

Third Parties (Rights against Insurers) Bill

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Make provision about the rights of third parties against insurers of liabilities to third parties in the case where the insured is insolvent, and in certain other cases. 5

Transfer of rights to third parties

1 Rights against insurer of insolvent person etc

- (1) If— 10
- (a) a person to whom this section applies incurs a liability against which he is insured under a contract of insurance, or
 - (b) a person who is subject to a liability against which he is so insured becomes a person to whom this section applies,
- the person's rights under the contract against the insurer in respect of the liability are transferred to and vest in the person to whom the liability is or was incurred. 15
- (2) An individual is a person to whom this section applies if—
- (a) a deed of arrangement registered in accordance with the Deeds of Arrangement Act 1914 (c. 47) is in force in respect of him; 20
 - (b) a voluntary arrangement approved in accordance with Part VIII of the Insolvency Act 1986 (c. 45) is in force in respect of him;
 - (c) a bankruptcy order made against him under Part IX of that Act is in force, and the individual has not been discharged under that Part;
 - (d) an award of sequestration has been made under section 5 of the Bankruptcy (Scotland) Act 1985 (c. 66) in respect of his estate, and the individual has not been discharged under that Act; 25
 - (e) a protected trust deed within the meaning of that Act is in force in respect of his estate; or
 - (f) a composition approved in accordance with Schedule 4 to that Act is in force in respect of him. 30
- (3) A body corporate or unincorporated body is a person to whom this section applies if—
- (a) a voluntary arrangement approved in accordance with Part I of the Insolvency Act 1986 is in force in respect of it; 35

- (b) an administration order made under Part II of that Act is in force in respect of it;
- (c) there is a person appointed in accordance with Part III of that Act who is acting as receiver or manager of the body's property (or there would be such a person so acting but for a temporary vacancy in the office of receiver or manager); 5
- (d) the body is, or is being, wound up voluntarily in accordance with Chapter II of Part IV of that Act;
- (e) there is a person appointed under section 135 of that Act who is acting as provisional liquidator in respect of the body (or there would be such a person so acting but for a temporary vacancy in the office of provisional liquidator); 10
- (f) the body is, or is being, wound up by the court following the making of a winding-up order under Chapter VI of Part IV of that Act or Part V of that Act; 15
- (g) a compromise or arrangement between the body and its creditors (or a class of them) is in force, having been sanctioned in accordance with section 425 of the Companies Act 1985 (c. 6);
- (h) the body has been dissolved under section 652 or 652A of that Act, and a court has not declared the dissolution void under section 651 of that Act or ordered the body's name to be restored to the register under section 653 of that Act; 20
- (i) an award of sequestration has been made under section 6 of the Bankruptcy (Scotland) Act 1985 (c. 66) in respect of the body's estate, and the body has not been discharged under that Act; 25
- (j) the body has been dissolved and an award of sequestration has been made under that section in respect of its estate;
- (k) a protected trust deed within the meaning of the Bankruptcy (Scotland) Act 1985 is in force in respect of the body's estate; or
- (l) a composition approved in accordance with Schedule 4 to that Act is in force in respect of the body. 30
- (4) A trustee of a Scottish trust is, in respect of a liability of his that falls to be met out of the trust estate, a person to whom this section applies if –
- (a) an award of sequestration has been made under section 6 of the Bankruptcy (Scotland) Act 1985 in respect of the trust estate, and the trust has not been discharged under that Act; 35
- (b) a protected trust deed within the meaning of that Act is in force in respect of the trust estate; or
- (c) a composition approved in accordance with Schedule 4 to that Act is in force in respect of the trust. 40
- (5) Subsection (1) does not apply by virtue of subsection (3)(g) in relation to a liability that is transferred to another body by the order sanctioning the compromise or arrangement.
- (6) Where subsection (1) applies by virtue of subsection (3)(g), it has effect to transfer rights only to a person on whom the compromise or arrangement is binding. 45
- (7) Where –
- (a) an award of sequestration made under section 5 or 6 of the Bankruptcy (Scotland) Act 1985 is recalled or reduced, or

