



# Policyholders Protection Act 1975 (repealed)

1975 CHAPTER 75

*Miscellaneous and supplementary*

**23 Special provision for persons insured under contracts of insurance not evidenced by policies.**

(1) Where it appears to the Board—

- (a) that a person is a person insured under a contract of insurance with an authorised insurance company which is not evidenced by any policy; and
- (b) that if a policy evidencing the contract had been issued the person in question would have been eligible as a policyholder in respect of that policy for the assistance or protection of the Board under any provision of sections 6 to 16 above (hereafter in this section referred to as “the relevant provision”);

the Board may take such measures for the assistance or protection of the person in question as they would in their view have been required or authorised to take under the relevant provision if such a policy had been issued and the person in question had been the policyholder.

(2) For the purposes of section 18 above any expenditure of the Board under this section shall be treated as expenditure under the relevant provision.

**[23A <sup>F1</sup>Reimbursement by Board of payments by intermediaries.**

(1) If—

- (a) a payment is treated because of section 14(1) above as reducing a sum payable in accordance with section 6 or 8 above,
- (b) the payment is made with the consent of the holder of the policy or security under which the liability to which the payment is referable arises, and
- (c) at the time of the payment, that policy or security is one in relation to which the person by whom the payment is made (“the payer”) is the holder’s intermediary,

*Status: Point in time view as at 05/01/1998.*

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it shall be the duty of the Board to secure that a sum equal to the full amount of the reduction is paid to the payer as soon as reasonably practicable after the beginning of the liquidation to which the Board's liability under that section was attributable.

- (2) The Board may secure the payment of any sum payable under 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) Section 13(3) above shall apply in relation to subsection (1) above as it applies in relation to any provision of sections 6 to 11 above.
- (4) For the purposes of this section, a person is another's intermediary in relation to a policy or security at any time when he is engaged by the other to assist in its administration and performance.]

#### Textual Amendments

- F1** S. 23A inserted (*prosp.*) by 1997 c. 18, ss. 13, 23(3) (which insertion was repealed (1.12.2001) by S.I. 2001/3649, arts. 1, 3(1)(a))

## 24 Application of general receipts by the Board.

Subject to any arrangement made by the Board under subsection (6) of section 13 above and to any regulations made by the [<sup>F2</sup>Treasury] under subsection (7) of that section, any sums from time to time received by the Board in the course of or in connection with the exercise of any of their functions under this Act, but otherwise than by virtue of any levy imposed under section 19 or 21 above, may be applied by the Board—

- (a) in so far as the sums are received in repayment or otherwise by virtue of any general business expenditure incurred by the Board, on expenditure of that description only;
- (b) in so far as the sums are received in repayment or otherwise by virtue of any long term business expenditure incurred by the Board, on expenditure of that description only.

#### Textual Amendments

- F2** Word in s. 24 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 99 (with art. 7)

## 25 Application of surplus funds by the Board.

- (1) If at any time the [<sup>F3</sup>Treasury], after consultation with the Board, [<sup>F4</sup>consider] that the funds for the time being held by the Board exceed what is reasonably required for the purpose of exercising their functions under this Act, [<sup>F5</sup>the Treasury] may by order made by statutory instrument require the Board to distribute any of those funds appearing to [<sup>F5</sup>the Treasury] to be surplus to their requirements among authorised insurance companies carrying on business in the United Kingdom, in such manner and subject to such conditions as may be prescribed by the order.

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- (2) An order made under this section may make different provision for different circumstances and may be varied or revoked by a subsequent order so made.
- (3) Any statutory instrument containing an order made under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F3** Words in s. 25(1) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 99 (with art. 7)
- F4** Word in s. 25(1) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 101(a) (with art. 7)
- F5** Words in s. 25(1) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 101(b) (with art. 7)

## 26 Overseas companies.

- (1) In this section “overseas company” means an authorised insurance company established in a country outside the United Kingdom.
- (2) Where it appears to the [<sup>F6</sup>Treasury] that any circumstances have occurred in relation to an overseas company which are the equivalent under the law relating to companies in force in the country in which it is established of any of the events mentioned in section 5, section 15(1) or section 16(1) above, the [<sup>F6</sup>Treasury] may refer the company’s case to the Board, in terms indicating whether it is to be treated as a company in liquidation for the purposes of this Act or solely as a company in provisional liquidation within the meaning of section 15 above or (as the case may be) as a company in financial difficulties for the purposes of section 16 above.
- (3) The functions of the Board under this Act or, as the case may be, under section 15 or 16 above shall be exercisable in relation to a company whose case has been referred to the Board under this section in accordance with the terms of the reference; and the provisions of this Act or, as the case may be, of section 15 or 16 shall apply in any such case subject to any modifications notified by the [<sup>F6</sup>Treasury] to the Board in connection with the reference.
- (4) The modifications notified by the [<sup>F6</sup>Treasury] to the Board in connection with a reference under this section shall be such only as appear to the [<sup>F6</sup>Treasury] to be necessary having regard to any differences between the law in force in the United Kingdom and the law for the time being in force in the country in which the overseas company in question is established.

