

MISCELLANEOUS PROVISIONS (AMENDMENT NO. 1) BYELAW (NO. X of 2022)

Purpose

The purpose of this byelaw is to amend certain provisions of the Miscellaneous Provisions Byelaw to (1) set out revised confidentiality requirements for information disclosed in confidence, (2) specify power of the Council to require returns to be provided, and (3) update various out-of-date references and provisions.

The Byelaw also makes amendments to a number of other byelaws. Specifically, it (1) makes amendments to the Syndicate Pre-Emption Byelaw to remove the obligation on managing agents to notify the Council of certain matters, (2) amends the Underwriting Byelaw to give the Council the power to agree to syndicates exceeding their syndicate allocated capacity, (3) amends the Definitions Byelaw to deduct from the calculation of premium income received by a syndicate the amount of any premium paid to a Special Purpose Arrangement syndicate by that syndicate, and (4) makes a number of corrections and consequential amendments to the Enforcement Byelaw.

The byelaw additionally revokes a number of byelaws and regulations.

Notes

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This Byelaw was made by the Council on [day month year] in exercise of its powers under sections 6(2) and 6(3) of Lloyd's Act 1982 and paragraph (7), (21), (22), (24) and (25) of Schedule 2 thereof and may be referred to as the Miscellaneous Provisions (Amendment) Byelaw (No. [X] of 2022).

These notes, the note setting out the purpose of this Byelaw and the headings are for guidance only and do not form part of the Byelaw.

Amendments to the Miscellaneous Provisions Byelaw

1. The Miscellaneous Provisions Byelaw (No. 4 of 2006) is amended by deleting the text struck out and by inserting the text underlined as shown at Appendix 1.

Amendments to the Syndicate Pre-Emption Byelaw

2. The Syndicate Pre-Emption Byelaw (No. 15 of 1997) is amended by deleting sub-paragraphs 3(3), 3(8), 4A, 5(5) and 6(8).

Amendments to the Underwriting Byelaw

3. The Underwriting Byelaw (No. 2 of 2003) is amended as follows –
 - (a) by amending Paragraph 36 by:
 - (i) inserting the word “and” at the end of sub-paragraph (b) and deleting the word “and” from the end of sub-paragraph (c); and
 - (ii) deleting sub-paragraph (d).
 - (b) by amending paragraph 37 at sub-paragraph (a) by inserting the words “(other than with the agreement of the *Council*)” after the word “exceed”; and
 - (c) by inserting a new paragraph 39A after paragraph 39 as follows –

“39A Every *managing agent* shall ensure that –

 - (a) the reinsurance programme for each *syndicate* managed by it is effected having regard to the best interests of the *members* of that *syndicate*;
 - (b) reinsurance premiums for each *syndicate* managed by it are charged to it and paid out of funds held, controlled or managed in respect of insurance business carried on by the *members* of that *syndicate* as *members* thereof; and
 - (c) recoveries under any *syndicate* reinsurance effected for the benefit of any *syndicate* managed by it are credited only to that *syndicate*.”

Amendments to the Definitions Byelaw

4. Paragraph 1 of the Definitions Byelaw (No. 7 of 2005) is amended as follows –

- (a) by amending the definition of “premium income” by deleting the word “qualifying” and inserting in its place, in italics, the word “SPA”;
- (b) by deleting the definition of “qualifying quota share contract”;
- (c) by deleting the definition of “qualifying reinsurance premiums”; and
- (d) by inserting after the definition of “solvency test date” –

““SPA reinsurance premiums” means premiums paid by a member of a *syndicate* under a reinsurance arrangement with a *Special Purpose Arrangement syndicate*;

“Special Purpose Arrangement syndicate” means a *syndicate* that writes a single contract of reinsurance of another *syndicate* (and no other business), where both *syndicates* are under the management of the same *managing agent* or such other *syndicate* as the *Council* may designate as a Special Purpose Arrangement syndicate.”

Amendments to the Enforcement Byelaw

5. The Enforcement Byelaw (No. 6 of 2005) is amended as follows –

- (a) by amending paragraph 1 of Schedule 1 by –

- (i) inserting the words “or approved delegated claims administrator” after the words “approved coverholder” and by italicising the words “approved coverholder” in sub-paragraph (c)(i); and
- (ii) deleting sub-paragraph (f).

- (b) by amending paragraph 2 of Schedule 1 by –

- (i) inserting the words “or approved delegated claims administrator” after the word “coverholder”.

