

# RECONSTRUCTION AND RENEWAL BYELAW

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## Commencement

This byelaw came into force on 6 December 1995.

## Amendments

This byelaw was amended by

Reconstruction and Renewal (Amendment) Byelaw (No. 26 of 1996)  
Reconstruction and Renewal (Amendment No. 2) Byelaw (No. 28 of 1996)  
Underwriting Agents (Amendment No. 16) Byelaw (No. 15 of 1999)  
Run-Off Years of Account (Revocation) Byelaw (No. 1 of 2000)

The Council of Lloyd's in exercise of its powers under section 7 of Lloyd's Act 1911 and sections 6(2) and 8(3) of and paragraphs (1), (4), (15), (16), (19), (21) and (24) of Schedule 2 to Lloyd's Act 1982 by special resolution hereby makes the following byelaw.

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## Part A – Interpretation

### 1. Interpretation

The provisions of the Schedule to this byelaw (interpretation) shall have effect.

## Part B—General Provisions With Respect To The Reconstruction And Renewal Proposals

2. Power to develop and implement the Reconstruction and Renewal proposals
  - (1) The Council may:
    - (a) carry into effect the Reconstruction and Renewal proposals with such variations, modifications, exceptions, additions and supplementary provisions as may from time to time appear to it to be desirable or expedient;
    - (b) do all such things as may appear to it to be desirable or expedient for the purposes of or in connection with the implementation of the Reconstruction and Renewal proposals and for that purpose exercise any of the powers conferred by this byelaw and any other powers conferred on it by Lloyd's Acts 1871 to 1982 or by any enactment, deed, trust deed, contract or other document or instrument whatever.
  - (2) The Council may for the purposes of or in connection with the Reconstruction and Renewal proposals:
    - (a) prescribe such conditions and requirements to be satisfied or complied with by any member of the Society, Lloyd's broker, underwriting agent, annual subscriber, associate, approved run-off company, umbrella broker or other person subject to the jurisdiction of the Council as it may think fit and from time to time add to, alter or withdraw any condition or requirement so prescribed;
    - (b) give such directions as it may think fit to any member of the Society, Lloyd's broker, underwriting agent, annual subscriber, associate, approved run-off company, umbrella broker or other person subject to the jurisdiction of the Council and from time to time alter or withdraw any direction so given.
  - (3) Any conditions or requirements prescribed or direction given under sub-paragraph (2):
    - (a) may require the provision of such information at such times to such persons and verified in such manner as may be specified;
    - (b) may relate to the exercise of any power, discretion, duty or function exercisable under any contract, deed, trust deed or other document or instrument by a person to whom such conditions and requirements apply or to whom such a direction is given (and in particular, in the case of any requirement imposed on or direction given to an underwriting agent, may relate to the exercise of any power, discretion, duty or function of that underwriting agent under any premiums trust deed, any other trust deed subject to which monies or other assets representing premiums and other receipts in respect of insurance business underwritten at

Lloyd's by a member of the Society are for the time being held or any deed under which monies or other assets forming part of the funds at Lloyd's of a member of the Society are for the time being held).

- (4) For the purposes of or in connection with the Reconstruction and Renewal proposals the Council may, in such manner as appears to it to be desirable or expedient:
  - (a) hold, allocate and apply any funds (including without limitation funds raised or contributed to the Society under this byelaw, funds of the Society raised or held under Lloyd's Acts 1871 to 1982, under the Central Fund Byelaw (No. 4 of 1986) or under any other byelaw made under Lloyd's Acts 1871 to 1982 and funds paid or to be paid by or to any person under any such settlement as is referred to in paragraph 8);
  - (b) make arrangements with respect to the maintenance of accounts and the payment, clearing the settlement of any sums.

## Part C—The Equitas Scheme

3. Power to promote Equitas scheme
  - (1) The Council may:
    - (a) prepare and carry into effect the scheme forming part of the Reconstruction and Renewal proposals (in this byelaw called “*the Equitas scheme*”) for the reinsurance by a company formed or to be formed by or with the assistance of the Society (“*Equitas*”) of certain liabilities of members or former members of the Society allocated or originally allocated to particular years of account on such terms, subject to such exceptions and together with such supplementary and ancillary provisions as may appear to the Council to be desirable or expedient; and
    - (b) do all such things as may appear to the Council to be desirable or expedient for the purposes of or in connection with preparing and carrying into effect the Equitas scheme.
  - (2) Without limiting any other provision of this byelaw, provision may be made under or for the purposes of the Equitas scheme for all or any of the following:
    - (a) for the Equitas scheme or such provisions of or proposals forming part of the Equitas scheme as may be specified to be conditional on the happening of specified events (including without limitation the grant to Equitas of authorisation under the Insurance Companies Act 1982 and of any other authorisations, licences or consents in any jurisdiction which may appear to be necessary or desirable for the purposes of or in connection with the Equitas scheme);
    - (b) for such other matters as may appear to the Council to be desirable or expedient for the purposes of or in connection with the Equitas scheme.
  - (3) Provision may be made under the Equitas scheme for the formation of two or more companies into which severally the liabilities to which the Equitas scheme relates will be reinsured. In that event references in any provision of this byelaw to Equitas shall, except where the context otherwise requires:
    - (a) in the application of that provision to, in respect of or in connection with:
      - (i) the reinsurance of any liability to which the Equitas scheme relates;
      - (ii) the premium paid or other consideration provided in respect of such reinsurance;

- (iii) any funds or assets paid or provided in respect of such premium or other consideration or identified or provisionally segregated for the purposes or in connection with the proposed payment or provision of such premium or other consideration; or
- (iv) any other matter relating to, affecting or arising out of any liability so reinsured,

be construed as references to the company reinsuring that liability;

- (b) subject as aforesaid, include each of the companies so formed.

