

Third Parties (Rights against Insurers) Act 1930

1930 CHAPTER 25

An Act to confer on third parties rights against insurers of third-party risks in the event of the insured becoming insolvent, and in certain other events. [10th July 1930]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Rights of third parties against insurers on bankruptcy &c. of the insured

- (1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he may incur, then—
 - (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
 - (b) in the case of the insured being a company, in the event of a winding-up order or an administration order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or manager of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge or of a voluntary arrangement proposed for the purposes of Part I of the Insolvency Act 1986 (c. 45) being approved under that Part;if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.
- (2) Where the estate of any person falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986, then, if any debt provable

in bankruptcy (in Scotland, any claim accepted in the sequestration) is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in any such order, be transferred to and vest in the person to whom the debt is owing.

- (3) In so far as any contract of insurance made after the commencement of this Act in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or paragraph (b) of subsection (1) of this section or upon the estate of any person falling to be administered in accordance with an order under section 421 of the Insolvency Act 1986 (c. 45), the contract shall be of no effect.
- (4) Upon a transfer under subsection (1) or subsection (2) of this section, the insurer shall, subject to the provisions of section three of this Act, be under the same liability to the third party as he would have been under to the insured, but—
 - (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Act shall affect the rights of the insured against the insurer in respect of the excess; and
 - (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Act shall affect the rights of the third party against the insured in respect of the balance.
- (5) For the purposes of this Act, the expression “liabilities to third parties”, in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.
- (6) This Act shall not apply—
 - (a) where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company; or
 - (b) to any case to which subsection (1) and (2) of section seven of the Workmen's Compensation Act 1925 (c. 84) applies.

2 Duty to give necessary information to third parties

- (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of the estate of any person falling to be administered in accordance with an order under section 421 of the Insolvency Act 1986, or in the event of a winding-up order or an administration order being made, or a resolution for a voluntary winding-up being passed, with respect to any company or of a receiver or manager of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, administrator, receiver, or manager, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor or company is under a liability to him such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Act and for the

purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

- (1A) The reference in subsection (1) of this section to a trustee includes a reference to a supervisor of a voluntary arrangement proposed for the purposes of, and approved under Part I or Part VIII of the Insolvency Act 1986 (c. 45).
- (2) If the information given to any person in pursuance of subsection (1) of this section discloses reasonable ground for supposing that there have or may have been transferred to him under this Act rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said subsection on the persons therein mentioned.
- (3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

3 Settlement between insurers and insured persons

Where the insured has become bankrupt or where in the case of the insured being a company, a winding-up order or an administration order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up or the day of the making of the administration order, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement or day aforesaid shall be effective to defeat or affect the rights transferred to the third party under this Act, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

3A Application to limited liability partnerships

- (1) This Act applies to limited liability partnerships as it applies to companies.
- (2) In its application to limited liability partnerships, references to a resolution for a voluntary winding-up being passed are references to a determination for a voluntary winding-up being made.

4 Application to Scotland

In the application of this Act to Scotland—

- (a) the expression “company” includes a limited partnership;
- (b) any reference to an estate falling to be administered in accordance with an order under section 421 of the Insolvency Act 1986 shall be deemed to include a reference to an award of sequestration of the estate of a deceased debtor, and a reference to an appointment of a judicial factor, under section 11A of the Judicial Factors (Scotland) Act 1889 (c. 39), on the insolvent estate of a deceased person.

5 Short title

This Act may be cited as the Third Parties (Rights Against Insurers) Act 1930.