



STATUTORY INSTRUMENTS.

S.I. No. 146 of 2022

HEALTH INSURANCE ACT 1994 (PREPARATION OF FINANCIAL
STATEMENTS) REGULATIONS 2022

HEALTH INSURANCE ACT 1994 (PREPARATION OF FINANCIAL STATEMENTS) REGULATIONS 2022

I, Stephen Donnelly, Minister for Health, in exercise of the powers conferred on me by sections 3 (as amended by section 13(b) of the Health Insurance (Amendment) Act 2001 (No. 17 of 2001)) and 7F(2)(b) (inserted by section 9 of the Health Insurance (Miscellaneous Provisions) Act 2009 (No. 24 of 2009)) of the Health Insurance Act 1994 (No. 16 of 1994), hereby make the following regulations:

Citation

1. These Regulations may be cited as the Health Insurance Act 1994 (Preparation of Financial Statements) Regulations 2022.

Definitions

2. In these Regulations—

“accounting standards” has the meaning assigned to it by section 275(1) of the Act of 2014;

“Act of 1994” means the Health Insurance Act 1994 (No. 16 of 1994);

“Act of 2014” means the Companies Act 2014 (No. 38 of 2014);

“Directive 2009/138/EC” means Directive 2009/138/EC of the European Parliament and of the Council of 25 November 2009¹;

“financial statements”, in relation to an undertaking, means the statement of profit and loss and balance sheet referred to in section 7F of the Act of 1994;

“FRC” means the Financial Reporting Council Limited, being a company limited by guarantee, registered in England and Wales with registered number 2486368;

“FRS 102” means “FRS 102, The Financial Reporting Standard applicable in the UK and Republic of Ireland” published at the date of these Regulations by the FRC, as amended and updated from time to time;

“FRS 103” means “FRS 103, Insurance Contracts, Consolidated accounting and reporting requirements for entities in the UK and Republic of Ireland issuing insurance contracts” published at the date of these Regulations by the FRC, as amended and updated from time to time;

“group undertaking” has the meaning assigned to it by section 275(1) of the Act of 2014;

“outsourcing arrangement” means an arrangement of any form between an undertaking and another person for the performance by that other person of a

¹ OJ No. L 335, 17.12.2009, p. 1.

process, service or activity which would otherwise be performed by the undertaking itself;

“relevant external company” has the meaning assigned to it by section 1301(1) of the Act of 2014.

Scope and application

3. (1) These Regulations apply to financial statements furnished to the Authority pursuant to section 7F(1) of the Act of 1994 in respect of the calendar year 2022 and for every year thereafter.

(2) These Regulations apply to registered undertakings and former registered undertakings, other than restricted membership undertakings.

Form of financial statements

4. Financial statements shall be in the forms set out in Schedules 1 and 2 to these Regulations.

Basis of preparation

5. (1) Financial statements shall be prepared—

- (a) in accordance with these Regulations, and
- (b) otherwise in accordance with the bases for the calculation of costs, premia and other relevant financial data as provided for in the accounting standards and, in particular, in accordance with FRS 102 and FRS 103,

but where these Regulations and the accounting standards conflict, these Regulations shall prevail.

Premia

6. In relation to premia, the statement of profit and loss forming part of an undertaking’s financial statements shall—

- (a) state the written and earned premia in the period to which the statement of profit and loss relates and as otherwise set out in Schedule 1 to these Regulations, and
- (b) itemise the following:
 - (i) any amounts which relate to age-related tax credits and risk equalisation credits in respect of the period to which the statement of profit and loss relates; and
 - (ii) any amounts which relate to stamp duty referred to in section 125A of the Stamp Duties Consolidation Act 1999 in respect of the period to which the statement of profit and loss relates.

Premium refunds

7. Any *ex gratia*, or other, payments, however described, made by an undertaking to a policy holder which are not required to be made under the terms and conditions of a policy of insurance or otherwise in settlement of a claim made under, or a benefit payable pursuant to, such a policy shall be accounted for by the undertaking in its financial statements as a return of premium.