#### 4. Equitas reinsurance contracts

- (1) Subject to the following provisions of this paragraph, the Council:

- (a) may direct members of the Society to enter into reinsurance contracts with Equitas with respect to such liabilities, for such premium to be paid or other consideration to be provided to Equitas, and generally on such terms, as shall be specified, provided or referred to in offers made by Equitas to the members concerned under the Equitas scheme;
- (b) may direct any underwriting agent for the time being acting as such on behalf of a member of the Society to whom such a direction as is referred to in sub-paragraph (1)(a) is given to enter on behalf of that member into the reinsurance contract specified in that direction;
- (c) may direct any underwriting agent for the time being acting as such on behalf of a former member of the Society who remains subject to liabilities to which the Equitas scheme relates to enter on behalf of such former member into reinsurance contracts with Equitas with respect to such liabilities, for such premium to be paid or other consideration to be provided to Equitas and generally on such terms as shall be specified or referred to in an offer made by Equitas to that underwriting agent on behalf of the former member concerned under the Equitas scheme;
- (d) may direct any such member of the Society or underwriting agent to execute all such deeds and documents and to do all such acts and things as may appear to the Council to be desirable or expedient in connection with or for the purposes of any such contract of reinsurance as is referred to in the preceding provisions of this sub-paragraph.

- (2) A contract of reinsurance with Equitas to which this paragraph applies may include provision to the effect:

- (a) that that contract shall not be capable of being avoided by Equitas for misrepresentation or non-disclosure (but without prejudice to any liability of any person to compensate any other person in damages as a result of any misrepresentation or non-disclosure);
  - (b) that, subject to the terms of any arrangements for structured or deferred payment and to any other exceptions which may be provided by the contract, payment of the premium and any other sums expressly provided by the contract shall constitute the only financial obligations of the relevant member or former member of the Society to Equitas and accordingly that the member or former member shall not be or become liable to make any further payment to Equitas in respect of the contract or the liabilities reinsured under the contract.
- (3) If the Equitas scheme includes provision for any such condition as is referred to in paragraph 3(2)(a), any direction given under this paragraph may be given on terms that it shall not become effective until any such condition or conditions as may be specified has or have been satisfied or (in the case of conditions which under the terms of the Equitas scheme may be waived) waived.
- (4) A contract of reinsurance with Equitas to which this paragraph relates may include provision for any power or function which before that contract comes into effect has been performed by an underwriting agent such as is referred to in sub-paragraph (1) to continue to be performed by that underwriting agent thereafter for such period, on such terms and subject to such limitations as may be specified and may for that purpose include any such provision as is referred to in paragraph 5(3).
- (5) Every member of the Society or underwriting agent who enters into a contract of reinsurance with Equitas under this paragraph shall observe and perform the terms of that contract applicable to him or it and accordingly any failure on his or its part to observe or perform any such term shall be a failure to observe or perform an obligation imposed by this byelaw.
- (6) A contract of reinsurance with Equitas to which this paragraph applies may be placed through any such underwriting agent as is referred to in this paragraph.

## 5. Supervisory management agreements

- (1) This paragraph applies in respect of each syndicate through which there have been underwritten liabilities which it is proposed will be reinsured by Equitas under Equitas reinsurance contracts (in this paragraph referred to as “*relevant liabilities*”).

- (2) The Council may direct the managing agent of the syndicate to enter into a supervisory management agreement with Equitas on such terms as may be specified in the direction (including without limitation any terms which the Council may consider appropriate having regard to any interest which Equitas may have, by virtue of the terms in which Equitas reinsurance contracts have been or are to be entered into, in the exercise of any power or function of the managing agent to which the supervisory management agreement relates).
- (3) Without limiting the generality of sub-paragraph (2), a supervisory management agreement such as is referred to in that sub-paragraph may include provision requiring the managing agent:
  - (a) to comply with any directions which may from time to time be given by Equitas with respect to the exercise of any power or function of the managing agent in its capacity as such (including any power or function of the managing agent under any agreement, deed, trust deed or other document or instrument whatever);
  - (b) not to exercise any such power or function in such manner, in such cases or with respect to such matters as may be specified without the prior consent of Equitas;
  - (c) to consult with Equitas at such times and in such manner as may be specified with respect to the exercise or proposed exercise of any such power or function;
  - (d) to provide information to Equitas in such form, as to such matters, at such times (whether before or after any Equitas reinsurance contract is entered into or comes into effect) and verified in such manner as may be specified;
  - (e) to concur in referring any matters of dispute which may arise between the managing agent and Equitas for resolution under any procedures which may be established by the Council for that purpose under paragraph 17;
  - (f) to procure that any person to whom the managing agent may have delegated or may delegate any power or function to which the agreement relates shall observe and perform all the provisions of the agreement relating to the performance of that power or function by the managing agent itself.
- (4) It shall be a term of every supervisory management agreement entered into under this paragraph that it shall cease to have effect, subject to such transitional or supplementary provisions as may be provided by the agreement, at a specified time being not later than the time at which the reinsurance by Equitas of all the relevant liabilities has become effective.
- (5) Every managing agent which enters into a supervisory management agreement under this paragraph shall observe and perform all the terms of that agreement applicable to it and accordingly any failure on its part to observe or perform any such term shall be a failure to observe or perform an obligation imposed by this byelaw.

