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**Changes to legislation:** There are currently no known outstanding effects for the Third Parties (Rights against Insurers) Act 2010, SCHEDULE 1. (See end of Document for details)

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## SCHEDULES

### SCHEDULE 1

Section 11

#### INFORMATION AND DISCLOSURE FOR THIRD PARTIES

##### *Notices requesting information*

- 1 (1) If a person (A) reasonably believes that—
- (a) another person (B) has incurred a liability to A, and
  - (b) B is a relevant person,
- A may, by notice in writing, request from B such information falling within sub-paragraph (3) as the notice specifies.
- (2) If a person (A) reasonably believes that—
- (a) a liability has been incurred to A,
  - (b) the person who incurred the liability is insured against it under a contract of insurance,
  - (c) rights of that person under the contract have been transferred to A under section 1, and
  - (d) there is a person (C) who is able to provide information falling within sub-paragraph (3),
- A may, by notice in writing, request from C such information falling within that sub-paragraph as the notice specifies.
- (3) The following is the information that falls within this sub-paragraph—
- (a) whether there is a contract of insurance that covers the supposed liability or might reasonably be regarded as covering it;
  - (b) if there is such a contract—
    - (i) who the insurer is;
    - (ii) what the terms of the contract are;
    - (iii) whether the insured has been informed that the insurer has claimed not to be liable under the contract in respect of the supposed liability;
    - (iv) whether there are or have been any proceedings between the insurer and the insured in respect of the supposed liability and, if so, relevant details of those proceedings;
    - (v) in a case where the contract sets a limit on the fund available to meet claims in respect of the supposed liability and other liabilities, how much of it (if any) has been paid out in respect of other liabilities;
    - (vi) whether there is a fixed charge to which any sums paid out under the contract in respect of the supposed liability would be subject.
- (4) For the purpose of sub-paragraph (3)(b)(iv), relevant details of proceedings are—
- (a) in the case of court proceedings—
    - (i) the name of the court;

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- (ii) the case number;
  - (iii) the contents of all documents served in the proceedings in accordance with rules of court or orders made in the proceedings, and the contents of any such orders;
- (b) in the case of arbitral proceedings or, in Scotland, an arbitration—
  - (i) the name of the arbitrator;
  - (ii) information corresponding with that mentioned in paragraph (a)(iii).
- (5) In sub-paragraph (3)(b)(vi), in its application to Scotland, “fixed charge” means a fixed security within the meaning given by section 47(1) of the Bankruptcy and Diligence etc (Scotland) Act 2007 (asp 3).
- (6) A notice given by a person under this paragraph must include particulars of the facts on which that person relies as entitlement to give the notice.

#### **Commencement Information**

**I1** Sch. 1 para. 1 in force at 1.8.2016 by [S.I. 2016/550](#), [art. 2](#)

#### *Provision of information where notice given under paragraph 1*

- 2 (1) A person (R) who receives a notice under paragraph 1 must, within the period of 28 days beginning with the day of receipt of the notice—
- (a) provide to the person who gave the notice any information specified in it that R is able to provide;
  - (b) in relation to any such information that R is not able to provide, notify that person why R is not able to provide it.
- (2) Where—
- (a) a person (R) receives a notice under paragraph 1,
  - (b) there is information specified in the notice that R is not able to provide because it is contained in a document that is not in R's control,
  - (c) the document was at one time in R's control, and
  - (d) R knows or believes that it is now in another person's control,
- R must, within the period of 28 days beginning with the day of receipt of the notice, provide the person who gave the notice with whatever particulars R can as to the nature of the information and the identity of that other person.
- (3) If R fails to comply with a duty imposed on R by this paragraph, the person who gave R the notice may apply to court for an order requiring R to comply with the duty.
- (4) No duty arises by virtue of this paragraph in respect of information as to which a claim to legal professional privilege or, in Scotland, to confidentiality as between client and professional legal adviser could be maintained in legal proceedings.

#### **Commencement Information**

**I2** Sch. 1 para. 2 in force at 1.8.2016 by [S.I. 2016/550](#), [art. 2](#)

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*Notices requiring disclosure: [F1]bodies that have been dissolved]*

**Textual Amendments**

- F1** Words in Sch. 1 para. 3 heading substituted (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(6)**

3 (1) If—

- (a) a person (P) has started proceedings under this Act against an insurer in respect of a liability <sup>F2</sup>...

[<sup>F3</sup>(b) P claims the liability has been incurred to P by—

- (i) a body corporate, or  
(ii) an unincorporated body other than a partnership, and

- (c) the body has been dissolved.]

P may by notice in writing require a person to whom sub-paragraph (2) applies to disclose to P any documents that are relevant to that liability.