Expenses

8. (1) In relation to expenses, the financial statements of an undertaking shall—

- (a) include only those expenses set out in Schedule 3,
- (b) separately disclose in notes to the financial statements extraordinary expenses other than those attributable to recurring project expenses and record as zero such expenses in the statement of profit and loss which form part of the financial statements other than expenses referred to in paragraph (5), and
- (c) provide that the aggregate amount of consideration paid or payable by the undertaking to a group undertaking under or in connection with an outsourcing arrangement is the lower of—
 - (i) the actual aggregate amount of consideration paid or payable, and
 - (ii) the arm's length amount as calculated in accordance with paragraph (2).

(2) The arm's length amount for any outsourcing arrangement to which paragraph (1)(c) applies shall—

- (a) be the direct, vouched, out-of-pocket expense to the provider of the services under the outsourcing arrangement plus an amount of reasonable profit as provided for in section 7F(4A)(c) of the Act of 1994, and
- (b) not include any commission, bonus or other incentive paid or payable under or in connection with the outsourcing arrangement.

(3) Where an undertaking carries out activities other than health insurance business, its financial statements—

- (a) shall provide that the expenses incurred in the provision of health insurance business include—
 - (i) all direct expenses necessary for the performance of the undertaking's health insurance business, and
 - (ii) an appropriate apportionment of any indirect expenses incurred by the undertaking in providing both the health insurance business and any other activities (the "common costs"), and

- (b) shall provide that the expenses of the undertaking incurred in carrying out activities which are not the provision of health insurance business include all direct costs and an appropriate apportionment of the common costs between its health insurance business and all other businesses which it might from time to time carry on.
- (4) In determining the appropriate apportionment of any common costs for the purposes of paragraph (3), the undertaking shall use as a benchmark the market prices of such common costs, where available. In the absence of such market prices, the undertaking shall determine the appropriate apportionment of such common costs by reference to an accepted methodology.
- (5) Where an undertaking's financial statements include, in the statement of profit and loss, expenses incurred on project, infrastructural and IT services—
- (a) such expenses shall be limited to items required for the provision of health insurance business only, and
 - (b) where the undertaking's financial statements show such expenses to have an economic benefit lasting more than one year from the date of the relevant financial statements, they shall be capitalised in such statements and depreciated over the years in which the economic benefits are expected to arise, subject to Regulation 9.

Impairment and depreciation

9. In relation to impairment and depreciation, an undertaking's financial statements shall—
- (a) recognise impairment losses relating to fixed, tangible and intangible assets through changes in equity on the balance sheet and not on the statement of profit and loss,
 - (b) recognise depreciation of assets through the statement of profit and loss in line with the principles outlined in FRS 102, subject to the conditions outlined in paragraph (d),
 - (c) carry tangible assets at cost less accumulated depreciation, and
 - (d) calculate depreciation so as to write off the cost of the assets to their residual values over their estimated useful lives on a straight-line basis as follows:
- (i) motor vehicles – 4 years;
 - (ii) computer equipment – 4 years; and
 - (iii) furniture, fittings, medical and office equipment – 5 years.

Reserving

10. In relation to reserves, an undertaking's financial statements shall be prepared as follows:

- (a) the unearned premium reserve shall be calculated in accordance with FRS 102 and 103;
- (b) the claims provision shall be calculated in accordance with Directive 2009/138/EC; and
- (c) the reserves shall be presented gross of reinsurance and the balance sheet shall contain a corresponding reinsurance asset.

External undertakings

11. (1) Where an undertaking is a relevant external company, it shall prepare, in accordance with these Regulations, financial statements for each branch which it has established or is required to establish in the State pursuant to Part 21 of the Act of 2014.

(2) Financial statements prepared in accordance with paragraph (1) shall be the undertaking's financial statements for the purposes of these Regulations.

(3) Financial statements prepared under paragraph (1) shall provide for—

- (a) all direct expenses incurred in the performance of the undertaking's business in the State, and
- (b) an appropriate apportionment of any expenses incurred by the undertaking in providing both the business carried on via its branch in the State and those incurred in its business carried on outside of the State ("undertaking common costs").