6. Power to give directions

- (1) The Council may at any time and from time to time give to any member of the Society, Lloyd's broker, underwriting agent, annual subscriber, associate, approved run-off company, umbrella broker or other person subject to the jurisdiction of the Council such directions as may appear to the Council to be desirable or expedient:
  - (a) for the purpose of enabling or assisting the Council to exercise any of the powers conferred by paragraph 3(1);
  - (b) for the purposes of, in connection with or in consequence of the exercise of any such power;
  - (c) for the purpose of enabling or assisting Equitas to exercise any power conferred on it, or to discharge any obligation or function assumed by it, under the Equitas scheme or under any Equitas reinsurance contract, supervisory management agreement or other deed, contract or instrument entered into under the Equitas scheme.
  
- (2) Directions given under this paragraph may include:
  - (a) directions to estimate the value of, or reserve against, liabilities in respect of contracts of insurance entered into at Lloyd's on such basis as may be specified;
  - (b) directions to enter or refrain from entering into contracts of insurance or other contracts of such descriptions, with such counterparties, on such terms and in such circumstances as may be specified;
  - (c) without limiting the generality of sub-paragraph (2)(b)
    - (i) directions to the effect that any decision to effect or refrain from effecting a reinsurance to close any year of account (whether or not a reinsurance to close entered into as part of the Equitas scheme) is to be made within such period as may be specified or is to be deferred until after such time as may be specified;
    - (ii) directions limiting or prohibiting the reinsurance at Lloyd's, otherwise than under or for the purposes of the Equitas scheme, of any liability to which the Equitas scheme relates;
  - (d) directions relating to the exercise of any power, discretion, duty or function exercisable under any trust deed or other instrument under which any premiums trust fund, deposit trust fund or other trust fund held for the purposes of or in connection with insurance business at Lloyd's is for the time being held (including without limitation any power, discretion, duty or function relating to the investment of moneys or to the disposal of any investment forming part of any such fund);

- (e) directions to execute and (so far as such terms are applicable to the person to whom the direction is given) to observe and perform the terms of such agreements, undertakings, deeds, trust deeds, authorities, powers of attorney and other documents or instruments as may be specified;
  - (f) directions to provide to the Society, to Equitas or to such other person as may be specified such certificates, confirmations, declarations, opinions, reports or information in such form, at such times and verified in such manner as may be specified;
  - (g) directions requiring that any active underwriter or any director or manager of an underwriting agent execute an undertaking in favour of Equitas in such form as may be specified by which that active underwriter, director or manager undertakes to provide to Equitas such information, explanations and other assistance with respect to any matter arising out of any liability reinsured by Equitas under the Equitas scheme as may be specified for such period (whether before or after an Equitas reinsurance contract relating to the relevant liabilities comes into effect) as may be specified;
  - (h) directions requiring that any underwriting agent procure the execution by any of its directors and managers, and that a managing agent procure the execution by the active underwriter of any syndicate managed by it, of such an undertaking as is referred to in sub-paragraph (2)(g).
- (3) Directions given under this paragraph in relation to the exercise of any power, discretion, duty or function may require the maintenance of accounting records so as to distinguish assets, liabilities and other items in such manner and by reference to such factors as may be specified and the identification or provisional segregation in such manner as may be specified of any money or other property.
- (4) This paragraph is without prejudice to paragraphs 4 and 5.

## 7. Power to give undertakings

- (1) The Council may cause the Society to enter into undertakings in such terms as may appear to it to be desirable or expedient in favour of any person who is directed to enter into an Equitas reinsurance contract under paragraph 4, a supervisory management agreement under paragraph 5 or any other contract, deed, trust deed or other document or instrument or to whom any other direction is given under paragraph 6.
- (2) Any undertaking entered into under this paragraph may include an undertaking by the Society to indemnify the person to whom it is given against any liability which that person may incur in consequence of entering into and performing an Equitas

reinsurance contract, supervisory management agreement or other contract, deed, trust deed or other document or instrument.

## Part D - Settlement Arrangements

8. Powers with respect to settlement of disputes
  - (1) The Council may for the purposes of or in connection with the Reconstruction and Renewal proposals:
    - (a) propose and enter into any settlement, compromise or arrangement with any person in respect of any claim or dispute to which the Society is a party or in which it is interested;
    - (b) propose any settlement, compromise or arrangement between any other parties;
    - (c) institute, continue and prosecute any legal proceedings in the name of and on behalf of the Society or otherwise in the courts of any jurisdiction, in arbitration or before any other tribunal whatever;
    - (d) settle or discontinue any such legal proceedings or cause or suffer any such legal proceedings to remain in abeyance;
    - (e) take any other action with respect to any claim, dispute or legal proceedings which appears to the Council to be desirable or expedient.
  - (2) The Council may prescribe the form and terms of any agreement under which, under the Reconstruction and Renewal proposals, persons who participate in the proposals may agree to settle or compromise any claim, dispute or legal proceedings.

