

INSURANCE COMPANY – three contracts of reinsurance made in 1993 and 1994 – legislative changes in 1995 - whether in 1995 the three contracts were life reinsurance business - no – whether they were overseas life assurance business – no – whether they were basic life assurance and general annuity business – yes - appeal allowed – ICTA 1988 Ss 431, 431C, 431D and 431F; Finance Act 1995 Schedule 8 paras 1, 2, 55, 57 and 58; The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 SI 1995 No. 1730 Regs 1 and 11; The Insurance Companies (Taxation of Reinsurance Business)(Amendment) Regulations 1996 SI 1996 No. 1621 Regs 1, 2 and 5.

THE SPECIAL COMMISSIONERS

SpC 00298

THE ROYAL LONDON MUTUAL INSURANCE SOCIETY LIMITED

Appellant

and -

**GRAHAM GEORGE BARRETT
(HM INSPECTOR OF TAXES)**

Respondent

**SPECIAL COMMISSIONERS : DR NUALA BRICE
THEODORE WALLACE**

Sitting in London on 9 and 10 October 2001

David Milne, QC, instructed by Messrs KLegal Solicitors, for the Appellant

Ingrid Simler of Counsel, instructed by the Solicitor of Inland Revenue, for the Respondent

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DECISION

The appeal

- 5 1. The Royal London Mutual Life Insurance Society Limited (the Appellant) appeals against an assessment made on 29 September 2000 to corporation tax of £14,290,533.25 in respect of the accounting period ending on 31 December 1995.

The issues

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2. Before 1995 there was no separate tax treatment of life reinsurance business and the Appellant was taxed on the basis that all its business was basic life assurance and general annuity business. The basis of assessment was the “I-E” basis, namely investment income and capital gains less management expenses. In 1995 the Appellant entered into three contracts of reinsurance which did not generate any investment income or gains but under which the Appellant incurred substantial expenses and commission. The law was changed by the Finance Act 1995 which introduced a different basis for the taxation of life reinsurance business with effect from accounting periods beginning on or after 1 January 1995; the new basis was less favourable for the Appellant.

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3. The assessment was raised because the Inland Revenue were of the view that the three reinsurance contracts entered into by the Appellant in the accounting year 1995 were life reinsurance business within the meaning of new section 431C of the Income and Corporation Taxes Act 1988 (the 1988 Act) or, alternatively, that the third contract was overseas life assurance business within the meaning of new section 431D of the 1988 Act. The Appellant argued that in 1995 all three contracts were basic life assurance and general annuity business within the meaning of new section 431F.

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4. Thus the primary issue for determination in the appeal was whether the three contracts of reinsurance were basic life assurance and general annuity business (as argued by the Appellant) or life reinsurance business (as argued by the Inland Revenue). The alternative issue, which applied only to the third contract, was whether it was overseas life assurance business as argued by the Inland Revenue. We were asked to give a decision in principle on the issues in the appeal as there was no dispute as to the amount of the assessment.

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The evidence

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5. A bundle of documents was produced by the parties. There was also a statement of agreed facts.

The facts

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6. From the evidence before us we find the following facts.

7. The Appellant is a company resident in the United Kingdom and carries on life assurance business. In the accounting period concerned (which was the year 1995) the Appellant carried on basic life assurance and general annuity business which included industrial assurance business and all forms of life and annuity business, being both regular and single premium business. The Appellant also carried

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on pension business and permanent health insurance business. All this business was direct business, that is, it was carried on with policyholders who were mostly individuals and who were not themselves insurance companies.

5 8. In the year 1995 the Appellant also carried on indirect business, that is with other insurance companies rather than with individual policy holders. That business was carried on under the provisions of three contracts which were known as the Frankona, the Southland 1 and the Southland 2 contracts.

10 9. The Frankona contract was made on 22 December 1993. On that date the Appellant entered into a retrocession agreement with Frankona Rückversicherungs-Aktien-Gesellschaft (Frankona), of Munich. (A retrocession agreement is a contract for the reinsurance of reinsurance but for tax purposes is treated as a reinsurance contract). The subject matter of the agreement was the participation of Frankona in
15 reinsurance agreements with four German insurance companies, namely Albingia, Continentale, Nuernberger and Volkwohl Bund.