Revocation of Byelaws

6. The following byelaws and regulations are revoked:

- (a) Multiple Syndicates Byelaw;
- (b) Syndicate Premium Income (Monitoring) Regulation;
- (c) Members’ Agents (Australia) Byelaw; and
- (d) Transitional and Conversion Arrangements (Corporate Member) Regulation.

Commencement

7. This byelaw shall come into force on [DATE] except for sub-paragraph 6(b), which shall come into force on 1 October 2022.

Appendix 1 – Amendments to the Miscellaneous Provisions Byelaw

MISCELLANEOUS PROVISIONS BYELAW

Purpose

The Byelaw consolidates and revokes –

1. Promulgation of Byelaws and Regulations Byelaw;
2. The Financial Services Authority Byelaw;
3. Information and Confidentiality Byelaw;
4. Maintenance of Byelaws and Regulations Byelaw;
5. Miscellaneous Matters Byelaw;
6. Premiums Trust Fund and Regulating Trustee Byelaw; and
7. Waiver Byelaw.

The Byelaw also revokes –

1. Bilateral Arrangements (1998) Byelaw;
2. Insurance Ombudsman Byelaw;
3. Issue of Proceedings by Council Byelaw;
4. Lloyd's Claims Byelaw;
5. Lloyd's 1994 Claims Scheme Byelaw;
6. Lloyd's Policy Signing Office Byelaw;
7. PCW Syndicates (Exemptions and Miscellaneous Provisions) Byelaw; and
8. Policyholder Complaints Byelaw.

Amendments

This byelaw was amended by

1. Legislative Reform (Lloyd's) Order (Consequential Amendments) Byelaw (No. 6 of 2008)
2. Miscellaneous Provisions (Amendment) Byelaw (No. X of 2022)

Notes

Words and terms shown in italics have the meaning set out in the Definitions Byelaw.

This byelaw was made by the Council on 6 December 2006 in exercise of its powers under section 6(2) of, and paragraphs (1), (13), (18), (20), (23), (25) (31) of schedule 2 to, Lloyd's Act 1982 and may be referred to as the Miscellaneous Provisions Byelaw (No. 4 of 2006).

These notes, the note setting out the purpose of this byelaw and the headings are for guidance only and do not form part of this Byelaw.

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Part A – Provisions relating to byelaws

Promulgation and maintenance of byelaws and regulations

1. The *Council* shall promulgate a new byelaw or regulation by posting a copy in the Room and by making the same available online on the *Society*'s website.
2. The *Council* shall maintain, whether electronically or otherwise, a volume of byelaws and regulations which shall be available for inspection by any person during reasonable hours.

The Financial ~~Services~~ Conduct Authority and Prudential Regulation Authority

3. So far as it is possible to do so, every *requirement of the Council* must be read and given effect by the *Council* in a way which is compatible with the provisions of the Financial Services and Markets Act 2000 and any applicable rule, direction, requirement, principle, evidential provision, code and guidance made, issued or given by the *Financial Services* Conduct Authority and / or the Prudential Regulation Authority under that Act.
4. If the *Council* is satisfied that any *requirement of the Council* is incompatible with any provision of the Financial Services and Markets Act 2000 or any rule, direction, requirement, principle, evidential provision, code or guidance made, issued or given by the *Financial Services* Conduct Authority and / or the Prudential Regulation Authority under that Act the *Council* may dispense any person to whom the requirement applied or applies from complying with the requirement with effect from the day on which the incompatibility arose.
5. Any dispensation given under paragraph 3 of this byelaw –
 - (a) may be made individually or in respect of any class or classes of *person*;
 - (b) may make different provision for different cases; and
 - (c) may include such additional directions, conditions or requirements as the *Council* considers necessary or appropriate.
6. The *Council* may, for the purpose of giving effect to, implementing or discharging any direction, requirement or obligation that the Financial Services and Markets Act 2000 or the *Financial Services* Conduct Authority or the Prudential Regulation Authority has given to, placed on or imposed on the *Council* or the *Society*, give a direction to any *person* or any class or classes of *person* carrying on the business of insurance at Lloyd's to do such acts and things as may be necessary or appropriate.

Waiver

7. The *Council* may at any time direct that, to the extent specified, any *person* shall be dispensed from compliance with any provision of any *requirement of the Council* if it considers that –
 - (a) compliance would be unduly burdensome on the *person* in relation to whom the dispensation is to apply having regard to the benefit that compliance would confer on *members* or Lloyd’s policyholders; and
 - (b) the dispensation will not result in any undue risk to any *member* or any Lloyd’s policyholder.

8. Any directions given under paragraph 7 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 provisions for different cases; and
 - (d) may include provisions for the disclosure to any *persons* whether by the *person* to whom the direction is given or by the *Council* of the circumstances and details of the dispensation including the disclosure of the name of the *person* to whom the direction is given.