- (b) an order discharging an individual, body or trust is recalled under paragraph 17 of Schedule 4 to that Act, or reduced under paragraph 18 of that Schedule,
the award or order is to be treated for the purposes of this section as never having been made. 5
- (8) In this section –
- (a) a reference to a person appointed in accordance with Part III of the Insolvency Act 1986 (c. 45) includes a reference to a person appointed under section 101 of the Law of Property Act 1925 (c. 20);
- (b) a reference to a receiver or manager of a body’s property includes a reference to a receiver or manager of part only of the property and to a receiver only of the income arising from the property or from part of it; 10
- (c) for the purposes of subsection (3)(i) to (l) “body corporate or unincorporated body” includes any entity, other than a trust, the estate of which may be sequestrated under section 6 of the Bankruptcy (Scotland) Act 1985 (c. 66); 15
- (d) “Scottish trust” means a trust the estate of which may be so sequestrated.
- 2 Rights against insurer of individual who dies insolvent**
- (1) Where an individual dies insolvent while subject to a liability against which he is insured under a contract of insurance, his rights under the contract against the insurer in respect of the liability are transferred to and vest in the person to whom the liability was incurred. 20
- (2) For the purposes of this section an individual is to be regarded as having died insolvent if, following his death – 25
- (a) his estate falls to be administered in accordance with an order under section 421 of the Insolvency Act 1986;
- (b) an award of sequestration is made under section 5 of the Bankruptcy (Scotland) Act 1985 in respect of his estate and the award is not recalled or reduced; or 30
- (c) a judicial factor is appointed under section 11A of the Judicial Factors (Scotland) Act 1889 (c. 39) in respect of his estate and the judicial factor certifies that the estate is absolutely insolvent within the meaning of the Bankruptcy (Scotland) Act 1985.
- (3) In relation to a transfer under this section of an insured person’s rights, references in this Act to an insured are, where the context so requires, to be read as references to his estate. 35
- 3 Transferred rights not to exceed insured’s liability**
- Where the liability of an insured to a third party in respect of which there is a transfer of rights under section 1 or 2 is less than the liability (apart from that section) of the insurer to the insured, no rights are transferred under that section in respect of the difference. 40
- 4 Conditions affecting transferred rights**
- (1) Where –

- (a) rights of an insured under a contract of insurance have been transferred to a third party under section 1 or 2, and
- (b) under the contract, the rights are subject to a condition that the insured has to fulfil,
- anything done by the third party which, if done by the insured, would have amounted to or contributed to fulfilment of the condition is to be treated as if done by the insured. 5
- (2) Where—
- (a) rights of an insured under a contract of insurance have been transferred to a third party under section 1, 10
- (b) the insured is a body corporate that has been dissolved,
- (c) under the contract, the rights are subject to a condition requiring the insured to provide information or assistance to the insurer, and
- (d) the condition is not fulfilled, but only because of the body’s inability to act after being dissolved, 15
- the transferred rights are not subject to the condition.
- (3) Where—
- (a) rights of an insured under a contract of insurance have been transferred to a third party under section 1 or 2, and
- (b) under the contract, the rights are subject to a condition requiring the prior discharge by the insured of his liability to the third party, 20
- the transferred rights are not subject to the condition.
- (4) In the case of a contract of marine insurance, subsection (3) applies only to the extent that the liability of the insured is a liability in respect of death or personal injury. 25
- (5) In this section—
- “contract of marine insurance” has the meaning given by section 1 of the Marine Insurance Act 1906 (c. 41);
- “dissolved” means dissolved under Chapter IX of Part IV of the Insolvency Act 1986 (c. 45) or under section 652 or 652A of the Companies Act 1985 (c. 6); 30
- “personal injury” includes any disease and any impairment of a person’s physical or mental condition.
- 5 Insurer’s right of set-off**
- Where— 35
- (a) rights of an insured under a contract of insurance have been transferred to a third party under section 1 or 2,
- (b) the insured is under any liability to the insurer under the contract (“the insured’s liability”), and
- (c) if there had been no transfer, the insurer would have been entitled to set off the amount of the insured’s liability against the amount of his own liability to the insured, 40
- the insurer is entitled to set off the amount of the insured’s liability against the amount of his own liability to the third party.

6 Avoidance

- (1) A provision of an insurance contract to which this section applies is of no effect in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties under it in the event of the insured –
- (a) becoming a person to whom section 1 applies; or
 - (b) dying insolvent (within the meaning given by section 2(2)).
- (2) An insurance contract is one to which this section applies if the insured’s rights under it are capable of being transferred under section 1 or 2.