10. The Southland 1 contract was made on 23 December 1993. On that date the Appellant (as reinsurer) entered into a life reinsurance agreement with Southland Life
20 Insurance Company (Southland) of Texas in the United States of America (as cedent). Under the agreement the Appellant agreed to indemnify, and Southland agreed to reinsure with the Appellant, life insurance contract risks insured by Southland on individual policy forms described in Schedule A to the agreement. Schedule A described the policies by number and stated that the reinsured life insurance contracts
25 would be those policies issued on or after 1 January 1993 but not later than 31 December 1993. The agreement provided that Southland was to maintain the statutory reserves and to own all of the assets associated with such reserves. The agreement also provided that the Appellant would pay to Southland an expense allowance for reimbursement of Southland's agents' commissions and other administrative
30 expenses.

11. The Southland 2 contract was made on 25 November 1994. On that date the Appellant, as reinsurer, entered into another life reinsurance agreement with Southland as cedent. The terms of the agreement were similar to that of the agreement
35 of 23 December 1993 save that Schedule A, which described the policies by number, stated that the reinsured life insurance contracts would be those policies issued on or after 1 January 1994 but not later than 31 December 1994.

12. It was agreed that neither Frankona nor Southland were resident in the United
40 Kingdom for tax purposes and that the underlying business written by these three companies and reinsured by the Appellant comprised contracts with policyholders who were not resident in the United Kingdom. The effect of all three reinsurance contracts was that the Appellant did not generate any investment income or gains from the investment of the premiums received but incurred acquisition expenses and
45 commission.

Reasons for decision

13. Part XII of the 1988 Act (sections 431 to 519A) contains provisions about
50 special classes of companies and businesses. Chapter I of Part XII (sections 431 to 458A) contains provisions about insurance companies, underwriters and capital redemption business. Sections 431, 431AA, 431A, 432AA and 432AB contain

general provisions about insurance companies and sections 431B to 431F contain provisions about the classes of life assurance business. This appeal is concerned with the general interpretative provisions in section 431 and with the definitions of life reinsurance business in section 431C; overseas life assurance business in section 5 431D; and basic life assurance and general annuity business in section 431F.

14. Before 1995 there was no separate definition of life reinsurance business. At that time section 431(2) defined both basic life assurance and general annuity business and overseas life assurance business in the following way:

10 **“431(2) Unless the context otherwise requires -**
“basic life assurance and general annuity business” means life assurance
business other than pension business and overseas life assurance business; ...
“overseas life assurance business”-
15 **(a) in the case of life assurance business other than reinsurance**
business, means business with a policy holder or annuitant not residing
in the United Kingdom the policy or contract for which was effected at
or through a branch or agency outside the United Kingdom where life
assurance business is carried on; and
20 **(b) in the case of reinsurance business, means business the**
contract for which was effected at or through a branch or agency
outside the United Kingdom where none, or no significant part, of the
reinsurance business carried on relates to life assurance business with
policy holders or annuitants residing in the United Kingdom.”

15. The parties agreed that the old legislation applied during the years 1993 and 1994. They also agreed that the business written by the three reinsurance contracts was not overseas life assurance business as then defined in section 431(2)(b), because it was not business the contracts for which were effected through a branch or agency 30 outside the United Kingdom. Thus the parties agreed that, during 1993 and 1994, the three contracts were basic life assurance and general annuity business.

16. The provisions in the 1988 Act relating to life insurance were amended by Schedule 8 of the Finance Act 1995 and it is the transitional provisions which are at 35 issue in this appeal. The parties agreed that the new legislation applied for the year 1996 and that in that year all three contracts were life reinsurance business. However, the Inland Revenue argued that the new legislation also applied in 1995 whereas the Appellant argued that, as a result of the commencement provisions, the old legislation applied in that year.