(4) In determining the appropriate apportionment of any undertaking common costs for the purposes of paragraph (3), the undertaking shall use the same method for the apportionment of common costs as set out in Regulation 8(4).

Regulation 4

Schedule 1**Pro-forma Profit & Loss Account**

Reference	Profit and Loss Account for year ended XX/XX/20XX		Total	Subject to RE	Not Subject to RE
FRS 103, 4.5(A)	<u>Earned premiums, net of reinsurance</u>				
FRS 103, 3.3	Gross premiums written				
FRS 103, 3.4	Outward reinsurance premiums				
FRS 102, 21	Change in the gross provision for unearned premiums				
FRS 102, 21	Change in the provision for unearned premiums, reinsurers' share				
		0	0	0	
FRS 102, 23	Risk Equalisation Scheme				
	<u>Gross Written</u>				
	<u>Government Levy</u>				
	<u>Risk Equalisation Premium Credit</u>				
	Hospital utilisation credit				
	High cost claim credit				
FRS 102, 22/23	<u>Change in the gross provision for unearned element</u>				
	<u>Government Levy</u>				
	<u>Risk Equalisation Premium Credit</u>				
	Hospital utilisation credit				
	High cost claim credit				
FRS 102, 23	<u>Reinsurer's gross written share</u>				

	<i>Government Levy</i>			
	<i>Risk Equalisation Premium Credit</i>			
	Hospital utilisation credit			
	High cost claim credit			
FRS 102, 22/23	<u>Change in the gross provision for unearned element reinsurers' share</u>			
	<i>Government Levy</i>			
	<i>Risk Equalisation Premium Credit</i>			
	Hospital utilisation credit			
	High cost claim credit			
		0	0	0
FRS 102, 23	Fees and commission income			
	Fees and commission income, reinsurer's share			
	Other technical income, net of reinsurance	0	0	0
	Total technical income	0	0	0
	Expenses			
FRS 103, 3.5/3.6	Claims and benefits paid			
	- gross amount			
	- reinsurers' share			
		0	0	0
FRS 102, 22	Change in the provision for claims			
	- gross amount			
	- reinsurers' share			
		0	0	0
FRS 102,22; FRS 103, 4.4	Change in insurance liability, net of reinsurance			
	Claims incurred net of reinsurance	0	0	0

	Net operating expenses			
	Administrative expenses			
	Acquisition Costs			
	Initial Commission			
	Other			
	Other Commissions			
FRS 103, 3.7-10	Deferred acquisition costs			
FRS 102, 5.58	Finance cost			
FRS 103, IG 2.59	Other technical charges, net of reinsurance			
FRS 102, 22	Change in equalisation provision			
	Total expenses	0	0	0
	Other interest expense			
FRS 102, 23	Investment return			
	Profit/(loss) before taxation	0	0	0
FRS 102, 29	Tax on profit/(loss)			
	Profit/(loss) for the financial year	0	0	0

Schedule 2**Pro-forma Balance Sheet**

Reference					
FRS 103, 4.5(A)	Balance Sheet as at XX/XX/20XX				
			Total	Subject to RE	Not subject to RE
	Assets				
	Intangible Assets				
FRS 102, 19	Goodwill				
FRS 102, 18	Other intangible assets				
			0	0	0
	Investments				
FRS 102, 17	Land and Buildings				
FRS 102, 14	Investments in participating interests				
FRS 102, 11	Deposits with ceding investments				
FRS 102, 11/12	Other financial investments				
FRS 102, 16/17	Other Tangible Assets				
			0	0	0
	Reinsurer's share of Technical Provisions				
FRS 102, 21; FRS 103, 3.3/3.4	Provision for unearned premiums				
FRS 103, 3.5/3.6	Claims outstanding				
			0	0	0
	Debtors				
FRS 102, 23; FRS 103, 2.13	Debtors arising out of direct insurance operations				