#### Textual Amendments

- F6** Words in s. 26(2)-(4) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 99 (with art. 7)

#### Modifications etc. (not altering text)

- C1** S. 26: functions made exercisable by, or by employees of, such person as may be authorised in that behalf by the Treasury (18.11.1998) by S.I. 1998/2842, art. 2, Sch. Pt. II para. 63(b)

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## 27 Disclosure of documents and information to the Board.

Nothing in [F7]section 449 of the Companies Act 1985][F8]or Article 442 of the Companies (Northern Ireland) Order 1986] (provision for security of information) shall prevent the disclosure to the Board of any information or document obtained as mentioned in subsection (1) of that section, if the disclosure is required for the purpose of facilitating the performance by the Board of any of their functions under this Act.

### Textual Amendments

- F7** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, Sch. 2
- F8** Words in s. 27 substituted (5.11.1993) by 1993 c. 50, s. 1(2), Sch. 2 para.30

## 28 Statement by [F9]Treasury] with respect to the exercise of his powers in relation to a company in liquidation, etc.

- (1) Subject to the following provisions of this section, in the case of a company—
- (a) which is a company in liquidation; or
  - (b) which is a company in financial difficulties within the meaning of section 16 above in relation to which the Board have exercised any of their powers under that section or under section 15 above;

the [F9]Treasury] shall before the end of the period applicable by virtue of subsection (2) below lay before Parliament a statement with respect to the exercise of [F10]their] powers under the Insurance Companies Act [F11]1982] in relation to that company during the year ending immediately before the time mentioned below in this subsection.

The time referred to above is the beginning of the liquidation in a case falling within paragraph (a) above and the relevant time as defined by section 16(6) above in a case falling within paragraph (b) above.

- (2) The period applicable by virtue of this subsection is—
- (a) in a case falling within paragraph (a) of subsection (1) above, the period of six months beginning with the beginning of the liquidation; and
  - (b) in a case falling within paragraph (b) of that subsection, the period of six months beginning with the date on which the [F9]Treasury][F12]receive] written notification from the Board that they have exercised any of their powers under section 15 or 16 above in relation to the company in question.
- (3) Where by virtue of paragraph (b) of subsection (1) above the [F9]Treasury][F13]are required] to lay before Parliament a statement with respect to the exercise of [F10]their] powers under the Insurance Companies Act [F11]1982] in relation to any company, that subsection shall not also apply by virtue of paragraph (a) thereof in the case of that company in the event of the company's going into liquidation.
- (4) The [F9]Treasury] shall not be required to include in any statement under this section any information which might in [F10]their] view prejudice any criminal proceedings which have been or may be instituted against any person.

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### Textual Amendments

- F9** Words in s. 28 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **99** (with art. 7)
- F10** Words in s. 28(1)(3)(4) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **102(a)** (with art. 7)
- F11** Year substituted by virtue of Insurance Companies Act 1981 (c. 31, SIF 67), s. 36, **Sch. 4 para. 25(4)** and Insurance Companies Act 1982 (c. 50, SIF 67), s. 99(2), **Sch. 5 para. 16(b)**
- F12** Word in s. 28(2) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **102(b)** (with art. 7)
- F13** Words in s. 28(3) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **102(c)** (with art. 7)

## 29 Disclosure of documents and information to insurance advisers appointed by the [<sup>F14</sup>Treasury].

Nothing in [<sup>F15</sup>section 449 of the Companies Act 1985][<sup>F16</sup>or Article 442 of the Companies (Northern Ireland) Order 1986] shall prevent the disclosure to any person appointed by the [<sup>F17</sup>Treasury] to advise [<sup>F18</sup>them] on the exercise of [<sup>F19</sup>their] powers under the Insurance Companies Act [<sup>F20</sup>1982], during the currency of that person's appointment, of any information or document obtained as mentioned in subsection (1) of that section if the disclosure is required for the purpose of enabling the [<sup>F17</sup>Treasury] to consult that person with respect to the exercise of any of [<sup>F19</sup>their] powers under the said Act of [<sup>F20</sup>1982].