17. For that reason we have found it helpful to approach the legislation by considering it primarily from the viewpoint of the changes made by Schedule 8. The main changes were to alter the definition of overseas life insurance business and to introduce the new concept of life reinsurance business. The relevant parts of 45 Schedule 8 provided:

“1. In section 431(2) of the Taxes Act 1988 (interpretative provisions relating to insurance companies) insert the following at the appropriate places in alphabetical order
- ...
50 **“life reinsurance business” has the meaning given by section 431C;**
“overseas life assurance business” has the meaning given by section 431D;
“basic life assurance and general annuity business” has the meaning given by
section 431F;
“reinsurance business” includes retrocession business.

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2. After section 431A of the Taxes Act 1988 insert- ...

Meaning of “life reinsurance business”

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431C (1) in this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.

(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant.

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Meaning of “overseas life assurance business”

431D (1) In this chapter “overseas life assurance business” means life assurance business, other than pension or life reinsurance business, which-

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(a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and

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(b) in the case of reinsurance business, is-
(i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
(ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph. ...

Meaning of “basic life assurance and general annuity business”

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431F In this chapter “basic life assurance and general annuity business” means life assurance business (including reinsurance business) other than pension business, life reinsurance business or overseas life assurance business.”

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18. Pausing there, the scheme of the legislation is that one first has to decide whether business is life reinsurance business within the meaning of section 431C. If it is, then it cannot be either overseas life assurance business or basic life assurance and general annuity business. If business is not life reinsurance business within the meaning of section 431C then it is necessary to go on to consider whether it is overseas life assurance business within the meaning of section 431D. It is only if business is neither life reinsurance business nor overseas life assurance business as defined that it becomes basic life assurance and general annuity business.

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19. Accordingly we commence by considering if the business of the three reinsurance contracts was in 1995 life reinsurance business within the meaning of section 431C which provides:

“Meaning of “life reinsurance business”

431C (1) in this Chapter “life reinsurance business” means reinsurance of life assurance business other than pension business or business of any description excluded from this section by regulations made by the Board.

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(2) Regulations under subsection (1) above may describe the excluded business by reference to any circumstances appearing to the Board to be relevant. “

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20. In our view the business of the three reinsurance contracts was reinsurance of life assurance business and so would come within the meaning of section 431C so long as it is not “business of any description excluded from this section by regulations made by the Board.”

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21. The regulations made under the provisions of section 431C are The Insurance Companies (Taxation of Reinsurance Business) Regulations 1995 SI 1995 No. 1730 (the 1995 Regulations) The 1995 Regulations were made on 7 July 1995 and came

into force on 28 July 1995. Regulations 1 and 11 are relevant in this appeal and the relevant parts of those Regulations provide:

“Citation, commencement and effect

5 **1 These Regulations may be cited as the Insurance Companies (Taxation of Reinsurance Business) Regulations 1995, shall come into force on 28 July 1995, and shall have effect with respect to accounting periods beginning on or after 1st January 1995. ...**

Exclusion of certain business from section 431C

10 **11. There shall be excluded from section 431C any reinsurance business where- ...**
 (b) the business is of any of the descriptions specified in section 431D(1)(b) of the Taxes Act.”

15 22. Regulation 1 provides that the regulations have effect with respect to accounting periods beginning on or after 1 January 1995. Accordingly, they apply to the year 1995 in this appeal.

20 23. Bearing in mind that section 431C(2) provides that the regulations to be made under the section might describe the excluded business by reference to any circumstances appearing to the Board to be relevant, these regulations comply with the provisions of section 431C. What they say is that business of any of the descriptions specified in section 431D(1)(b) is excluded from being life reinsurance business.

25 24. We therefore look to see what business is of any of the descriptions specified in section 431D(1)(b) and find that:

30 **“(b) in the case of reinsurance business, is-**
 (i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or
 (ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph. ...

35 25. In our view the business of the three reinsurance contracts falls within the description in section 431D(1)(b)(i) because it is reinsurance business which is reinsurance of life assurance business with policy holders not residing in the United Kingdom. This view is the same whether the “policy holders” are the individual policyholders or the cedents to the reinsurance contracts; they were all resident
40 outside the United Kingdom.

26. Accordingly, it follows that the business of the three reinsurance contracts is excluded from the provisions of section 431C and so cannot be life reinsurance business.

