



Insurance Companies Act 1974

1974 CHAPTER 49

PART III

CONDUCT OF INSURANCE BUSINESS

62 Insurance advertisements

- (1) Regulations may be made as to the form and contents of insurance advertisements.
- (2) Regulations under this section may make different provision in relation to insurance advertisements of different classes or descriptions.
- (3) Subject to subsection (4) below, any person who issues an insurance advertisement which contravenes regulations under this section shall be guilty of an offence.
- (4) A person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under subsection (3) above, shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.
- (5) In this section "insurance advertisement" means an advertisement inviting persons to enter into or to offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly or indirectly to persons entering into or offering to enter into such contracts shall be treated as an advertisement inviting them to do so.
- (6) In this section "advertisement" includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting or television, and references to the issue of an advertisement shall be construed accordingly.
- (7) For the purposes of this section an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other person ; and for the purposes of any proceedings under this section an advertisement

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inviting persons to enter into or to offer to enter into contracts with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

63 Misleading statements etc. inducing persons to enter into contracts of insurance

Any person who, by any statement, promise or forecast which he knows to be misleading, false or deceptive, or by any dishonest concealment of material facts, or by the reckless making (dishonestly or otherwise) of any statement, promise or forecast which is misleading, false or deceptive, induces or attempts to induce another person to enter into or offer to enter into any contract of insurance with an insurance company shall be guilty of an offence.

64 Intermediaries in insurance transactions

- (1) Regulations may be made for requiring any person who—
 - (a) invites another person to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company; and
 - (b) is connected with that company as provided in the regulations,
 to give the prescribed information with respect to his connection with the company to the person to whom the invitation is issued.
- (2) Regulations may be made for requiring any person who, in the course of carrying on any business or profession, issues any such invitation as is mentioned in subsection (1) (a) above in relation to an insurance company which is not an authorised insurer in respect of the contract in question to inform the person to whom the invitation is issued that the company is not such an insurer as aforesaid.

In this subsection "authorised insurer", in relation to a contract of any description, means a person entitled to carry on in Great Britain insurance business of a class comprising the effecting of contracts of that description.
- (3) Regulations under this section may make different provision in relation to different cases or circumstances.
- (4) Any person who contravenes regulations under this section shall be guilty of an offence.

65 Statutory notice by insurer in relation to long term policy

- (1) Subject to subsection (5) below, no insurance company to which Part II of this Act applies and no member of Lloyd's or of any other association of underwriters approved for the purposes of Part I of this Act by the Secretary of State shall enter into a contract of a kind mentioned in section 83(2) below unless that company or member (" the insurer ") either—
 - (a) has sent by post to the other party to the contract a statutory notice in relation to that contract; or
 - (b) does so at the time when the contract is entered into.
- (2) For the purposes of this section a statutory notice is a notice which—
 - (a) contains such matters (and no others) and is in such form as may be prescribed for the purposes of this section and complies with such requirements (whether

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- as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as may be prescribed for securing that the notice is easily legible; and
- (b) has annexed to it a form of notice of cancellation of the prescribed description for use under section 66 below.
- (3) Regulations made for the purposes of subsection (2) above may make different provision—
- (a) in relation to contracts of different classes or descriptions;
- (b) in relation to cases where the statutory notice is sent before the contract is entered into and in relation to other cases;
- and the Secretary of State may, on the application of any insurer, alter the requirements of any regulations made for the purposes of subsection (2)(a) above so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract proposed to be entered into by that insurer.
- (4) Any insurer who contravenes this section shall be guilty of an offence but, without prejudice to section 66(2) below, no contract shall be invalidated by reason of the fact that the insurer has contravened this section in relation to that contract.
- (5) Subsection (1) of this section does not apply to any contract the effecting of which by the insurer constitutes the carrying on of industrial assurance business; and regulations may exempt from that subsection contracts of any other class or description.
- (6) In sections 66 and 67 below "insurer" and "statutory notice" have the same meaning as in this section.

66 Right to withdraw from transaction in respect of long term policy

- (1) A person who has received a statutory notice from an insurer in relation to any contract to which section 65(1) above applies may before the expiration of—
- (a) the tenth day after that on which he received the notice; or
- (b) the earliest day on which he knows both that the contract has been entered into and that the first or only premium has been paid,
- whichever is the later, serve a notice of cancellation on the insurer.
- (2) A person to whom an insurer ought to have, but has not, sent a statutory notice in relation to any such contract as aforesaid may serve a notice of cancellation on the insurer but if the insurer sends him a statutory notice in relation to that contract before he has served a notice of cancellation under this subsection, then, without prejudice to his right to serve a notice of cancellation under subsection (1) above, his right to do so under this subsection shall cease.
- (3) A notice of cancellation may, but need not, be in the form annexed to the statutory notice and shall have effect if, however expressed, it indicates the intention of the person serving it to withdraw from the transaction in relation to which the statutory notice was or ought to have been sent.
- (4) Where a person serves a notice of cancellation, then—
- (a) if at the time when the notice is served the contract has been entered into, the notice shall operate so as to rescind the contract;
- (b) in any other case, the service of the notice shall operate as a withdrawal of any offer to enter into the contract which is contained in, or implied by, any

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proposal made to the insurer by the person serving the notice of cancellation and as notice to the insurer that any such offer is withdrawn.