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*Provision of information etc***7 Information and disclosure for third parties**

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Schedule 1 (which provides for entitlement to information and disclosure on the part of persons to whom rights have or may have been transferred under this Act) has effect.

*Enforcement of transferred rights***8 Proceedings in England and Wales**

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- (1) A person who claims that rights have vested in him under section 1 or 2, but who has not established the insured’s liability, may take proceedings against the insurer for either or both of the following –
- (a) a declaration as to the insured’s liability to him;
 - (b) a declaration as to the insurer’s potential liability to him.
- (2) The claimant in such proceedings is entitled, subject to any defence on which the insurer may rely, to a declaration under subsection (1)(a) or (b) on proof of the insured’s liability or (as the case may be) the insurer’s potential liability.
- (3) Where proceedings are taken under subsection (1)(a) the insurer may rely on any defence on which the insured could rely if those proceedings were proceedings taken against the insured in respect of his liability.
- (4) Subsection (3) is subject to sections 11(1) and 12.
- (5) Where –
- (a) the court makes a declaration under each of paragraphs (a) and (b) of subsection (1), and
 - (b) the effect of the declarations is that the insurer is liable to the claimant,
- the court may give the appropriate judgment against the insurer.
- (6) Where a person applying for a declaration under subsection (1)(b) is entitled or required, by virtue of provision in the contract of insurance, to do so in arbitral proceedings, he may also apply in the same proceedings for a declaration under subsection (1)(a).
- (7) In its application to arbitral proceedings, subsection (5) is to be read as if “tribunal” were substituted for “court” and “make the appropriate award” for “give the appropriate judgment”.

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- (8) The insured may be made a defendant to an application for a declaration under subsection (1)(a); and if he is (but not otherwise), a declaration under that subsection binds him as well as the insurer.

9 Proceedings in Scotland

- (1) A person who claims that rights have vested in him under section 1 or 2, but who has not established the insured's liability, may take proceedings against the insurer for either or both of the following — 5
- (a) a declarator as to the insured's liability to him;
 - (b) a declarator as to the insurer's potential liability to him.
- (2) Where proceedings are taken under subsection (1)(a) the insurer may rely on any defence on which the insured could rely if those proceedings were proceedings taken against the insured in respect of his liability. 10
- (3) Subsection (2) is subject to sections 11(1) and 12.
- (4) Where —
- (a) the court grants a declarator under each of paragraphs (a) and (b) of subsection (1), and 15
 - (b) the effect of the declarators is that the insurer is liable to the claimant, the court may grant the appropriate decree against the insurer.
- (5) Where a person applying for a declarator under subsection (1)(b) is entitled or required, by virtue of provision in the contract of insurance, to do so in arbitral proceedings, he may also apply in the same proceedings for a declarator under subsection (1)(a). 20
- (6) In its application to arbitral proceedings, subsection (4) is to be read as if "arbiter" were substituted for "court" and "make the appropriate award" for "grant the appropriate decree". 25
- (7) The insured may be made a defender to an application for a declarator under subsection (1)(a); and if he is (but not otherwise) a declarator under that subsection binds him as well as the insurer.

10 Interpretation of sections 8 and 9

- (1) References in sections 8 and 9 to the insurer's potential liability are references to his liability in respect of the insured's liability, if established. 30
- (2) For the purposes of those sections and this section, a liability is established only when both the existence and the amount of it is established.
- (3) In those sections and this section "establish" means establish by a judgment or decree, by an award in arbitral proceedings or by an enforceable agreement. 35

11 Limitation and prescription

- (1) Where a person takes proceedings for a declaration under section 8(1)(a), or for a declarator under section 9(1)(a), and the proceedings are started —
- (a) after the expiry of a period of limitation applicable to an action against the insured to enforce his liability, or of a period of prescription applicable to that liability, but 40
 - (b) while such an action is in progress,

the insurer may not rely as a defence on the expiry of that period unless the insured is able to rely on it in the action against him.