## Part E—Powers Relating To The Financing Of The Reconstruction And Renewal Proposals

9. Release of estimated profits or surpluses
  - (1) Subject to such conditions and requirements as the Council may prescribe under subparagraph (2), sums representing estimated profits or surpluses as at 31 December 1995 in respect of insurance business underwritten by a member of the Society through any syndicate for any of the years of account 1993, 1994 and 1995 and held under any premiums trust deed or other trust deed or instrument under which monies or other assets representing premiums and other receipts in respect of insurance business underwritten at Lloyd's by that member (including without limitation any overseas direction as defined in any premiums trust deed) are for the time being held may, notwithstanding that the year of account in question has not been closed, be released, paid, transferred or appropriated;
    - (a) in the case of any sums held as part of an American trust fund, in such manner as to be held at the direction of a members' agent or regulating trustee of that member;
    - (b) in the case of any sums held as part of Lloyd's Canadian Trust Fund, in such manner as to form part of the Name's Personal Reserve Fund (as defined for the purposes of Lloyd's Canadian Trust Deed) of that member;
    - (c) in any other case, to or into the control of trustees of a premiums trust fund of that member who are not managing agent's trustees so as to form part of the member's personal reserve fund.
  - (2) The Council may prescribe such conditions and requirements as appear to it to be desirable or expedient with respect to or in connection with the release, payment, transfer or appropriation of any sums under this paragraph, including conditions and requirements:
    - (a) limiting the amounts which may be so released, paid, transferred or appropriated in such manner and by reference to such factors as may be specified;
    - (b) prescribing the times at or within which amounts may be so released, paid, transferred or appropriated;
    - (c) limiting the purposes for which sums so released, paid, transferred or appropriated may be applied and the amount which may be applied for any such purpose;
    - (d) in any case where sums are so released, paid, transferred or appropriated in respect of more than one year of account, prescribing the order in which, as between sums released, paid, transferred or appropriated in respect of each such year of account, such sums are to be applied for any such purpose;

- (e) requiring the preparation by the managing agent of any syndicate in respect of which such sums are proposed to be released, paid, transferred or appropriated of such information, statements, projections and estimates in such forms and confirmed or verified in such manner as may be specified;
- (f) requiring that any such information, statements, projections and estimates be reviewed by the syndicate auditors of the relevant syndicate and that the syndicate auditors deliver such reports on such information in such terms as may be specified.

10. Payment of profit commission on amounts released under paragraph 9

- (1) The Council may direct any managing agent and any member of the Society who is a member of a syndicate managed by that managing agent for any of the years of account 1993, 1994 and 1995 to enter into a supplemental agreement in the prescribed form varying the terms of the managing agent's agreement under which the managing agent acts for that member in respect of that syndicate for the relevant year of account so as to include such provisions as are described in sub-paragraph (2) and such other related or supplementary provisions as may be specified.
- (2) The provisions referred to in sub-paragraph (1) are provisions substantially to the effect that, subject to sub-paragraphs (3) and (4) –
  - (a) the calculation of the entitlement of the managing agent to profit commission as at or by reference to 31 December 1995 is to be made on the same basis (subject to (b) below) as though any sums forming part of a premiums trust fund of the relevant member and released, paid, transferred or appropriated as referred to in paragraph 9(1) and any sums released, paid, transferred or appropriated as described in that paragraph before the making of this byelaw in respect of the 1993 or 1994 year of account represented closed year of account profits of the year of account in respect of which they were released, paid, transferred or appropriated and as though that year of account had been closed at 31 December 1995;
  - (b) when any year of account in respect of which sums have been released, paid, transferred or appropriated as described in (a) above is closed, the profit commission to which the managing agent will be entitled as at or by reference to the closing date is to be calculated after adjusting the closed year of account profit or loss by an amount equal to the amount treated under (a) above as a closed year of account profit;
  - (c) where, after the making of any adjustment under (b) above, a closed year loss arises in respect of any year of account in respect of which sums have been released, paid, transferred or appropriated as described in (a) above:

- (i) the managing agent shall be liable to pay to the member such sums by way of compensation or adjustment (including without limitation repayment of profit commission and, if so provided, an amount equal to interest on such repayment) as may be specified;
  - (ii) *deleted by the Reconstruction & Renewal (Amendment No. 2) Byelaw No. 28 of 1996 made on 17th July 1996*
- (3) The aggregate amount of a managing agent's accelerated profit commission (as defined in sub-paragraph (11) of this paragraph) shall not exceed the amount of any contribution required from that managing agent under paragraph 11 or agreed to be contributed under paragraph 12 or under any such settlement, compromise or arrangement as is referred to in paragraph 8.
- (4) Where sub-paragraph (3) applies to reduce the aggregate amount of accelerated profit commission which would otherwise have become payable to a managing agent, the reduction shall be effected in such manner as may be provided by the supplemental agreement referred to in sub-paragraph (1) and, subject to this, in such manner as the managing agent may determine: provided that no such reduction shall be effected in a manner which involves any material discrimination among underwriting members who are members of a syndicate for any of the years of account 1993, 1994 or 1995 in their capacity as such members.
- (5) Where a member of the Society participates in a syndicate for any of the years of account 1993, 1994 and 1995 under arrangements made by or through a members' agent, the Council may direct that the supplemental agreement referred to in sub-paragraph (1) shall be entered into by that members' agent on behalf of that member.
- (6) The Council may direct any members' agent and any member of the Society who participates in a syndicate or syndicates ("*relevant syndicates*") for any of the years of account 1993, 1994 and 1995 under arrangements made by or through that members' agent to enter into a supplemental agreement in the prescribed form varying the terms of the members' agent's agreement under which that members' agent acts for that member in respect of the relevant syndicate or syndicates for the relevant year of account so as to include such provisions as are described in sub-paragraph (7) and such other related or supplementary provisions as may be specified.
- (7) The provisions referred to in sub-paragraph (6) are provisions substantially to the effect that, subject to sub-paragraphs (8) and (9):
  - (a) the calculation of the entitlement of the members' agent to profit commission as at or by reference to 31 December 1995 is to be made on the same basis (subject to (b) below) as though any sums forming part of a premiums trust fund of the

member and released, paid, transferred or appropriated under paragraph 9 , or released, paid, transferred or appropriated as described in that paragraph before the making of this byelaw in respect of the 1993 or 1994 year of account, in respect of a relevant syndicate represented closed year profits of that relevant syndicate for the year of account in respect of which they were released, paid, transferred or appropriated and as though that year of account had been closed at 31 December 1995;