- 8A. ~~The Committee of Lloyd’s~~
Any reference to “the Committee” (being the Committee as previously constituted by Section 5, Lloyd’s Act 1982) in the *requirements of the Council* shall, unless the context otherwise requires, be deemed to be a reference to the *Council*.

Part B – Confidentiality

8B. For the purposes of this Part B, ‘confidential information’ means all material or information (whether in oral or written form or recorded in any other medium) which is designated in writing as confidential or would reasonably be understood to be confidential given the nature of the information and the circumstances of disclosure and includes (but is not limited to) –

- (a) in relation to the *Council, Society* or a *person* (to the extent applicable in each case), information relating to the *Council, the Society* or the *person’s* products, trade secrets, know-how, finances, business plans, employees, officers and suppliers, and similar information regarding its group companies (as defined below) or customers; and
- (b) in relation to the *Council* or the *Society*, information relating to the exercising of any powers to advance, protect, manage or superintend the affairs of the *Society*, or to regulate or direct the business of insurance at Lloyd’s and information concerning the business, finances, dealings, transactions or affairs of *members of the Lloyd’s community* and anything ancillary thereto.

For the purposes of paragraphs 8B, 9 and 10 ‘group companies’ shall have the meaning as set out in Section 474 of the Companies Act 2006.

Disclosure of confidential information ~~by~~ to the Council

9. The *Council* shall ~~not disclose~~ keep confidential any confidential information disclosed to it by a *person* and shall not without the prior consent of the *person* from whom it was received and the *person* whom it concerns unless disclosure is required by law or disclosure is for the purposes of directly or indirectly –
- (a) disclose such confidential information to any person other than to the *Society’s* employees, workers, agents, contractors, sub-contractors, service providers, group companies of the *Society*, professional advisors, consultants, directors, officers, other personnel, or to secondees to the *Society* who need to know the confidential information in connection with the reason for its disclosure provided that such persons are under similar obligations of confidentiality as contained in this Part B; or criminal proceedings;
 - (b) copy or modify or use (or permit others to do so) any part of that confidential information save as necessary in the exercise of any powers to advance, protect, manage or superintend the affairs of the *Society* or to regulate or direct the business of insurance at Lloyd’s and anything ancillary thereto and

provided that any copies or modifications shall be held treated as confidential information. ~~enforcement proceedings;~~

9A. Paragraph 9 shall not apply to –

- (a) any confidential information which is in or enters the public domain other than by breach of paragraph 9 above;
- (b) any confidential information which was in the possession of the *Society* prior to the date of receipt of the confidential information and was not held under any obligation of confidence to the *person*;
- (c) any confidential information which is received from any third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (d) the disclosure of confidential information to the extent properly required by any applicable law, regulation, criminal proceedings or *enforcement proceedings* or in accordance with the requirements of or proper request from any regulatory body, taxation authority, government body, stock exchange or court of competent judicial authority;
- (e) ~~(e)~~ the disclosure of any confidential information for the purpose of assisting the *Financial Services Conduct Authority* or *Prudential Regulatory Authority* or any body which performs any corresponding functions outside the United Kingdom;
- (f) ~~(d)~~ the disclosure of any confidential information for the purpose of advancing and protecting the interests of the *Society* as a whole provided such disclosure has been authorised by the *Council*; and
- (g) the disclosure of any information which is independently developed by or on behalf of the *Council* without access to the confidential information.

Requirements to protect the confidentiality of information disclosed by the *Council*

10. A *person* shall keep confidential any confidential information disclosed to it by the *Council* or the *Society* and shall not without the prior consent of the *Council* directly or indirectly – ~~subject to the enforcement jurisdiction of the *Society*~~

- (a) disclose such confidential information to any other person other than to the *person's* employees, workers, agents, contractors, sub-contractors, service providers, group companies of the *person*, professional advisors, consultants, directors, officers, other personnel or to secondees to the *person* who need to know the confidential information in connection with the reason for its disclosure provided that such persons are under similar obligations of confidentiality as contained in this Part B;

(b) copy or modify or use (or permit others to do so) any part of that confidential information save as necessary for the performance of the *person's* obligations in connection with the reason for its disclosure and provided that any copies or modifications shall be treated as confidential information.

10A. A *person* receiving confidential information from the *Council* or the *Society* shall comply with any requirements ~~that of the *Council*~~ that the *Council* may ~~give~~ make in connection with the disclosure of confidential information to that *person* as may, in the view of the *Council*, be reasonably necessary to protect the confidentiality of that confidential information and shall establish and maintain adequate security measures to safeguard the confidential information of the *Council* or the *Society* in its possession from unauthorised access, disclosure, use, copying or modifying.