	- policyholders				
	- intermediaries				
	Debtors arising out of reinsurance operations				
	Debtor balances in respect of RES				
	<i>Government Levy</i>				
	<i>Risk Equalisation Premium Credit</i>				
	<i>Hospital utilisation credit</i>				
	<i>High cost claim credit</i>				
	Other Debtors				
			0	0	0
	Other assets				
FRS 102, 29	Deferred Tax Asset				
FRS 102, 1.12(b)	Cash at bank and in hand				
			0	0	0
	Prepayments and accrued income				
FRS 102, 23	Accrued interest and rent				
FRS 103, 3.7-10	Deferred acquisition costs				
FRS 102, 23	Unearned Levy				
FRS 102, 23	Other prepayments and accrued income				
			0	0	0
	Total assets		0	0	0
	Liabilities				
	Capital and				

	reserves				
FRS 102, 22	Called up share capital				
	Share premium account				
	Profit and loss account				
	Total Equity		0	0	0
	Technical provisions				
	Provision for unearned premiums				
	Claims outstanding				
	Equalisation provision				
	Other technical provisions				
	Provisions for other risks				
	Provisions for pensions and similar obligations				
	Provisions for taxation				
	Other provisions				
	Deposits received from reinsurers				
	Creditors				
FRS 102, 22; FRS 103, 1.13	Credits arising out of direct insurance operations				
	Creditors arising out of reinsurance insurance operations				
	Debenture loans				
	Amounts owed to credit institutions				
	Creditor balances in respect of RES				
	<i>Government Levy</i>				

	<i>Risk Equalisation Premium Credit</i>				
	<i>Hospital utilisation credit</i>				
	<i>High cost claim credit</i>				
	Other creditors including taxation and social security				
			0	0	0
FRS 102, 23	Accruals and deferred income				
	Total liabilities		0	0	0
	Total equity and liabilities		0	0	0

Schedule 3**Allowable Expenses***Administration Expenses*

- a. Amortisation of intangibles acquired
- b. Amortisation of intangibles internally created
- c. Asset management fees
- d. Auditor remuneration
 - a. Audit related expenses
 - b. Assurance services
- e. Bad debt provision
- f. Catering and housekeeping costs
- g. Claims handling expenses
- h. Credit card and banking charges
- i. Depreciation
- j. Amortisation
- k. Directors' fees
- l. Expenses recharged from group undertakings
- m. Impairment expense
- n. Intercompany expenses
- o. IT hardware and software maintenance fees
- p. Legal fees
- q. Levies
- r. Medical supplies and fees
- s. Outsourcing arrangement costs
- t. Managing General Agent costs
- u. Pension related expenses
- v. Regulatory fees
- w. Redundancy and severance
- x. Salaries, wages, bonuses, commissions and related expenses
- y. Tax advisory services
- z. Travel and motor expenses

Property, Plant & Equipment

- a. Acquisition costs
- b. Depreciation
- c. Amortisation
- d. Dilapidation provision
- e. Furniture and equipment
- f. Office cleaning
- g. Facilities
- h. Leases
- i. Maintenance contracts
- j. Rent
- k. Security
- l. Service charge
- m. Leasing and hire purchase costs

n. Interest

Marketing / New Business Costs

- a. Acquisition expenses
- b. Advertising and Publicity
- c. Commission
- d. Conference
- e. Events
- f. External business development advice costs
- g. Market research – General
- h. Marketing costs
- i. New product developments
- j. Sponsorships

Travel and Motor Expenses

- a. Travelling
- b. Motor care hire and other
- c. Motor mileage allowance
- d. Direct subsistence costs
- e. Indirect subsistence costs

Other Items

- a. Commission paid on foreign exchange
- b. Investment related expenses
- c. Interest related expenses
- d. Net gains/losses on foreign exchange transactions

GIVEN under my Official Seal,
30 March, 2022.

STEPHEN DONNELLY,
Minister for Health.



L.S.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

These Regulations set down the requirements in relation to financial statements furnished to the Health Insurance Authority pursuant to section 7F(1) of the Health Insurance Act 1994.

These Regulations may be cited as the Health Insurance Act 1994 (Preparation of Financial Statements) Regulations 2022.

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