- (b) where a year of account of a relevant syndicate in respect of which sums are released, paid, transferred or appropriated as described in (a) above is closed:
  - (i) the profit commission to which the members' agent will be entitled as at or by reference to the closing date is to be calculated after adjusting the closed year of account profit or loss of that relevant syndicate by an amount equal to the amount treated under (a) above as a closed year profit;
  - (ii) where, after the making of any adjustment under (b)(i) above, a closed year loss arises in respect of any relevant year of account and that closed year loss is not taken into account in reducing the profit commission payable to the members' agent as at or by reference to the closing date because of losses incurred or deemed to be incurred as at that date in respect of relevant syndicates, the members' agent shall be liable to pay such sums by way of compensation or adjustment (including without limitation repayment of profit commission and, if so provided, an amount equal to interest on such repayment) as may be specified.
  
- (8) The aggregate amount of a members' agent's accelerated profit commission shall not exceed the amount of any contribution required from that members' agent under paragraph 11 or agreed to be contributed under paragraph 12 or under any such settlement, compromise or arrangement as is referred to in paragraph 8.
  
- (9) Where sub-paragraph (8) applies to reduce the aggregate amount of accelerated profit commission which would otherwise have become payable to a members' agent, the reduction shall be effected in such manner as may be provided by the supplemental agreement referred to in sub-paragraph (6) and, subject to this, in such manner as the members' agent may determine: provided that no such reduction shall be effected in a manner which involves any material discrimination among underwriting members who participate in relevant syndicates for any of the years of account 1993, 1994 and 1995 under arrangements made by or through the members' agent.
  
- (10) The Council shall have power to:
  - (a) prescribe the form and contents of such supplemental agreements as are referred to in this paragraph; and

- (b) prescribe requirements limiting the circumstances in which or the extent to which profit commission is payable to underwriting agents under such supplemental agreements as are referred to in this paragraph.
- (11) For the purposes of this paragraph:
- (a) profit commission which becomes payable to a managing agent or members' agent as at or by reference to 31 December 1995 by virtue of the execution of supplemental agreements under directions given under any of the preceding provisions of this paragraph is referred to as "*accelerated profit commission*" of that managing agent or members' agent;
  - (b) *deleted by the Reconstruction & Renewal (Amendment No. 2) Byelaw No. 28 of 1996 made on 17th July 1996*
- (12) Where a managing agent has entered into a contract of reinsurance to close the 1993 year of account of any syndicate subject to conditions required by a direction given by the Council under this byelaw, the Council may direct the managing agent and each of the members of the syndicate for the 1993 year of account to enter into a supplemental agreement in the prescribed form varying the terms of the managing agent's agreement under which the managing agent acts for that member in respect of that year of account so as to include such provisions as are described in sub-paragraph (13) and such other related or supplementary provisions as may be specified.
- (13) The provisions referred to in sub-paragraph (12) are provisions substantially to the effect that, notwithstanding that the contract of reinsurance to close has not become unconditional, but subject to any requirements for the time being applicable imposed by or under any byelaw or regulation –
- (a) sums which will if the contract of reinsurance to close becomes unconditional represent closed year profits may be released, paid, transferred or appropriated in any manner referred to in paragraph 9(1)(a), (b) or (c) as though the contract of reinsurance had become unconditional;
  - (b) if the contract of reinsurance to close does not become unconditional, payments, transfers and appropriations may be made for the purpose of reversing any release, payment, transfer or appropriation in such manner as may be specified in the supplemental agreement (and so that the supplemental agreement may vary or dispense with any requirement, including any requirement for the making of any demand or the provision of any account, auditors' certificate or other document which would otherwise apply);
  - (c) sums which will if the contract of reinsurance to close becomes unconditional represent profit commission payable to the managing agent may be paid to a trust account established by or under arrangements made by the Council for the receipt

of sums intended to be applied in or towards contributions made under paragraph 8, 11 or 12, for the purpose of providing funds for the payment of contributions to be made by the managing agent under any of those paragraphs.

11. Power to levy contributions from underwriting agents and others
  - (1) Subject to sub-paragraph (4), the Council may require any underwriting agent, and any corporate member of such class or description as the Council may specify to pay to the Society by way of contribution to the financing of the Reconstruction and Renewal proposals such amounts at such times and calculated in such manner as the Council may specify.
  - (2) Any requirement imposed under this paragraph:
    - (a) may make different provision for different cases or classes or descriptions of case;
    - (b) may take into account or include provision for taking into account, in such manner as the Council may think fit, the individual circumstances of any underwriting agent or corporate member to which the requirement is to apply.
  - (3) Sub-paragraph (4) applies in respect of any corporate member to which the Council has given such an undertaking as is referred to in paragraph 2(2)(b) of the Membership, Central Fund and Subscriptions (Miscellaneous Provisions) Byelaw (No. 16 of 1993) relating to the exercise of the powers conferred on the Council by the Central Fund Byelaw (No. 4 of 1986).
  - (4) The Council shall not require a corporate member to which this sub-paragraph applies to make a payment under sub-paragraph (1) unless the circumstances are such that, if that requirement were a requirement imposed under paragraph 4(5) of the Central Fund Byelaw (No. 4 of 1986), the imposition of it would not contravene the undertaking referred to in sub-paragraph (3) (the terms of that undertaking being for this purpose only construed as if references to the exercise of the powers of the Council under the Central Fund Byelaw (No. 4 of 1986) included references to the exercise of its powers under this paragraph).
  - (5) Paragraph 3 of the Membership, Central Fund and Subscriptions (Miscellaneous Provisions) Byelaw (No. 16 of 1993) (meetings of members) shall apply with the necessary modifications for the purposes of sub-paragraph (4) as it applies for the purposes of that byelaw.