### Textual Amendments

- F14** Words in sidenote to s. 29 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **99** (with art. 7)
- F15** Words substituted by Companies Consolidation (Consequential Provisions) Act 1985 (c. 9, SIF 27), s. 30, **Sch. 2**
- F16** Words substituted (5.11.1993) by 1993 c. 50, s. 1(2), **Sch. 2 para. 30**
- F17** Words in s. 29 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 7, 8(1), Sch. Pt. II paras. 98, **99** (with art. 7)
- F18** Word in s. 29 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **103(a)** (with art. 7)
- F19** Words in s. 29 substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, **103(b)** (with art. 7)
- F20** Year substituted by virtue of Insurance Companies Act 1981 (c. 31, SIF 67), s. 36, **Sch. 4 para. 25(5)** and Insurance Companies Act 1982 (c. 50, SIF 67), s. 99(2), **Sch. 5 para. 16(c)**

### Modifications etc. (not altering text)

- C2** S. 29: functions made exercisable by, or by employees of, such person as may be authorised in that behalf by the Treasury (18.11.1998) by S.I. 1998/2842, art. 2, **Sch. Pt. II para. 63(c)**

<sup>F21</sup>30 .....

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- (1) Any statutory instrument containing regulations made under any provision of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) The power of the [<sup>F22</sup>Treasury] to make regulations under any provision of this Act includes power to make different provision for different circumstances, but shall only be exercisable after consultation with the Board.

**Textual Amendments****F22** Words in s. 31(2) substituted (5.1.1998) by S.I. 1997/2781, arts. 2(1), 8(1), Sch. Pt. II paras. 98, 99 (with art. 7)**32 Interpretation.**

- (1) In this Act—
- “authorised insurance company” has the meaning given by section 3(2) above;
  - “the Board” has the meaning given by section 1(1) above;
  - “company in liquidation” has the meaning given by section 5(4) above;
  - “enactment” includes an enactment of the Parliament of Northern Ireland and a Measure of the Northern Ireland Assembly;
  - “financial year” means a period of twelve months ending with 31st March in any year;
  - “general business expenditure” has the meaning given by section 18(1) above;
  - “general business levy” has the meaning given by section 21(1) above;
  - “general policy” has the meaning given by section 8(4) above;
  - “long term business expenditure” has the meaning given by section 18(2) above;
  - “long term business levy” has the meaning given by section 21(2) above;
  - “long term policy” has the meaning given by section 10(1) above;
- and references to United Kingdom policies shall be construed in accordance with section 4 above.
- (2) Except as provided by subsection (1) above, . . . <sup>F23</sup>—
- (a) expressions used in this Act have the same meaning as in the Insurance Companies Act [<sup>F24</sup>1982]; . . . <sup>F25</sup>
  - (b) . . . . . <sup>F25</sup>
- (3) . . . . . <sup>F26</sup>

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- (4) For the purposes of this Act, a liability of a company in liquidation towards a policyholder arising otherwise than under the terms of the policy shall be treated as a liability under the terms of the policy if the liability of the company arises from any failure on the part of the company to perform an obligation under the policy to provide any services or facilities on the occurrence of any event to which the risk under the policy relates.
- (5) References in this Act to any other enactment include references to that enactment as amended or extended by or under any other enactment.

#### Textual Amendments

- F23** Words repealed by [Insurance Companies Act 1980 \(c. 25, SIF 67\)](#), s. 4(3), **Sch. 5**
- F24** Year substituted by [Insurance Companies Act 1982 \(c. 50, SIF 67\)](#), s. 99(2), **Sch. 5 para. 16(d)**
- F25** [S. 32\(2\)\(b\)](#) and the word “and” preceding it repealed by [Insurance Companies Act 1981 \(c. 31, SIF 67\)](#), s. 36, **Sch. 5 Pt. I**
- F26** [S. 32\(3\)](#) repealed by [Insurance Companies Act 1980 \(c. 25, SIF 67\)](#), s. 4(3), **Sch. 5**

### 33 Short title and extent.

- (1) This Act may be cited as the Policyholders Protection Act 1975.
- (2) It is declared that this Act extends to Northern Ireland.

**Status:**

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