

# INSURANCE ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### **Part 6: Amendment of the Third Parties (Rights Against Insurers) Act 2010**

##### ***Section 19: Power to change the meaning of “relevant person”***

134. **Section 19** inserts a new section 19 into the 2010 Act. The new section enables the Secretary of State to make regulations adding or removing circumstances in which a person is a “relevant person” for the purposes of the 2010 Act, provided that the Secretary of State considers that the proposed circumstances involve dissolution, insolvency or financial difficulty, or are similar to those for the time being prescribed in sections 4 to 7 of the 2010 Act.<sup>1</sup> The regulations must be made by statutory instrument and are subject to an affirmative resolution procedure.<sup>2</sup>
135. New section 19(5) of the 2010 Act provides that where the regulations add circumstances, they may provide that section 1 of the 2010 Act applies where those circumstances or the liability under the insurance contract arose before the day on which the regulations come into force or where both of those events occurred before that day, as well as where both events happened afterwards.
136. New section 19(6) provides that, if the regulations are to apply where both of those events occurred before the day on which the regulations come into force, they must provide that the person is to be treated as not having become a “relevant person” until that day. As a result, the transfer of rights will take place upon the regulations coming into force, and not when the two events were first satisfied. The intention is that nothing done before the regulations come into force will be undone.
137. Where regulations remove circumstances in which a person is a “relevant person” for the purposes of the 2010 Act, new section 19(7) provides that the regulations can apply where either those circumstances or the liability under the insurance contract arose before the day on which the regulations come into force, but not where both arose before that day. This prevents regulations from undoing transfers under section 1 that have already occurred.
138. In certain instances, the 2010 Act alters the effect of aspects of the transfer of rights under section 1 by making provision about: the persons to whom and the extent to which rights are transferred; the re-transfer of rights where circumstances change;<sup>3</sup> and the effect of the transfer on the liability of the insured in particular circumstances.<sup>3</sup> New section 19(3) enables regulations to address these issues in connection with the addition or removal of circumstances.
139. New section 19(4) provides that where the regulations add or remove circumstances involving actual or anticipated dissolution, they may change the cases in which

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<sup>1</sup> New section 19(1) and (2).

<sup>2</sup> New section 19(10) and (11).

<sup>3</sup> See for example, section 6(6) [cf. new section 19(3)(a)]; sections 4(5), 6(7) and 7(2) [cf. new section 19(3)(b)]; and section 14(2)-(5) [cf. new section 19(3)(c)].

*These notes refer to the Insurance Act 2015 (c.4)  
which received Royal Assent on 12 February 2015*

section 9(3) and paragraph 3 of Schedule 1 to the 2010 Act apply. These provisions modify the duty to provide information in certain cases, including where a body corporate has been dissolved. If the circumstances in which a person is a “relevant person” due to being dissolved are changed, it may be appropriate to change these two provisions accordingly, and new section 19(4) provides for that situation.

140. Regulations may contain consequential, incidental, supplementary, transitional, transitory or saving provision<sup>4</sup> and amend any enactment, whenever passed or made, including: the 2010 Act and any other Act; any Act or Measure of the National Assembly for Wales; any Act of the Scottish Parliament; and Northern Irish legislation.<sup>5</sup>

***Section 20: Other amendments to the 2010 Act***

141. This section gives effect to Schedule 2, which amends the 2010 Act by making provision relating to the insured persons to whom the 2010 Act applies.

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<sup>4</sup> New section 19(8).

<sup>5</sup> New section 19(9) and new section 21A (introduced into the 2010 Act by section 19 and paragraph 6 of Schedule 2 to the Act respectively).