

GUERNSEY STATUTORY INSTRUMENT

2006 NO. 51

The Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2006

Made

21st December, 2006

Laid before the States

Coming into operation

1st January, 2007

THE GUERNSEY FINANCIAL SERVICES COMMISSION, in exercise of the powers conferred upon it by section 13 of the Financial Services Commission (Bailiwick of Guernsey) Law, 1987^a, sections 85 and 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002^b, sections 8 and 26 of the Protected Cell Companies Ordinance, 1997^c and sections 2 and 61 of the Incorporated Cell Companies Ordinance, 2006^d, and after consultation with the States of Guernsey Policy Council, the States of Alderney Policy and Finance Committee and the Chief Pleas of Sark General Purposes and Finance Committee, hereby makes the following regulations –

Fee payable on application to be licensed as an insurer.

1. For the purposes of section 6 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, an application by a protected cell company or an incorporated cell company to be licensed as an insurer shall be accompanied by a fee of £3,535 and, following licensing of a protected cell company or an incorporated cell company as an insurer, an application for authorisation for a cell shall be accompanied by a fee of £1,045 in respect of each cell.

^a Ordres en Conseil Vol. XXX, p. 243; amended by Vol. XX of 1991; No. XIII of 1994; No. II of 1997; No. II of 1998; No. XVII of 2002; No. XXII of 2003; No. XXXIV of 2005; also amended by the Insurance Business (Bailiwick of Guernsey) Law, 2002, by the Public Trustee (Bailiwick of Guernsey) Law, 2002 and by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^b Order in Council No. XXI of 2002; amended by the Machinery of Government (Transfer of Functions) (Guernsey) Ordinance, 2003.

^c Ordinance No. V of 1997; amended by No. XV of 1998 and No. XXI of 2005.

^d Ordinance No. XVIII of 2006.

Periodic fee payable by protected cell companies and incorporated cell companies which are licensed as insurers.

2. For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, a protected cell company or an incorporated cell company licensed as an insurer under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002 shall pay to the Commission –

- (a) on or before the last day of the month in which it is first so licensed, a fee equal to the sum of the following amounts –
 - (i) £3,535; and
 - (ii) for a protected cell company £1,150 in respect of each trading cell and £100 in respect of each dormant cell in existence when it is first so licensed; and
 - (iii) for an incorporated cell company £1,150 in respect of each cell in existence when it is first so licensed;

divided by twelve and multiplied by the number of complete months between the date on which it is first so licensed and the end of the calendar year in which that date falls; and thereafter

- (b) on or before 31 January each year, a fee equal to the sum of the following amounts –
 - (i) £3,535; and
 - (ii) for a protected cell company £1,150 in respect of each trading cell and £100 in respect of each dormant cell in existence at 1 January of that year; and

(iii) for an incorporated cell company £1,150 in respect of each cell in existence at 1 January of that year;

and

(c) on or before the last day of the month in which a new cell is created, where that cell is created after the date of licensing of the protected cell company or incorporated cell company, a fee of £1,150 divided by twelve and multiplied by the number of complete months between the date the cell is created and the end of the calendar year in which that date falls.

3. For the purposes of section 94 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, a protected cell company or an incorporated cell company licensed as an insurer under section 7 of the Insurance Business (Bailiwick of Guernsey) Law, 2002, where the licence was granted on or before 31 December 2006, shall pay to the Commission on or before 31 January 2007 a further fee equal to the sum of the following amounts –

(a) for each complete month between the relevant date and 31 December 2006 one twelfth of the sum of –

(i) £3,535; and

(ii) £1,150 in respect of each cell in existence during the period between the relevant date and 31 December 2006;

and

(b) if the relevant date is later than the date of licensing –

(i) £3,535 in respect of the company's most recent financial year ending before 1 January 2007; and

- (ii) £1,150 in respect of each cell in existence during the period covered by the annual return and accounts for the company's most recent financial year ending before 1 January 2007; less
- (iii) any fee already paid accompanying the annual return and accounts for the company's most recent financial year ending before 1 January 2007.

Conversion of companies.

4. A person applying to the Commission –
- (a) under section 8 of the Protected Cell Companies Ordinance, 1997 or under section 50 of the Incorporated Cell Companies Ordinance, 2006, for the consent of the Commission to convert an existing company, which is licensed as an insurer, into a protected cell company or an incorporated cell company; or
 - (b) under section 51 of the Incorporated Cell Companies Ordinance, 2006, for the consent of the Commission to convert an existing protected cell company, which is licensed as an insurer, into an incorporated cell company;

which will, when converted, be licensed under the Insurance Business (Bailiwick of Guernsey) Law, 2002, shall pay to the Commission at the time of making that application a fee of £810.

Power of Commission to waive fees.

5. The Commission may in its absolute discretion waive any fee, or part of a fee, payable pursuant to these Regulations.

Fees not refundable.

6. Subject to regulation 5, no fee payable under these Regulations is refundable.

Fees under the 2006 regulations.

7. The fees payable under these Regulations are in substitution for, and not in addition to, the fees payable under regulation 2 of the Financial Services Commission (Fees) Regulations, 2006^e.

Interpretation.

8. In these Regulations –
 - (a) “the Commission” means the Guernsey Financial Services Commission, established by the Financial Services Commission (Bailiwick of Guernsey) Law, 1987;
 - (b) “dormant cell” means a cell of a protected cell company in which the cell has no unexpired insurance policies and no insurance liabilities;
 - (c) "incorporated cell company" means an incorporated cell company within the meaning of the Incorporated Cell Companies Ordinance, 2006;
 - (d) "protected cell company" means a protected cell company within the meaning of the Protected Cell Companies Ordinance, 1997;
 - (e) “relevant date” means the latest of the date of licensing, or if the company’s most recent complete financial year is prior to 1 January 2007, the end date of that most recent financial year;

^e A Guernsey Statutory Instrument made by the Commission on 21st December, 2006.

(f) “trading cell” means a cell of a protected cell company that is not a dormant cell;

(g) the Interpretation (Guernsey) Law, 1948^f shall apply to the interpretation of these Regulations.

Repeals.

9. The Protected Cell Companies (Fees for Insurers) Regulations, 2005 and the Incorporated Cell Companies (Fees for Insurers) Regulations, 2006 are repealed.

Citation.

10. These Regulations may be cited as the Protected Cell Companies and Incorporated Cell Companies (Fees for Insurers) Regulations, 2006.

Commencement.

11. These Regulations shall come into force on 1st January, 2007.

Dated this 21st day of December, 2006.

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P. A. HARWOOD

Chairman of the Guernsey Financial Services Commission.

For and on behalf of the Commission.

^f Ordres en Conseil Vol. XIII, p. 355.

EXPLANATORY NOTE.

(This note is not part of the Regulations)

These Regulations prescribe the fees payable to the Guernsey Financial Services Commission by any company which is a protected cell company or an incorporated cell company, and which applies to be licensed to conduct insurance business under the Insurance Business (Bailiwick of Guernsey) Law, 2002, and the fee payable periodically thereafter. Furthermore, the Regulations prescribe the fee payable to the Guernsey Financial Services Commission by any company for the conversion of a company into a protected cell company or an incorporated cell company, or for the conversion of an existing protected cell company into an incorporated cell company, or for the conversion of an incorporated cell into a company independent of its incorporated cell company.