10B. Paragraph 10 above shall not apply to –

- (a) any confidential information which the *person* can show is in or enters the public domain other than by breach of paragraph 10 above;
- (b) any confidential information which the *person* can show was in its possession prior to the date of receipt of the confidential information and was not held under any obligation of confidence to the *Society*;
- (c) any confidential information which is received from any third party who lawfully acquired it and who is under no obligation restricting its disclosure;
- (d) the disclosure of confidential information to the extent properly required by any applicable law, regulation, criminal proceedings or *enforcement proceedings*, or in accordance with the requirements of or proper request from any regulatory body, taxation authority, government body, stock exchange or court of competent judicial authority; or
- (e) the disclosure of any information which the *person* can show it independently developed without access to the confidential information,

provided that except where prohibited by any applicable law or regulation, where a *person* is required to disclose confidential information pursuant to paragraph 10B(d), the *person* shall provide the *Council* with prompt written notice of such request or requirement with a view to providing the *Council* with the opportunity to take such steps as the *Council* considers appropriate or otherwise to agree the timing and content of such disclosure.

10C. If the *person* is unable to inform the *Council* before confidential information is disclosed pursuant to paragraph 10B(d) it shall, to the extent permitted by law, inform the *Council* of the full circumstances of the disclosure and the confidential information that has been disclosed as soon as reasonably practicable after such disclosure has been made.

10D. In the event that such disclosure is required under paragraph 10B(d) the *person* may disclose only that portion of the confidential information which the *person* is legally required to disclose.

Power to make requirements and enter into agreements

10E. Notwithstanding any other provision of this Part B, the *Council* shall have the power to:

- (a) give directions, impose conditions or make requirements; or
- (b) enter into contractual terms with a *person* on behalf of the *Society*,

in relation to any confidential information, the terms of which shall, in the event of conflict, take precedence over the requirements set out in this Part B.

Part C – Premiums Trust Funds

Directions, conditions and requirements relating to the regulating trustee

11. The *Council* may at any time give such directions or impose such conditions or requirements in connection with any discretion, power or authority which the *regulating trustee* has in relation to any *premiums trust deed* and whoever exercises that discretion, power or authority shall act in accordance with any such direction, condition or requirement.
12. Any delegation or sub-delegation of any discretion, power or authority which the *regulating trustee* has in relation to any *premiums trust deed* shall include a provision that the delegate or sub-delegate shall act in accordance with any direction condition or requirement given or imposed under paragraph 11 of this byelaw.

Prescription of notifiable events and nomination of company

13. The *Council* may –
 - (a) prescribe any matter as a ‘notifiable event’ for the purposes of one or more *premiums trust deeds*;
 - (b) nominate any company for the purposes of one or more *premiums trust deeds* as a person with whom *premiums trust funds* may be deposited or to whom *premiums trust funds* may be lent.

Part D – Annual accounts

Accounts

14. The *Society* shall prepare annual accounts made up to the 31st day of December so as to show a true and fair view of the income and expenditure of the *Society* for the year and its state of affairs and such accounts shall be approved by the *Council*.

Audit

15. The *Council* shall appoint auditors who shall report whether in their opinion the accounts give a true and fair view of the income and expenditure of the *Society* and of its state of affairs.
16. A person shall be eligible for appointment as auditors where that person is eligible for appointment as a company auditor under sections ~~24, 25~~1209, 1212, 1213 and 1216 of the Companies Act ~~1989~~2006, provided that a person eligible only by reason of subsection ~~25~~1212(32) shall not be eligible.

Part E – Power to require production of reports Notices

17. Without prejudice to any other provisions in other byelaws, the Council may prescribe requirements for or direct a person (or any group or class thereof) to provide reports to the Council providing information on a person's business at Lloyd's. The requirements may include but shall not be limited to –
- (a) the period or periods to which each report is to relate or be made up to;
 - (b) the format and content of each report;
 - (c) the examination of the report by the directors of a person who is a body corporate and the completion of a declaration by them;
 - (d) the date or dates on which each report is to be submitted to the Council; and
 - (e) the person or the class of persons to which the requirement to provide information apply.