- 11A. Power to levy contributions from Lloyd's brokers and umbrella brokers
- (1) The Council may require any Lloyd's broker and any umbrella broker to pay to the Society, for the purpose of contributing directly or indirectly to the financing of the Reconstruction and Renewal proposals, such amounts (including recurring contributions, charges or other amounts payable by reference to such periods as the Council may determine ("periodic charges")) at such times and calculated in such manner as the Council may specify.
  - (2) For the purposes of this paragraph the Council may –
    - (a) determine the amount of any contributions, charges or other amounts in accordance with a specified scale or other specified factors;
    - (b) provide for an aggregate limit on the amount of any contributions, charges or other amounts and for the limitation of individual contributions, charges or amounts by reference to that aggregate limit;
    - (c) provide for exemptions and exceptions;
    - (d) provide for the return or abatement of any contributions, charges or other amounts in specified circumstances; and
    - (e) make different provision for different cases.
  - (3) If the Council decides to require the payment of a periodic charge, it may:
    - (a) fix by a single determination the level of the charge payable in respect of two or more successive periods;
    - (b) express such a determination to be, and agree with any person that it is to be, irrevocable except with such consents or approvals given in such manner as may be specified.
  - (4) If the Council expresses a determination made under sub-paragraph (3) to be irrevocable except with a specified consent or approval, the Council shall not revoke or vary that determination without such consent or approval.
  - (5) The Council may prescribe such requirements, give such directions and enter into such arrangements as it may think fit with respect to the payment and collection of any contributions, charges and other amounts required under this paragraph, including without limitation –
    - (a) requirements, directions and arrangements for ensuring that such contributions, charges and other amounts are collected through the Lloyd's Central Accounting System or any other central arrangements for the collection and payment of amounts payable in respect of or in connection with insurance business

- underwritten at Lloyd's, whether by deduction from commissions, brokerage and other amounts payable to Lloyd's brokers or umbrella brokers or otherwise;
- (b) requirements and directions for the execution of direct debit authorities or other payment authorities in such form as may be specified.
- (6) Without limiting the generality of sub-paragraphs (1) and (2), where the Council has fixed a periodic charge under this paragraph, the Council may in any such manner as is referred to in sub-paragraph (1) –
- (a) make arrangements for raising money by assigning (whether absolutely or by way of security) or otherwise disposing of rights to receive such periodic charge;
  - (b) enter into any agreements or commitments for the purposes of or in connection with any such assignment or disposal;
  - (c) make arrangements, or vary any existing arrangements for the payment and collection of any such periodic charge, including without limitation arrangements under which amounts payable in respect of any such periodic charge are to be paid to a person other than the Society on terms that such payment shall constitute a good discharge for the amounts so paid.
- (7) The Council may require any Lloyd's broker or umbrella broker to furnish to the Society such information (being information which that Lloyd's broker or, as the case may be, umbrella broker possesses or can reasonably be expected to obtain) in such manner and at such time or times as the Council may specify in writing for any of the purposes of this paragraph.
12. Contributions from syndicate auditors, Lloyd's brokers and other persons
- (1) The Council may enter into arrangements with any such person as is specified in sub-paragraph (2), on such terms as the Council may agree with that person (whether in a manner which is legally binding or not), for that person to contribute to the financing of the Reconstruction and Renewal proposals.
  - (2) The persons referred to in sub-paragraph (1) are:
    - (a) any person who is or has been approved to act as a syndicate auditor under the Syndicate Audit Arrangements Byelaw (No. 10 of 1984);
    - (b) any person who is or has been a Lloyd's broker;
    - (c) any person who is or has been an underwriting agent;

- (d) *deleted on 8 September 1999 by The Underwriting Agents (Amendment No 16) byelaw No. 15 of 1999 with effect from 9 September 1999, save for all standard form Managing Agent's Agreements (Corporate Members) and any agreements which retain the expression "Lloyd's Adviser", for which it takes effect on 1 April 2000*
- (e) any approved run-off company;
- (f) any person who is or has been an umbrella broker;
- (g) any person who is or has been a director, partner or manager of a Lloyd's broker, umbrella broker or underwriting agent;
- (h) any such other person as the Council may think fit.

13. Powers with respect to the property of the Society

- (1) The Council may in any manner which may appear to it to be desirable or expedient for the purpose of promoting or assisting, whether directly or indirectly, the Reconstruction and Renewal proposals:
  - (a) borrow or raise money in any manner;
  - (b) apply, dispose of or make arrangements with respect to any present or future property of the Society (including any money or other property or assets held as part of the Central Fund) in any manner, and whether for the purpose of or in connection with the borrowing or raising of money or otherwise.
- (2) Without limiting the generality of sub-paragraph (1), the Council may in any such manner as is referred to in that sub-paragraph write off, release or agree not to sue for payment of any sum owing to the Society (including any sum owing to the Society by virtue of any provision of the Central Fund Byelaw (No. 4 of 1986) or otherwise as a result of any application of monies or other assets forming part of the Central Fund).