- (2) For the purposes of subsection (1), where an action has been concluded by a judgment or decree, or by an award, it is no longer in progress even if there is an appeal or a right of appeal. 5
- (3) In a case where a person who has already established an insured's liability to him takes proceedings under this Act against the insurer, nothing in this Act is to be read as meaning—
- (a) that, for the purposes of the law of limitation (in England and Wales), his cause of action accrued otherwise than at the time when he established that liability; or 10
- (b) that, for the purposes of the law of prescription (in Scotland), the obligation in respect of which the proceedings are taken became enforceable otherwise than at that time.
- (4) Subsections (2) and (3) of section 10 apply also for the purposes of this section. 15

12 Discharge of insured

Where—

- (a) a person takes proceedings in respect of rights that he claims have vested in him under section 1 or 2, and
- (b) after the start of those proceedings, the insured is discharged— 20
- (i) under Part IX of the Insolvency Act 1986 (c. 45), or
- (ii) under the Bankruptcy (Scotland) Act 1985 (c. 66) or under a protected trust deed within the meaning of that Act,
- the discharge is to be disregarded in determining the liability of the insured to the claimant for the purposes of this Act. 25

13 Jurisdiction within the UK

- (1) Where a person domiciled in England and Wales or in Scotland is entitled to take court proceedings under this Act against an insurer domiciled in another part of the United Kingdom, he may do so in the part where he himself is domiciled or in the part where the insurer is domiciled (whatever the contract of insurance may stipulate as to where proceedings are to be taken). 30
- (2) The following provisions of the Civil Jurisdiction and Judgments Act 1982 (c. 27) (which determine whether a person is domiciled in the United Kingdom and, if so, in which part) apply for the purposes of subsection (1)—
- (a) section 41(2), (3), (5) and (6) (individuals); 35
- (b) section 42(1), (3), (4) and (8) (corporations and associations);
- (c) section 46(1), (3) and (7) (the Crown).
- (3) In Schedule 5 to that Act (proceedings excluded from general provisions as to allocation of jurisdiction within the United Kingdom) insert at the end—

“Proceedings by third parties against insurers” 40

11. Proceedings under the Third Parties (Rights against Insurers) Act 2001.”

- (4) If an Act of the Northern Ireland Assembly corresponding to this Act contains –
- (a) provision to the effect that a person domiciled in Northern Ireland who is entitled to take court proceedings under that Act against an insurer domiciled in another part of the United Kingdom may do so either in Northern Ireland or in the part where the insurer is domiciled (whatever the contract of insurance may stipulate as to where proceedings are to be taken), or 5
 - (b) provision inserting a reference to proceedings under that Act into Schedule 5 to the Civil Jurisdiction and Judgments Act 1982 (c. 27), 10
- the provision also has effect as part of the law of England and Wales and of Scotland.

Enforcement of insured's liability

14 Effect of transfer on insured's liability

- (1) Where rights in respect of an insured's liability to a third party are transferred under section 1 or 2, the third party may enforce that liability only to the extent (if any) that it exceeds the amount recoverable from the insurer by virtue of the transfer. 15
- (2) Where –
- (a) rights in respect of an insured's liability are transferred under section 1, 20
 - (b) the transfer occurs by virtue of subsection (2)(a), (b) or (e), subsection (3)(a), (g) or (k) or subsection (4)(b) of that section, and
 - (c) the liability is one that is subject to the arrangement, trust deed or compromise in question,
- the liability is to be treated as subject to the arrangement, trust deed or compromise only to the extent (if any) that the liability exceeds the amount recoverable from the insurer by virtue of the transfer. 25
- (3) Where –
- (a) rights in respect of an insured's liability are transferred under section 1, and 30
 - (b) the liability subsequently becomes one that is subject to a composition approved in accordance with Schedule 4 to the Bankruptcy (Scotland) Act 1985 (c. 66),
- the liability is to be treated as subject to the composition only to the extent (if any) that the liability exceeds the amount recoverable from the insurer by virtue of the transfer. 35
- (4) For the purposes of this section the amount recoverable from the insurer does not include any amount that the third party is unable to recover as a result of –
- (a) a shortage of assets on the insurer's part, in a case where the insurer is himself a person to whom section 1 applies or an individual who has died insolvent (within the meaning given by section 2(2)); or 40
 - (b) a limit set by the insurance contract on the fund available to meet claims in respect of a particular description of liability of the insured.
- (5) In ascertaining the amount given by subsection (4)(a), the third party is to be treated as able to recover any sum that is due to him, in respect of the insurer's liability, under or by virtue of rules made under Part XV of the Financial 45

Services and Markets Act 2000 (c. 8) (the Financial Services Compensation Scheme).