~~Unless Lloyd's Acts 1871 to 1982 or the requirements of Council provide otherwise, notices required to be given to members by the Society shall be given by posting in the Room.~~

Part F – Transitional and miscellaneous provisions

Revocations

18. The following byelaws are revoked –
- (a) Bilateral Arrangements (1998) Byelaw;
 - (b) The Financial Services Authority Byelaw;
 - (c) Information and Confidentiality Byelaw;
 - (d) Insurance Ombudsman Byelaw;
 - (e) Issue of Proceedings by Council Byelaw;
 - (f) Lloyd's Claims Byelaw;
 - (g) Lloyd's 1994 Claims Scheme Byelaw;
 - (h) Lloyd's Policy Signing Office Byelaw;
 - (i) Maintenance of Byelaws and Regulations Byelaw;
 - (j) Miscellaneous Matters Byelaw;
 - (k) PCW Syndicates (Exemptions and Miscellaneous Provisions) Byelaw;
 - (l) Policyholder Complaints Byelaw;
 - (m) Premiums Trust Fund and Regulating Trustee Byelaw;
 - (n) Promulgation of Byelaws and Regulations Byelaw; and
 - (o) Waiver Byelaw.

Transitional and miscellaneous provisions

19. Every reference in the *requirements of the Council* to a definition set out in a byelaw or regulation revoked in accordance with paragraph 18 of this byelaw shall be deemed to be a reference to the Definitions Byelaw (No. 7 of 2005).
20. Any person who was as at 6 December 2006 subject to a dispensation or direction given by the *Council* under the Financial Services Authority Byelaw shall be deemed to be subject to a corresponding dispensation or direction given under paragraphs 4 and 6 of this byelaw.
21. Every waiver given by the *Council* under the Waiver Byelaw which subsisted as at 6 December 2006 shall be deemed to be a waiver given under paragraph 7 of this byelaw notwithstanding the revocation of the Waiver Byelaw.
22. The Central Accounting Byelaw is amended as follows –
- (a) by substituting for sub-paragraph (c) of paragraph 4(2) –

“include requirements relating to the provision of certificates, confirmations, declarations, information, opinions or reports, relating to a person applying to use a service (each such person being referred to in this byelaw as an “applicant”) or to its directors, partners, managers, controllers, major shareholders or connected companies, or to its members in the case of a limited liability partnership, in the prescribed form and to be given by such persons as the Council may prescribe or approve;”;

- (b) by adding after sub-paragraph (e) of paragraph 4(5) –

“(f) any member of an applicant or of a participant which is a limited liability partnership;”

and renumbering sub-paragraphs (f) and (g) accordingly;

- (c) by substituting for sub-paragraph (b) of paragraph 4(6) –

“will, both while he remains an applicant, participant, or a controller, director, partner, major shareholder, manager, or in the case of a limited liability partnership a member, or specified person of or in relation to the applicant or participant concerned and at all times thereafter, provide to the Council...”;

- (d) in paragraph 1 of the Schedule, after the definition of “gross payments” by adding –

““limited liability partnership” means a limited liability partnership incorporated in accordance with section 2 of the Limited Liability Partnerships Act 2000”; and

- (e) in sub-paragraph (ii) of paragraph 3(a) of the Schedule, by adding after “director” the words “, or in the case of a limited liability partnership, a member”.

23. The Definitions Byelaw is amended by inserting the following new definition after the definition of “life business” –

““limited liability partnership” means a limited liability partnership incorporated in accordance with section 2 of the Limited Liability Partnerships Act 2000;”.

24. The Enforcement Byelaw is amended as follows –

(a) in paragraph 1, by deleting “or” at the end of sub-paragraph (g) and after sub-paragraph (g) adding the words “(h) a member of any *member* which is a *limited liability partnership*; or” and renumbering sub-paragraph (h) as sub-paragraph (i);

(b) in paragraph 18, by deleting sub-paragraph (g) and substituting the following new sub-paragraph –

“a declaration of an individual’s unfitness or unsuitability to act as a director, partner or compliance officer of a *member* of the *Society*, an *underwriting agent* or an *approved run-off company*, or as a member of a *member* of the *Society* which is a *limited liability partnership*, or to perform a specific function within or for such a firm;” and

(c) by deleting paragraph 1(d) to Schedule 1 of the byelaw and replacing it with –

“(d) Audit Arrangements Byelaw (No 7 of 1998)

(i) the refusal of an application by a person for the entry of his name in the list of recognised accountants (under para 3).

(ii) the removal of a name of a recognised accountant from the list of recognised accountants (under para 5 (1)(a), (2) or (3)).”.

25. ~~Paragraph 3(h) of the Delegated Underwriting Byelaw is amended by deleting the words “Marine Insurance Certificates Byelaw (No. 3 of 2002)” and replacing them with “Insurance Certificates Byelaw (No. 1 of 2006)”.~~

Commencement

26. This byelaw shall come into force on 6 December 2006.