## Part F - Effect Of Reconstruction And Renewal Proposals On Other Byelaws And Requirements

14. Modification of byelaws etc.
  - (1) Subject to sub-paragraph (2), the provisions of this byelaw and of any direction given or condition or requirement prescribed under this byelaw shall have effect notwithstanding any other provision of any other byelaw or regulation made or direction given under Lloyd's Acts 1871 to 1982 or of any direction given or condition or requirement prescribed or imposed under any such byelaw or regulation and all such other byelaws, regulations, directions, conditions and requirements shall be deemed to be modified accordingly. Sub-paragraphs (3) to (6) are without prejudice to the generality of this sub-paragraph.
  - (2) Nothing in this byelaw or in any direction given or condition or requirement prescribed or imposed under this byelaw shall have effect if and to the extent that it would contravene or be inconsistent with:
    - (a) the Reinsurance to Close (Restriction) Byelaw (No. 15 of 1993);
    - (b) any agreement entered into or undertaking given by the Council under paragraph 2 of the Membership, Central Fund and Subscriptions (Miscellaneous Provisions) Byelaw (No. 16 of 1993);
    - (c) any agreement entered into or undertaking given by the Council under paragraph 15 of this byelaw.
  - (3) Premiums payable to Equitas under Equitas reinsurance contracts shall not constitute qualifying reinsurance premiums for purposes of the Syndicate Premium Income Byelaw (No. 6 of 1984).
  - (4) Paragraph 16 of the Run-Off Years of Account Byelaw (No. 17 of 1989) or (where relevant) paragraph 12A of the Agency Agreements Byelaw (No. 8 of 1988) shall not apply to the extent that it would prohibit any release, payment or transfer permitted by paragraph 9 or any payment of profit commission provided for by an agreement entered into pursuant to a direction given under paragraph 10.
  - (5) The Council may permit a notice of resignation from membership of the Society given by a member who has complied with such conditions in that behalf as may be provided by or under the Reconstruction and Renewal proposals to take effect from any date on or after the date of the notice, notwithstanding the provisions of paragraph 40 of the Membership Byelaw (No. 17 of 1993).

- (6) The Council may direct that the Syndicate Accounting Byelaw (No. 18 of 1994) shall apply as regards any annual report to be made up to 31 December 1995 with such additions and modifications as may be specified.

## Part G - Supplementary Provisions

15. Agreements with respect to future exercise of powers of the Council
- (1) The Council may enter into any agreement with or give an undertaking in favour of any member of the Society, any person who proposes to become a member of the Society or any Lloyd's broker, underwriting agent, annual subscriber, associate or other person (in this paragraph called "*the beneficiary*") containing all or any of such provisions as are described in sub-paragraph (2) together with any such other provisions as the Council may think fit.
  - (2) The provisions referred to in sub-paragraph (1) are:
    - (a) the grant by the Council to the beneficiary, in such terms and to such an extent as may be specified in the agreement or undertaking, of any such exemption or exemptions as are referred to in paragraph 4 of the Central Fund Byelaw (No. 4 of 1986) and paragraph 2 of the Membership (Entrance Fees and Annual Subscriptions) Byelaw (No. 9 of 1987);
    - (b) an undertaking by the Council that the Council will not exercise any other power of the Council under any byelaw or regulation made or to be made (whether before or after the date of the undertaking) under Lloyd's Acts 1871 to 1982 to require the beneficiary to pay money to the Society or that the Council will exercise any such power only to such extent, on such terms, in such events and subject to such conditions or limitations as may be specified in the undertaking (and the events and conditions which may be so specified include the prior approval of the proposed exercise of any such power by any such person or by persons of any such class, category or description in such manner as may be so specified);
    - (c) an undertaking by the Council that the Council will not exercise, or will exercise only to such extent, on such terms, in such events and subject to such conditions, exceptions or limitations as may be specified in the undertaking, any power of the Council under Lloyd's Acts 1871 to 1982 or any byelaw or regulation made or to be made under those Acts (whether before or after the date of the undertaking) to contribute money or other property of the Society or otherwise provide financial assistance to Equitas, or otherwise to contribute money or other property of the Society or provide financial assistance in, towards or for the purposes of the payment or discharge of any obligation under or in respect of a contract of insurance underwritten at Lloyd's and allocated to a year of account earlier than the 1993 year of account.

16. Acknowledgement of “finality”

(1) Sub-paragraph (2) applies in any case where, under the terms of the Reconstruction and Renewal proposals, a member of the Society has done all such things and executed all such documents and instruments as are required to secure that that member shall not be liable to pay any further sum to the Society, to any underwriting agent or to Equitas in respect of any specified liabilities or obligations of that member to which the Reconstruction and Renewal proposals relate (in this paragraph referred to as “*the relevant obligations*”).

(2) The Council shall:

- (a) cause the Society to execute in favour of that member an acknowledgment that the Society is not entitled to make, and an undertaking that it will not make, any claim of any kind against that member in respect of the relevant obligations;
- (b) subject to such exceptions as may appear to the Council to be appropriate with respect to the enforcement of any obligations of that member under any reinsurance to close contract into which the member has entered as a reinsuring member or a reinsured member, direct every underwriting agent which would, but for the Reconstruction and Renewal proposals, be entitled to take action against that member to enforce any of the relevant obligations to execute in favour of that member an acknowledgment that it is not entitled to, and an undertaking that it will not, take any further action to enforce or purport to enforce any of the relevant obligations against that member.