Application of Act

15 Reinsurance

This Act does not apply to a case where the liability referred to in section 1(1) or 2(1) is itself a liability incurred by an insurer under a contract of insurance. 5

16 Voluntarily-incurred liabilities

It is irrelevant for the purposes of section 1 or 2 whether or not the liability of the insured is or was incurred voluntarily.

17 Cases with a foreign element

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Except as expressly provided, the application of any provision of this Act does not depend on whether there is a connection with England and Wales or Scotland; and in particular it does not depend on—

- (a) whether or not the liability (or the alleged liability) of the insured to the third party was incurred in, or under the law of, England and Wales or Scotland; 15
- (b) the place of residence or domicile of any of the parties;
- (c) whether or not the contract of insurance (or a part of it) is governed by the law of England and Wales or Scotland;
- (d) the place where any sum due under the contract of insurance is payable. 20

Supplemental

18 Power to amend Act

- (1) The Secretary of State may by order made by statutory instrument amend this Act for the purposes of redefining— 25
 - (a) the circumstances in which a person is one to whom section 1 applies;
 - (b) the circumstances in which an individual is to be regarded for the purposes of section 2 as having died insolvent.
- (2) An order under this section may— 30
 - (a) make such transitional provision as the Secretary of State thinks fit;
 - (b) make consequential amendments to other enactments.
- (3) No order under this section shall be made unless a draft of it has been laid before, and approved by a resolution of, each House of Parliament.

19 Consequential amendments and repeals

- (1) In subsections (1) and (3) of section 153 of the Road Traffic Act 1988 (c. 52) (bankruptcy etc of insured or secured persons not to affect claims by third parties), for “Third Parties (Rights against Insurers) Act 1930” substitute “Third Parties (Rights against Insurers) Act 2001”. 35

- (2) In section 165(5) of the Merchant Shipping Act 1995 (c. 21) (which excludes the application of the Third Parties (Rights against Insurers) Act 1930 (c. 25) in relation to certain contracts of compulsory insurance against liability for pollution), for “Third Parties (Rights against Insurers) Act 1930” substitute “Third Parties (Rights against Insurers) Act 2001”. 5
- (3) The enactments mentioned in Schedule 2 are repealed or revoked to the extent specified.

20 Transitional provisions and savings

- (1) Subsection (1)(a) of section 1 applies where the insured became a person to whom that section applies before, as well as when he becomes such a person on or after, commencement day. 10
- (2) Section 1(1)(b) and section 2 apply where the liability was incurred before, as well as where it is incurred on or after, commencement day.
- (3) Despite its repeal by this Act, the Third Parties (Rights against Insurers) Act 1930 continues to apply in relation to— 15
- (a) cases where the event referred to in subsection (1) of section 1 of that Act and the incurring of the liability referred to in that subsection both happened before commencement day;
- (b) cases where the death of the deceased person referred to in subsection (2) of that section happened before that day. 20
- (4) In this section “commencement day” means the day on which this Act comes into force.

21 Short title, commencement and extent

- (1) This Act may be cited as the Third Parties (Rights against Insurers) Act 2001.
- (2) This Act comes into force at the end of the period of three months beginning with the day on which it is passed. 25
- (3) Section 8 and paragraphs 3 and 4 of Schedule 1 do not extend to Scotland.
- (4) Section 9 extends only to Scotland.
- (5) Only section 13(1) to (3) extends to Northern Ireland.

SCHEDULES

SCHEDULE 1

Section 7.

INFORMATION AND DISCLOSURE FOR THIRD PARTIES

Notices requesting information

- | | | |
|---|---|----|
| 1 | (1) If a person believes on reasonable grounds – | 5 |
| | (a) that a liability has been incurred to him, | |
| | (b) that the party who incurred the liability is insured against it under a contract of insurance, | |
| | (c) that rights of that party under the contract have been transferred to him under section 1 or 2, and | 10 |
| | (d) that there is a person who is able to provide any information falling within sub-paragraph (2), | |
| | he may by notice in writing request from that person such information falling within that sub-paragraph as the notice may specify. | |
| | (2) The following is the information that falls within this sub-paragraph – | 15 |
| | (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; | 20 |
| | (iii) whether the insurer has informed the insured that he does not consider himself 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; | 25 |
| | (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; | 30 |
| | (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. | |
| | (3) For the purpose of sub-paragraph (2)(b)(iv), relevant details of proceedings are – | 35 |
| | (a) in the case of court proceedings – | |
| | (i) the name of the court; | |
| | (ii) the case number; | |

