estimate the costs, on a fully funded basis, of it meeting and managing its obligations under the relevant accident insurance contracts without interruption.

7. Items excluded from gross income—In determining gross income earned by an insurer in a calendar year, an insurer must exclude—

- (a) Any premium that is, or is to be, rebated or refunded; and
- (b) Any consideration received or to come from inwards reinsurance; and
- (c) Any reasonable amount paid or payable to the insurer to compensate the insurer for allowing premiums to be paid by instalments, or on extended terms; and
- (d) Goods and services tax; and
- (e) Any other tax, duty, or levy required by law to be included within, or collected by, premiums.

General Provisions

8. Generally accepted accounting practice applies—Insurers must comply with generally accepted accounting practice in calculating total gross premiums under these regulations unless the Act or these regulations provide otherwise.

9. Powers of Regulator not fettered—These regulations do not limit the power of the Regulator under sections 247 and 266 of the Act to determine total gross premiums.

MARIE SHROFF,
Clerk of the Executive Council.

EXPLANATORY NOTE

This note is not part of the regulations, but is intended to indicate their general effect.

These regulations, which come into force on 15 July 1999, require insurers to inform the Regulator of the total gross premiums they earn from accident insurance contracts. The information is given to assist the Regulator of accident insurance to determine insurers' contributions and levies to the Insolvent Insurers Fund and the Non-Compliers Fund. The regulations specify how certain important matters are to be treated in calculating the gross income, and therefore total gross premiums, of insurers from accident insurance contracts.

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These regulations are administered in the Department of Labour.