

Directive 2002/83/EC of the European Parliament and of
the Council of 5 November 2002 concerning life assurance

TITLE III

CONDITIONS GOVERNING THE BUSINESS OF ASSURANCE

CHAPTER 4

CONTRACT LAW AND CONDITIONS OF ASSURANCE

Article 32

Law applicable

1 The law applicable to contracts relating to the activities referred to in this Directive shall be the law of the Member State of the commitment. However, where the law of that State so allows, the parties may choose the law of another country.

2 Where the policy holder is a natural person and has his/her habitual residence in a Member State other than that of which he/she is a national, the parties may choose the law of the Member State of which he/she is a national.

3 Where a State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered a country for the purposes of identifying the law applicable under this Directive.

A Member State in which various territorial units have their own rules of law concerning contractual obligations shall not be bound to apply the provisions of this Directive to conflicts which arise between the laws of those units.

4 Nothing in this Article shall restrict the application of the rules of the law of the forum in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

If the law of a Member State so stipulates, the mandatory rules of the law of the Member State of the commitment may be applied if and in so far as, under the law of that Member State, those rules must be applied whatever the law applicable to the contract.

5 Subject to paragraphs 1 to 4, the Member States shall apply to the assurance contracts referred to in this Directive their general rules of private international law concerning contractual obligations.

Article 33

General good

The Member State of the commitment shall not prevent a policy holder from concluding a contract with an assurance undertaking authorised under the conditions of Article 4

as long as that does not conflict with legal provisions protecting the general good in the Member State of the commitment.

Article 34

Rules relating to conditions of assurance and scales of premiums

Member States shall not adopt provisions requiring the prior approval or systematic notification of general and special policy conditions, scales of premiums, technical bases used in particular for calculating scales of premiums and technical provisions or forms and other printed documents which an assurance undertaking intends to use in its dealings with policy holders.

Notwithstanding the first subparagraph, for the sole purpose of verifying compliance with national provisions concerning actuarial principles, the home Member State may require systematic communication of the technical bases used in particular for calculating scales of premiums and technical provisions, without that requirement constituting a prior condition for an assurance undertaking to carry on its business.

Not later than 1 July 1999 the Commission shall submit a report to the Council on the implementation of those provisions.

Article 35

Cancellation period

1 Each Member State shall prescribe that a policy holder who concludes an individual life-assurance contract shall have a period of between 14 and 30 days from the time when he/she was informed that the contract had been concluded within which to cancel the contract.

The giving of notice of cancellation by the policy holder shall have the effect of releasing him/her from any future obligation arising from the contract.

The other legal effects and the conditions of cancellation shall be determined by the law applicable to the contract as defined in Article 32, notably as regards the arrangements for informing the policy holder that the contract has been concluded.

2 The Member States need not apply paragraph 1 to contracts of six months' duration or less, nor where, because of the status of the policy holder or the circumstances in which the contract is concluded, the policy holder does not need this special protection. Member States shall specify in their rules where paragraph 1 is not applied.

Article 36

Information for policy holders

1 Before the assurance contract is concluded, at least the information listed in Annex III(A) shall be communicated to the policy holder.

2 The policy-holder shall be kept informed throughout the term of the contract of any change concerning the information listed in Annex III(B).

3 The Member State of the commitment may require assurance undertakings to furnish information in addition to that listed in Annex III only if it is necessary for a proper understanding by the policy holder of the essential elements of the commitment.

4 The detailed rules for implementing this Article and Annex III shall be laid down by the Member State of the commitment.