45 27. The Explanatory Note to the 1995 Regulations contains the following statements:

50 **“Regulation 11 excludes certain reinsurance business from section 431C of the 1988 Act (meaning of life reinsurance business) ... By virtue of paragraph 58 of Schedule 8 to the Finance Act 1995, these Regulations have effect in relation to accounting periods beginning on or after 1 January 1995.”**

28. We consider paragraph 58 of Schedule 8 later in this Decision but here conclude that during the year 1995 the business of the three reinsurance contracts was not life reinsurance business.

5 29. Ms Simler argued that the purpose of the 1995 Regulations was to address the
overlap between life reinsurance business and overseas life assurance business.
Regulation 11 excluded from section 431C (life reinsurance business) any reinsurance
business of a description specified in section 431D(1)(b). However, in looking at
10 They made it clear that it was only where business was not life reinsurance business
that one looked at 431D(1)(a) or (b) to determine if it was overseas life assurance
business. If it was life reinsurance business then it could not be of a description
specified in section 431D(1)(b) because business could not be overseas life assurance
business if it was life reinsurance business and section 431C took precedence. If it
15 was in section 431C it could not also be in section 431D. She accepted that
Regulation 11(b) was flawed.

30. We do not agree with these arguments. The 1995 Regulations are specific and
describe business as excluded from section 431C if is described in section
20 431D(1)(b). If it is excluded from section 431C then it is not life reinsurance business
and could be overseas life assurance business.

31. The 1995 Regulations were amended by The Insurance Companies (Taxation
of Reinsurance Business) (Amendment) Regulations 1996 SI 1996 No. 1621 (the
25 1996 Regulations. These were made on 24 June 1996 and came into force on 15 July
1996. Regulations 1(3), 2 and 5(a) are relevant in this appeal and they provide:

**“1(3) Regulation 5(a) shall have effect with respect to accounting periods ending on or
after 15th July 1996**

30 **2. In these Regulations “the principal Regulations” means the Insurance
Companies (Taxation of Reinsurance Business) Regulations 1995, and “regulation”
means a regulation of the principal Regulations.**

35 **5. In Regulation 11-**
**(a) in paragraphs (b) ... after the words “Taxes Act”, ... where those
words occur, there shall be added “,being business for which the policy or
contract concerned was made on or after 1st November 1994”; ...”**

40 32. Thus, after the coming into force of the 1996 Regulations, regulation 11 of the
1995 Regulations had to be read in the following way:

“Exclusion of certain business from section 431C

45 **11. There shall be excluded from section 431C any reinsurance business where- ...**
(b) the business is of any of the descriptions specified in section 431D(1)(b)
of the Taxes Act, being business for which the policy or contract concerned was
made on or after 1st November 1994”; or ...”

50 33. We note here that this definition would continue to exclude from life
reinsurance business the Southland 2 contract (or part of it as was later argued) made
after 1 November 1994. However, it would not exclude the Frankona and Southland 1
contracts.

34. The Explanatory Note to the 1996 Regulations contains the following statement:

5 **“Regulation 5(a) amends, with effect for accounting periods ending on or after the coming into force of these Regulations, regulation 11 of the principal Regulations so as to make clear that overseas life assurance business within section 431D(1)(b) of the Income and Corporation Taxes Act 1988 (reinsurance business) is excluded from section 431C of that Act (meaning of life reinsurance business) only where the policy or contract for the business was made on or after 1st November 1994.”**

10 35. One therefore has to look to see what accounting periods end on or after the coming into force of the 1996 Regulations. Regulation 1(3) provides that Regulation 5(a) shall have effect with respect to accounting periods ending on or after 15 July 1996. The amendment cannot therefore affect an accounting period which ends on 31
15 December 1995.

20 36. It follows that, for the year of 1995, all three reinsurance contracts were excluded from being life reinsurance business as a result of the effect of the 1995 Regulations.