17. Dispute resolution and consultation on points of difficulty

(1) The Council may set up such procedures as may appear to it to be desirable or expedient:

- (a) for resolving points of dispute or difficulty which may arise with respect to the application or implementation of any provision of the Reconstruction and Renewal proposals or of any contract, deed, trust deed or other instrument entered into by any person pursuant to any provision of this byelaw or any condition or requirement prescribed or direction given under any such provision or otherwise pursuant to the Reconstruction and Renewal proposals;
- (b) for consulting or seeking the opinion of persons or bodies considered by the Council to be appropriate (including persons or bodies of persons appointed by the Council for the purposes of this paragraph) on any question or difficulty, which may arise with respect to the Reconstruction and Renewal proposals or any part of them.

(2) Any such procedures as are referred to in sub-paragraph (1)(a) may include provision to the effect that any decision reached in accordance with those procedures on a point of dispute referred for resolution under those procedures is to be binding on any member of the Society, Lloyd's broker, underwriting agent, annual subscriber, associate, approved run-off company, umbrella broker or other person and the Council may exercise any of its powers under this byelaw for the purpose of ensuring that effect is given to such a decision accordingly.

18. Terms of directions, requirements etc.

(1) Any directions given or conditions or requirements prescribed under any provision of this byelaw:

- (a) may be made individually or in respect of any class or classes of persons;
- (b) may be varied or revoked from time to time in whole or in part or as to any period, condition or requirement;
- (c) may make different provision for different cases;
- (d) may contain incidental, supplementary and transitional provisions;
- (e) may be made so as to have effect as respects any matters arising before this byelaw came into force.

19. Powers cumulative

The powers conferred by this byelaw are cumulative and are in addition to any other powers of the Council under Lloyd's Acts 1871 to 1982 and the byelaws and regulations made under those Acts. Accordingly, except where this byelaw expressly provides otherwise, no provision of this byelaw shall be construed as limiting any power conferred by or under any other provision of this byelaw or any other byelaw or regulation made or to be made under Lloyd's Acts 1871 to 1982.

## Part H - Commencement

### 20. Commencement

This byelaw comes into force on 6 December 1995.

## Schedule - Interpretation

1. In this byelaw:

“American trust fund” has the meaning given in Lloyd’s American Trust Deed;

“approved run-off company” means a company approved and registered under the Run-off Companies Byelaw (No. 2 of 1995);

“Central Fund” means the fund constituted by the Central Fund Byelaw (No. 4 of 1986);

“corporate member” means a member of the Society which is a body corporate;

“deposit trust fund” means a trust fund constituting or forming part of a Lloyd’s deposit as defined in paragraph 5 of the Membership Byelaw (No. 17 of 1993);

“Equitas” has the meaning given in paragraph 3;

“Equitas reinsurance contract” means a contract of reinsurance with Equitas to which paragraph 4 applies;

“the Equitas scheme” has the meaning given in paragraph 3;

“funds at Lloyd’s” has the meaning given in paragraph 4 of the Membership Byelaw (No. 17 of 1993 );

“insurance” includes reinsurance;

“Lloyd’s American Trust Deed” means the instrument dated 31 July 1995 constituting the amended and restated American Trust Deed, as amended from time to time;

“Lloyd’s Canadian Trust Deed” means the instrument dated 26 September 1995 constituting the amended and restated Lloyd’s Canadian Trust Deed, as amended from time to time;

“Lloyd’s Canadian Trust Fund” means the trust fund held under Lloyd’s Canadian Trust Deed;

“personal reserve fund” has the meaning given in the Membership Byelaw (No. 17 of 1993);

“premiums trust deed” means a trust deed in the form for the time being required by the Council and approved by the Secretary of State under section 83 of the Insurance Companies Act 1982 constituting a premiums trust fund;

“premiums trust fund” means a fund of premiums and other monies held from time to time by or under the control of trustees upon the trusts of a premiums trust deed;

“the prescribed form”, in relation to any document, means the form prescribed by the Council under this byelaw;

“the Reconstruction and Renewal proposals” means the proposals described in the document entitled “Lloyd’s: reconstruction and renewal” issued by the Council in May 1995, as from time to time varied or supplemented;

“regulating trustee” has the meaning given in any premiums trust deed or in Lloyd’s American Trust Deed;

“umbrella broker” means a non-Lloyd’s broker which is party to an umbrella arrangement registered under the Umbrella Arrangements Byelaw (No. 6 of 1988.).

2. In this byelaw, except where it is expressly provided otherwise:

- (a) references to a member of the Society include a former member of the Society;
- (b) references to a former member of the Society include a member who has died or, as the context may require, the estate or personal representatives of such a member;
- (c) references to a member of the Society include references to any administrator, administrative receiver, committee, curator bonis, executor, liquidator, manager, personal representative, supervisor or trustee in bankruptcy, or any other person entitled or bound to administer the affairs of the member concerned.

3. References in this byelaw:

- (a) to an underwriting agent, include a substitute agent within the meaning of the Substitute Agents Byelaw (No. 20 of 1983);
- (b) to a managing agent, include a substitute agent appointed to perform any of the functions of a managing agent;
- (c) to a members’ agent, include a substitute agent appointed to carry out any of the functions of a members’ agent.