(2) This sub-paragraph applies to a person if—

- (a) immediately before the time of the alleged transfer under section 1, that person was an officer or employee of the body, or  
(b) immediately before the body [<sup>F4</sup>was dissolved (or, if it has been dissolved more than once, immediately before it was last dissolved)], that person was—  
(i) acting as an insolvency practitioner in relation to the body (within the meaning given by section 388(1) of the Insolvency Act 1986 or Article 3 of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 N.I. 19)), or  
(ii) acting as the official receiver in relation to the winding up of the body.

(3) A notice under this paragraph must be accompanied by—

- (a) a copy of the particulars of claim required to be served in connection with the proceedings mentioned in sub-paragraph (1), or  
(b) where those proceedings are arbitral proceedings, the particulars of claim that would be required to be so served if they were court proceedings.

<sup>F5</sup>(4) .....

<sup>F5</sup>(5) .....

[<sup>F6</sup>(6) For the purposes of this paragraph—

- (a) “dissolved” means dissolved under the law of England and Wales, Scotland or Northern Ireland (whether or not by a process referred to as dissolution), and  
(b) a body has been dissolved even if, since it was dissolved, something has happened which has the effect that (but for this paragraph) the body is treated as not having been dissolved or as no longer being dissolved.]

**Changes to legislation:** There are currently no known outstanding effects for the *Third Parties (Rights against Insurers) Act 2010, SCHEDULE 1*. (See end of Document for details)

### Textual Amendments

- F2** Words in Sch. 1 para. 3(1)(a) omitted (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by virtue of [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(2)(a)**
- F3** Sch. 1 para. 3(1)(b)(c) substituted for Sch. 1 para. 3(1)(b) (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(2)(b)**
- F4** Words in Sch. 1 para. 3(2)(b) substituted (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(3)**
- F5** Sch. 1 para. 3(4)(5) omitted (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by virtue of [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(4)**
- F6** Sch. 1 para. 3(6) inserted (1.8.2016 immediately after 2010 c. 10 and 2015 c. 4, s. 20, Sch. 2 come into force by virtue of S.I. 2016/550) by [The Third Parties \(Rights against Insurers\) Regulations 2016 \(S.I. 2016/570\)](#), regs. 1(1), **6(5)**

### Commencement Information

- I3** Sch. 1 para. 3 in force at 1.8.2016 by [S.I. 2016/550](#), **art. 2**

### *Disclosure and inspection where notice given under paragraph 3*

- 4 (1) Subject to the provisions of this paragraph and to any necessary modifications—
- (a) the duties of disclosure of a person who receives a notice under paragraph 3, and
  - (b) the rights of inspection of the person giving the notice,
- are the same as the corresponding duties and rights under Civil Procedure Rules of parties to court proceedings in which an order for standard disclosure has been made.
- (2) In sub-paragraph (1), in its application to Northern Ireland—
- (a) the reference to Civil Procedure Rules is—
    - (i) in the case of proceedings in the High Court, to be read as a reference to the Rules of the Court of Judicature (Northern Ireland) 1980 (S.R. 1980 No. 346), and
    - (ii) in the case of proceedings in the county court, to be read as a reference to the County Court Rules (Northern Ireland) 1981 (S.R. 1981 No. 225), and
  - (b) the reference to an order for standard disclosure is to be read as a reference to an order for discovery.
- (3) A person who by virtue of sub-paragraph (1) or (2) has to serve a list of documents must do so within the period of 28 days beginning with the day of receipt of the notice.
- (4) A person who has received a notice under paragraph 3 and has served a list of documents in response to it is not under a duty of disclosure by reason of that notice in relation to documents that the person did not have when the list was served.

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**Commencement Information**

**I4** Sch. 1 para. 4 in force at 1.8.2016 by [S.I. 2016/550](#), **art. 2**

*Avoidance*

- 5 A contract of insurance is of no effect in so far as it purports, whether directly or indirectly—
- (a) to avoid or terminate the contract or alter the rights of the parties under it in the event of a person providing information, or giving disclosure, that the person is required to provide or give by virtue of a notice under paragraph 1 or 3, or
  - (b) otherwise to prohibit, prevent or restrict a person from providing such information or giving such disclosure.

**Commencement Information**

**I5** Sch. 1 para. 5 in force at 1.8.2016 by [S.I. 2016/550](#), **art. 2**

*Other rights to information etc*

- 6 Rights to information, or to inspection of documents, that a person has by virtue of paragraph 1 or 3 are in addition to any such rights as the person has apart from that paragraph.

**Commencement Information**

**I6** Sch. 1 para. 6 in force at 1.8.2016 by [S.I. 2016/550](#), **art. 2**

*Interpretation*

- 7 For the purposes of this Schedule—
- (a) a person is able to provide information only if—
    - (i) that person can obtain it without undue difficulty from a document that is in that person's control, or
    - (ii) where that person is an individual, the information is within that person's knowledge;
  - (b) a document is in a person's control if it is in that person's possession or if that person has a right to possession of it or to inspect or take copies of it.

**Commencement Information**

**I7** Sch. 1 para. 7 in force at 1.8.2016 by [S.I. 2016/550](#), **art. 2**

**Changes to legislation:**

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