25 37. We therefore continue with our journey through the group of section 431 sections and now consider whether the three contracts of reinsurance were overseas life assurance business within the meaning of section 431D which provides:

30 **“Meaning of “overseas life assurance business”**

35 **431D (1) In this chapter “overseas life assurance business” means life assurance business, other than pension or life reinsurance business, which-**

40 **(a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and**

45 **(b) in the case of reinsurance business, is-**

50 **(i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or**

55 **(ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph. ... ”**

60 38. As previously mentioned we are of the view that the business of the three reinsurance contracts comes within the meaning of section 431D(1)(b)(i) as it is reinsurance of life assurance business with a policy holder not residing in the United
65 Kingdom. However, here we have to consider the commencement provisions to see if these provisions applied in the year of 1995.

70 39. Paragraphs 52 to 58 of Schedule 8 contained the commencement provisions. Paragraphs 55, 57 and 58 are relevant in this appeal and the relevant parts of those
75 paragraphs provided:

80 **“55. (1) Subject to sub-paragraphs (2) and (3) below, the amendments made by the following provisions of this Schedule have effect in relation to accounting periods beginning on or after 1 November 1994-**

85 **paragraph 1 so far as relating to the definition of “overseas life assurance business”**

90 **paragraph 2 so far as relating to sections 431D and 431E of the Taxes Act 1988**

95 **...**

100 **(2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential**

upon those amendments) shall not have effect for determining whether the business is overseas life assurance business. ...

5 57. (1) Except as provided by paragraphs 52 to 56 above, and subject to subparagraph (2) below, the amendments made by provisions of this Schedule have effect in relation to accounting periods beginning on or after 1st January 1995.

(2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.

10 58. Any power to make regulations exercisable by virtue of an amendment made by any provision of this Schedule may be exercised so as to make provision having effect in relation to any accounting period in relation to which that provision has effect in accordance with paragraph 55 or 57 above.”

15 40. Paragraph 55(2) is quite clear and says that the amendments in the Schedule (which included new section 431D) are not to have effect for determining whether the business is overseas life assurance business where the policy or contract for any life assurance business was made before 1 November 1994. There is no definition of life assurance business but it was not argued that life assurance business did not include life reinsurance business. Accordingly, as in this appeal the Frankona and Southland 1 contracts were made before 1 November 1994, the provisions of section 431D do not have effect for determining whether the business was overseas life assurance business.

25 41. Accordingly, we conclude that the Frankona and the Southland 1 contracts were not overseas life assurance business. Ms Simler accepted that the result of paragraph 55(2) was that, as these two contracts were made before 1 November 1994, section 431D(1)(b) had no application and so they were not overseas life assurance business..

30 42. The position of the Southland 2 contract is not so clear. It was made after 1 November 1994 and so, if it is the contract of reinsurance which is to be considered, it would appear that paragraph 55(2) does not prevent section 431D from applying to make it overseas life assurance business. Here, however, it was argued for the Appellant that it was not the contract of reinsurance that was relevant but the underlying policies; that those were issued between January and December 1994; and that, accordingly, five-sixth of the number would have been issued before 1 November 1994 and so were not overseas life assurance business. Ms Simler argued that it was not the dates of the underlying contracts which were relevant but the date of the contract of reinsurance.

35 43. In their arguments on this point the parties compared other provisions of the legislation, in particular paragraph 57(2) and sections 431D(1)(b) and 431D(2) and 431D(4). We therefore set out paragraph 55(2) (which we are now construing) and 57(2) with section 431D(1)(b), 431(2) and 431(4).

40 44. Paragraph 55(2) reads:

45 “(2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential upon those amendments) shall not have effect for determining whether the business is overseas life assurance business. ...”

45. Paragraph 57(2) reads:

5 **“(2) Section 442A of the Taxes Act 1988 does not apply in relation to the reinsurance of a policy or contract where the policy or contract was made, and the reinsurance arrangement effected, before 29th November 1994.”**

46. Section 442A was a new provision inserted by paragraph 34 of Schedule 8 of the 1995 Act dealing with the taxation of investment returns where risk was reinsured. Thus paragraph 57(2) dealt only with the commencement of a section dealing with
10 reinsurance. Within the context of paragraph 57(2) it is clear that the reference to “a policy or contract” is a reference to the underlying policy or contract as a separate reference is made to the reinsurance arrangement. However, we have not found this provision to be conclusive in interpreting paragraph 55(2) where what we have to
15 decide is whether the policy or contract for any life assurance business was made before 1 November 1994.

