



# Financial Services and Markets Act 2000

## 2000 CHAPTER 8

### PART XXIV

#### INSOLVENCY

##### *Supplemental provisions concerning insurers*

#### **376 Continuation of contracts of long-term insurance where insurer in liquidation.**

- (1) This section applies in relation to the winding up of an insurer which effects or carries out contracts of long-term insurance.
- (2) Unless the court otherwise orders, the liquidator must carry on the insurer's business so far as it consists of carrying out the insurer's contracts of long-term insurance with a view to its being transferred as a going concern to a person who may lawfully carry out those contracts.
- (3) In carrying on the business, the liquidator—
  - (a) may agree to the variation of any contracts of insurance in existence when the winding up order is made; but
  - (b) must not effect any new contracts of insurance.
- (4) If the liquidator is satisfied that the interests of the creditors in respect of liabilities of the insurer attributable to contracts of long-term insurance effected by it require the appointment of a special manager, he may apply to the court.
- (5) On such an application, the court may appoint a special manager to act during such time as the court may direct.
- (6) The special manager is to have such powers, including any of the powers of a receiver or manager, as the court may direct.
- (7) Section 177(5) of the 1986 Act (or Article 151(5) of the 1989 Order) applies to a special manager appointed under subsection (5) as it applies to a special manager appointed under section 177 of the 1986 Act (or Article 151 of the 1989 Order).

*Status: Point in time view as at 01/04/2002.*

*Changes to legislation: Financial Services and Markets Act 2000, Cross Heading: Supplemental provisions concerning insurers is up to date with all changes known to be in force on or before 27 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (8) If the court thinks fit, it may reduce the value of one or more of the contracts of long-term insurance effected by the insurer.
- (9) Any reduction is to be on such terms and subject to such conditions (if any) as the court thinks fit.
- (10) The court may, on the application of an official, appoint an independent actuary to investigate the insurer's business so far as it consists of carrying out its contracts of long-term insurance and to report to the official—
  - (a) on the desirability or otherwise of that part of the insurer's business being continued; and
  - (b) on any reduction in the contracts of long-term insurance effected by the insurer that may be necessary for successful continuation of that part of the insurer's business.
- (11) "Official" means—
  - (a) the liquidator;
  - (b) a special manager appointed under subsection (5); or
  - (c) the Authority.
- (12) The liquidator may make an application in the name of the insurer and on its behalf under Part VII without obtaining the permission that would otherwise be required by section 167 of, and Schedule 4 to, the 1986 Act (or Article 142 of, and Schedule 2 to, the 1989 Order).

### **377 Reducing the value of contracts instead of winding up.**

- (1) This section applies in relation to an insurer which has been proved to be unable to pay its debts.
- (2) If the court thinks fit, it may reduce the value of one or more of the insurer's contracts instead of making a winding up order.
- (3) Any reduction is to be on such terms and subject to such conditions (if any) as the court thinks fit.

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

- C1** S. 377 excluded (20.4.2003) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2003 \(S.I. 2003/1102\)](#), [reg. 4\(6\)](#) (with [reg. 3](#))
- C2** S. 377 excluded (18.2.2004) by [The Insurers \(Reorganisation and Winding Up\) Regulations 2004 \(S.I. 2004/353\)](#), [reg. 4\(7\)](#) (with [reg. 3](#))

### **378 Treatment of assets on winding up.**

- (1) The Treasury may by regulations provide for the treatment of the assets of an insurer on its winding up.
- (2) The regulations may, in particular, provide for—
  - (a) assets representing a particular part of the insurer's business to be available only for meeting liabilities attributable to that part of the insurer's business;

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- (b) separate general meetings of the creditors to be held in respect of liabilities attributable to a particular part of the insurer’s business.

### **379 Winding-up rules.**

- (1) Winding-up rules may include provision—
  - (a) for determining the amount of the liabilities of an insurer to policyholders of any class or description for the purpose of proof in a winding up; and
  - (b) generally for carrying into effect the provisions of this Part with respect to the winding up of insurers.
- (2) Winding-up rules may, in particular, make provision for all or any of the following matters—
  - (a) the identification of assets and liabilities;
  - (b) the apportionment, between assets of different classes or descriptions, of—
    - (i) the costs, charges and expenses of the winding up; and
    - (ii) any debts of the insurer of a specified class or description;
  - (c) the determination of the amount of liabilities of a specified description;
  - (d) the application of assets for meeting liabilities of a specified description;
  - (e) the application of assets representing any excess of a specified description.
- (3) “Specified” means specified in winding-up rules.
- (4) “Winding-up rules” means rules made under section 411 of the 1986 Act (or Article 359 of the 1989 Order).
- (5) Nothing in this section affects the power to make winding-up rules under the 1986 Act or the 1989 Order.

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