



Policyholders Protection Act 1975

1975 CHAPTER 75

General provisions with respect to the duties of the Board

13 General provisions with respect to the performance by the Board of their duties

- (1) Where it appears to the Board, in the case of any policy of a company in liquidation—
- (a) that payment in respect of any sums falling due under the policy could have been made in accordance with the policy to a person other than the policyholder; or
 - (b) that any sums paid under the policy would have been subject to any trust, charge or other agreement binding on the policyholder;

the Board may secure the payment of any sum payable to the policyholder in accordance with any of the provisions of sections 6 to 10 or in accordance with section 11(7) above or pay any sum so payable in accordance with section 11(9) or (10) above (in whole or in part) to that other person or (as the case may be) to the person appearing to the Board to be entitled under the trust, charge or agreement in question, instead of to the policyholder.

Any payment made by virtue of this subsection to a person other than the policyholder shall be treated for the purposes of the provision in question as a payment to the policyholder and may be made on such conditions (with respect to the total or partial assignment to the Board of any rights of the recipient against the policyholder or any other person, or otherwise) as the Board think fit.

- (2) The Board may secure the payment of any sum payable to a policyholder in accordance with any of the provisions of sections 6 to 10 or in accordance with section 11(7) above, or payable under section 7 above to a person entitled to the benefit of a judgment, and of any sum they are authorised to secure for a person other than the policyholder by virtue of subsection (1) above, by either or both of the following methods, that is to say—
- (a) by themselves making payments in respect of the sum in question; or
 - (b) by securing by any measures appearing to them to be appropriate that such payments are made by any other person.

- (3) Nothing in any provision of sections 6 to 11 above shall be construed as requiring the Board to make any payment or to incur any other expenditure thereunder at a time when it appears to the Board that the funds available to them for expenditure under that provision, together with any funds they may raise by means of a levy under section 19 or 21 below which might be applied on such expenditure, fall short of what they may require ; and accordingly the Board may—
- (a) postpone making any payment, or any part of any payment, they propose to make under any such provision ; and
 - (b) postpone taking any measures under any such provision involving expenditure on their part;
- from time to time, until it appears to them that their funds are adequate to meet the expenditure they propose to incur under the provision in question.
- (4) Any duty of the Board to assist a policyholder of a company in liquidation by any of the measures provided for by sections 6 to 11 above shall be subject to compliance on his part with any conditions imposed by the Board with respect to the total or partial assignment to the Board of—
- (a) his rights under or in respect of the policy;
 - (b) any rights he may have in respect of any payments made by him to the liquidator by way of premiums under the policy since the beginning of the liquidation ; and
 - (c) any rights he may have against any other persons in respect of any event giving rise to any liability of the company under the policy.
- (5) Any duty of the Board to secure the payment of any sum payable under section 7 above to a person entitled to the benefit of a judgment shall be subject to compliance on his part with any conditions imposed by the Board with respect to the total or partial assignment to the Board of any rights he may have against any other persons in respect of any event giving rise to the liability of the company in liquidation by reference to which that sum is so payable.
- (6) In connection with imposing any conditions under any of the preceding provisions of this section with respect to the assignment to them of any rights the Board may make any arrangement which appears to them to be appropriate with any person on whom the conditions are imposed with respect to the manner in which they are to apply any sums they may receive by virtue of the rights in question.
- (7) The Secretary of State may by regulations made by statutory instrument provide for the transfer to and the vesting in the Board by virtue of the regulations, in such circumstances as may be specified therein—
- (a) of any such rights of a policyholder to whom the Board have given assistance by any of the measures provided for by sections 6 to 11 above as are mentioned in subsection (4) above;
 - (b) of any such rights of a person for whom the Board have secured any payment in accordance with section 7 above as are mentioned in subsection (5) above; and
 - (c) of any rights which a person to whom any payment has been made by virtue of subsection (1) above may have against the policyholder in respect of the policy or any sums falling due thereunder or against any other persons in respect of any event giving rise to any liability of the policyholder by virtue of which the payment in question was made ;

and regulations made under this subsection may also provide for the manner in which the Board are to apply any sums received by them by virtue of any rights vested in them by the regulations.

14 Exclusion and modification of duties of the Board where payments are made by other persons, etc.

- (1) Any payment made by any person other than the Board to the policyholder, to a person entitled to the benefit of a judgment, or to any other person, being a payment which is referable to any such liability of a company in liquidation as is mentioned in section 6, 7 or 8 above, shall be treated as reducing any sum payable to the policyholder or to the person entitled to the benefit of the judgment, in accordance with any provision of those sections, by reference to that liability.
- (2) This subsection applies in any case where it appears to the Board, in respect of a long term policy of a company in liquidation—
 - (a) that any other person has made a payment to the policy holder or to any other person which is referable to any liability of the company under the policy which was outstanding at the beginning of the liquidation or which is otherwise required in accordance with subsection (3) below to be taken into account in relation to the policy; or
 - (b) that any other person has taken any other measures for assisting or protecting the policyholder (whether measures of a like description to those open to the Board under subsection (5) of section 11 above or otherwise) which ought to be taken into account for the purpose of excluding or modifying any of their duties towards the policyholder under sections 10 and 11 above.
- (3) Any payment made—
 - (a) by reference to any valuation of a long term policy of a company in liquidation or of any of the benefits provided for under any such policy ; or
 - (b) by reference to any future benefits under a long term policy of a company in liquidation ;shall be taken into account in relation to that policy for the purposes of subsection (2) (a) above (whether it was made to the policyholder or to any other person).
- (4) Nothing in sections 10 and 11 above shall require the Board, in a case to which subsection (2) above applies, to take any measures for assisting the policyholder in respect of the long term policy in question where it appears to the Board to be inappropriate to do so in view of any such payment or other measures of assistance or protection as are mentioned in that subsection.
- (5) In any case to which subsection (2) above applies, other than one falling within subsection (4) above, the Board may treat any sum payable to the policyholder in accordance with section 10 or section 11(7), (9) or (10) above and any sum to be secured for the policyholder by virtue of section 11(4) above as reduced to any extent appearing to them to be appropriate in the circumstances of the case.
- (6) Any sums secured by the Board under subsection (7) of section 11 above for a policyholder of a company in liquidation or for any other person by reference to any future benefits under a long term policy shall be treated as reducing any sum payable to the policyholder in respect of that policy in accordance with subsection (9) or (10) of that section.

- (7) The Board may postpone taking any of the measures provided for by sections 6 to 11 above in any case where it appears to the Board that, independently of any measures they may take, any other person (not being the liquidator) may make any payment or take any measures which would, by virtue of subsection (1), (4) or (5) above, affect any of their duties under those sections in relation to the case in question.
- (8) A payment is referable to a liability of a company in liquidation for the purposes of this section if it has the effect of reducing or discharging, or is otherwise made by reference to, that liability or any liability of the policyholder or any other person from which that liability arises.
- (9) In this section " future benefit" has the same meaning as in section 11 above.