47. Sub-sections 431D(2) and (4) provide:

20 **“(2) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is an individual if-**

25 **(a) the policy holder or annuitant is not beneficially entitled to the rights conferred by the policy or contract for the business, or**

(b) any benefits under the policy or contract for the business are or will be payable to a person other than the policy holder or annuitant (or his personal representatives) or to a number of persons not including him (or them). ...

30 **(4) Subject to subsections (5) and (7) below, in subsection (1) above the references to life assurance business with a policy holder or annuitant do not include life assurance business with a person who is not an individual.”**

48. Again, we have not found these provisions to be of assistance in interpreting
35 paragraph 55(2). Accordingly we have looked again at the words of paragraph 55(2) which reads:

40 **“(2) Where the policy or contract for any life assurance business was made before 1st November 1994, the amendments made by this Schedule (and the repeals consequential upon those amendments) shall not have effect for determining whether the business is overseas life assurance business. ...”**

49. We then ask what amendments were made by the Schedule for determining
45 whether the business is overseas life assurance business and we find those in section 431D the relevant parts of which provide:

“Meaning of “overseas life assurance business”

431D (1) In this chapter “overseas life assurance business” means life assurance business, other than pension or life reinsurance business, which-

50 **(a) in the case of life assurance business other than reinsurance business, is business with a policy holder or annuitant not residing in the United Kingdom, and**

(b) in the case of reinsurance business, is-

55 **(i) reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom, or**

(ii) reinsurance of business within sub-paragraph (i) above or this sub-paragraph. ...

50. The provision relevant in this appeal is section 431D(1)(b)(i). That describes “reinsurance of life assurance business with a policy holder or annuitant not residing in the United Kingdom”. That provision makes it clear that where there is reinsurance
5 it is necessary to look at the underlying life assurance business and decide if the policy holder or annuitant is resident in the United Kingdom. That points to the conclusion that the phrase “the policy or contract for any life assurance business” in paragraph 5(2) means the underlying policy for life assurance which is being reinsured.

10 51. We therefore conclude that the effect of paragraph 55(2) is to exclude five-sixth of the Southland 2 contract from being overseas life assurance business.

15 52. That means that the Frankona and Southland 1 contracts and five-sixth of the Southland 2 contract were basic life assurance and general annuity business in 1995 and that one sixth of the Southland 2 contract was overseas life assurance business in 1995.

20 **Decision**

53. Our decision on the primary issue for determination in the appeal is that the three contracts of reinsurance were not life reinsurance business for the year in question. The Frankona and the Southland 1 contracts were not overseas life assurance business and so they were basic life assurance and general annuity
25 business. Five-sixths of the Southland 2 contract was not overseas life assurance business and so was basic life assurance and general annuity business in 1995; one-sixth of the Southland 2 contract was overseas life assurance business in 1995.

30 54. The appeal is therefore allowed except as to the one-sixth of the Southland 2 contract which Mr Milne accepted at the hearing was overseas life assurance business.

35 **DR NUALA BRICE**
THEODORE WALLACE
SPECIAL COMMISSIONERS

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10 She relied upon the Explanatory Note to the 1996 Regulations which she said indicated the intention of Parliament about the 1965 Regulation and the fact that Reg 11(b) applied only to new OLAB and that old OLAB was not excluded from section 431C. Reg 5(b) of the 1996 Regs excluded it from 1 January 1995. It filled a gap rather than clarified an existing interpretation.

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Also section 20(2) and 23(1) of the Interpretation Act 1978 any interpretation of Reg 11(b) must have regard to provision which extended or applied it, regard had to be had to para 55(2) and 431D. as a whole in construing section 431D(1)(b). The only business which could be of a description specified in section 431D(1)(b) was OLAB.

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The Appellant said that it was not necessary to look at OLAB – just to look at the words. We say that Reg 11(b) extended and applied to ensure that no overlap LRB and OLAB.

25 Reg 11(b) was intended to exclude from 431C new OLAB – policies after 1 November 1994. Did not cover old OLAB as defined by section 431(2) – that was intended to be 431C reinsurance business. 431C not intended to exclude old OLAB just new OLAB.

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