
STATUTORY INSTRUMENTS

2001 No. 2635

**The Financial Services and Markets Act 2000 (Law
Applicable to Contracts of Insurance) Regulations 2001**

PART II

Contracts of General Insurance

Applicable law

4.—(1) This Part applies to a contract of general insurance which covers risks situated in an EEA State.

(2) If the policyholder resides in the EEA State in which the risk is situated, the applicable law is the law of that EEA State unless, if such a choice is permitted under the law of that EEA State, the parties to the contract choose the law of another country.

(3) If the policyholder does not reside in the EEA State in which the risk is situated, the parties to the contract may choose as the applicable law either—

- (a) the law of the EEA State in which the risk is situated; or
- (b) the law of the country in which the policyholder resides.

(4) If the policyholder carries on a business (including a trade or profession) and the contract covers two or more risks relating to that business which are situated in different EEA States, the freedom of the parties to choose the applicable law conferred by this regulation extends to the law of any of those EEA States and of the country in which the policyholder resides.

(5) If any of the EEA States referred to in paragraph (3) or (4) grant greater freedom of choice of the applicable law, the parties to the contract may take advantage of that freedom.

(6) Notwithstanding paragraphs (2) to (4), if the risks covered by the contract are limited to events occurring in one EEA State other than the EEA State in which the risk is situated, the parties may choose the law of the former EEA State as the applicable law.

(7) Notwithstanding paragraphs (2) to (4), if the risk covered by the contract is a large risk the parties may choose any law as the applicable law.

(8) Where the foregoing provisions of this regulation allow the parties to the contract to choose the applicable law and if no choice has been made, or no choice has been made which satisfies the requirement set out in regulation 6(1), the applicable law is the law of the country, from amongst those considered in the relevant paragraph (“the relevant countries”), which is most closely connected with the contract; however, where a severable part of the contract has a closer connection with another relevant country, the law applicable to that part is, by way of exception, the law of that relevant country.

(9) For the purposes of paragraph (8), the contract is rebuttably presumed to be most closely connected with the EEA State in which the risk is situated.

Mandatory rules

5.—(1) Nothing in regulation 4 restricts the application of the mandatory rules of any part of the United Kingdom, irrespective of the applicable law of the contract.

(2) If the parties to the contract choose the applicable law under regulation 4 and if all the other elements relevant to the situation at the time when the parties make their choice are connected with one EEA State only, the application of the mandatory rules of that EEA State is not prejudiced.

Choice of law

6.—(1) Any choice made by the parties under regulation 4 must be expressed or demonstrated with reasonable certainty by the terms of the contract or the circumstances of the case.

(2) Where the parties to the contract may choose the applicable law under regulation 4, and where the risk to which the contract relates is covered by Community co-insurance (within the meaning of Council Directive [78/473/EEC](#) on the coordination of laws, regulations and administrative provisions relating to Community co-insurance)(¹), co-insurers other than the leading insurer (within the meaning of that Directive) are not to be treated as parties to the contract.

The 1990 Act

7.—(1) Subject to the preceding provisions of this Part, the 1990 Act is to be treated as applying to the contract for the purposes of determining the applicable law.

(2) In determining whether the mandatory rules of another EEA State should be applied in accordance with regulation 5(2) where the parties have chosen the law of a part of the United Kingdom as the applicable law, the 1990 Act is to be treated as applying to the contract.

(3) In determining what freedom of choice the parties have under the law of a part of the United Kingdom, the 1990 Act is to be treated as applying to the contract.

(1) OJ L 151, 7.6.78, p.25.