- (5) Where a notice of cancellation operates to rescind a contract or as the withdrawal of an offer to enter into a contract—
- (a) any sum which the person serving the notice has paid in connection with the contract (whether by way of premium or otherwise and whether to the insurer or to a person who is the agent of the insurer for the purpose of receiving that sum) shall be recoverable from the insurer by the person serving the notice;
 - (b) any sum which the insurer has paid under the contract shall be recoverable by him from the person serving the notice.
- (6) Any sum recoverable under subsection (5) above shall be recoverable as a simple contract debt in any court of competent jurisdiction.

67 Service of notice of cancellation

- (1) For the purposes of section 66 above a notice of cancellation—
- (a) shall be deemed to be served on the insurer if it is sent by post addressed to any person specified in the statutory notice as a person to whom a notice of cancellation may be sent, and is addressed to that person at an address so specified; and
 - (b) where paragraph (a) above applies, shall be deemed to be served on the insurer at the time when it is posted.
- (2) Subsection (1) above shall have effect without prejudice to the service of a notice of cancellation (whether by post or otherwise) in any way in which the notice could be served apart from that subsection, whether the notice is served on the insurer or on a person who is the agent of the insurer for the purpose of receiving such a notice.
- (3) A notice of cancellation which is sent by post to a person at his proper address, otherwise than in accordance with subsection (1) above, shall be deemed to be served on him at the time when it is posted.
- (4) So much of section 26 of the Interpretation Act 1889 as relates to the time when service is deemed to have been effected shall not apply to a notice of cancellation.

68 Linked long term policies

- (1) Regulations may be made, as respects the matters specified in subsection (2) below, in relation to contracts of the kinds mentioned in section 83(2) below which—
- (a) are entered into by insurance companies to which Part II of this Act applies or by members of Lloyd's or of any other association of underwriters approved for the purposes of Part I of this Act by the Secretary of State; and
 - (b) are contracts under which the benefits payable to the policy holder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
- (2) Regulations under this section may make provision for—
- (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;

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- (b) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining such benefits and the times at which reference is to be made for that purpose to any index of the value of property;
 - (c) requiring insurers under the contracts to appoint valuers for carrying out valuations of property of any description for the purpose of determining such benefits (being valuers who comply with the prescribed requirements as to qualifications and independence from the insurer) and to furnish the Secretary of State with, the prescribed information in relation to such appointments;
 - (d) requiring insurers under the contracts to furnish, in such manner and at such times or intervals as may be prescribed, such information relating to the value of the benefits under the contracts as may be prescribed, whether by sending notices to policy holders, depositing statements with the Secretary of State or the registrar of companies, publication in the press or otherwise;
 - (e) requiring insurers under the contracts to furnish to the Secretary of State, in such manner and at such times or intervals as may be prescribed, such information certified in such manner as may be prescribed with respect to so much of their business as is concerned with the contracts or with any class or description of the contracts, and enabling the Secretary of State to publish such information in such ways as he thinks appropriate.
- (3) Regulations made for the purposes of subsection (2)(d) above may, in relation to notices required to be sent to policy holders, impose requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) for securing that such notices are easily legible.
- (4) Regulations under this section may make different provision in relation to different cases or circumstances; and the Secretary of State may, on the application of any insurer, alter the requirements of any regulations under this section so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.
- (5) Regulations under this section may, to such extent as may be speckled therein, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before the passing of this Act.
- (6) Regulations under this section shall not apply in relation to any contract the effecting of which by the insurer constitutes the carrying on of industrial assurance business or to any contract entered into by an insurance company to which Part II of this Act applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 25(4) above.

69 Scope of Prevention of Fraud (Investments) Act 1958

The agreements and arrangements mentioned in section 13(1) of the Prevention of Fraud (Investments) Act 1958 (misleading statements etc. inducing persons to invest money) and in the definition of " dealing in securities " in section 26(1) of that Act shall not include contracts of insurance.

70 Capital redemption business

Where an insurance company to which Part II of this Act applies carries on capital redemption business in the case of which the premiums in return for which a contract

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is effected are payable at intervals of less than six months, the company shall not give the holder of any policy issued after 2nd December 1909 any advantage dependent on lot or chance:

Provided that this section shall not be construed as in any way prejudicing any question as to the application to any such transaction, whether in respect of a policy issued before, on or after that date, of the law relating to lotteries.

71 Penalties and offences under Part III

- (1) Any person guilty of an offence under section 62, 63 or 64 above shall be liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;
 - (b) on summary conviction, to a fine not exceeding £400.
- (2) Any person who makes default in complying with, or with a requirement imposed under, any other provision of this Part of this Act shall be guilty of an offence and liable on summary conviction to a fine not exceeding £400.