- (iii) the contents of all documents served in the proceedings in accordance with rules of court or with any orders made in the proceedings, and the contents of any such orders;
- (b) in the case of arbitral proceedings –
 - (i) the name of the arbitrator or, in Scotland, the arbiter; 5
 - (ii) information corresponding with that mentioned in paragraph (a)(iii).
- (4) In sub-paragraph (2)(b)(vi), in its application to Scotland, “fixed charge” means a fixed security within the meaning given by section 486(1) of the Companies Act 1985 (c. 6). 10
- (5) A notice given by a person under this paragraph must include particulars of the facts on which he relies for his entitlement to give the notice.

Provision of information where notice given under paragraph 1

- 2 (1) A person who receives a notice under paragraph 1 shall, within the period of 28 days beginning with the day of receipt of the notice – 15
 - (a) provide to the person who gave the notice any information specified in it that he is able to provide;
 - (b) in relation to any such information that he is not able to provide, notify that person why he is not able to provide it.
- (2) Where – 20
 - (a) a person receives a notice under paragraph 1,
 - (b) there is information specified in the notice that he is not able to provide because it is contained in a document that is not in his control,
 - (c) the document was at one time in his control, and 25
 - (d) he knows or believes that it is now in another person’s control,
 he shall, 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 he can as to the nature of the information and the identity of that other person.
- (3) 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. 30

Notices requiring disclosure: defunct bodies

- 3 (1) If – 35
 - (a) a person has started proceedings under this Act against an insurer in respect of a liability that he claims has been incurred to him by a body corporate, and
 - (b) the body is defunct,
 he may by notice in writing require a person to whom sub-paragraph (2) applies to disclose to him any documents that are relevant to that liability. 40
- (2) This sub-paragraph applies to a person if –
 - (a) immediately before the time of the alleged transfer under section 1 or 2, he was an officer or employee of the body corporate; or
 - (b) immediately before the body became defunct, he was – 45

- (i) acting as an insolvency practitioner in relation to the body (within the meaning given by section 388(1) of the Insolvency Act 1986 (c. 45)), or
 - (ii) acting as the official receiver in relation to the winding up of the body. 5
- (3) A notice under this paragraph must be accompanied by a copy of the particulars of claim required to be served in connection with the proceedings mentioned in sub-paragraph (1) or, where those proceedings are arbitral proceedings, the particulars of claim that would be required to be so served if they were court proceedings. 10
- (4) For the purposes of this paragraph a body corporate is defunct if it has been dissolved under Chapter IX of Part IV of the Insolvency Act 1986, or under section 652 or 652A of the Companies Act 1985 (c. 6), and a court has not –
 - (a) declared the dissolution void under section 651 of the Companies Act 1985; or 15
 - (b) ordered the body’s name to be restored to the register under section 653 of that Act.

Disclosure and inspection where notice given under paragraph 3

- 4 (1) Subject to the provisions of this paragraph and to any necessary modifications – 20
 - (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. 25
- (2) A person who by virtue of sub-paragraph (1) has to serve a list of documents shall do so within the period of 28 days beginning with the day of receipt of the notice.
- (3) 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 any documents that he did not have to disclose at the time when he served the list. 30

Avoidance

- 5 A provision of an insurance contract is of no effect in so far as it purports, whether directly or indirectly – 35
 - (a) to avoid the contract or to alter the rights of the parties under it in the event of a person providing any information, or giving any disclosure, that he is required to provide or give by virtue of a notice under paragraph 1 or 3; or 40
 - (b) otherwise to prohibit or prevent a person from providing such information or giving such disclosure.

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 that he has apart from that paragraph.

Interpretation

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- 7 For the purposes of this Schedule –
- (a) a person is able to provide information only if –
 - (i) he can obtain it without undue difficulty from a document that is in his control, or
 - (ii) where the person is an individual, the information is within his knowledge; 10
 - (b) a thing is in a person's control if it is in his possession or if he has a right to possession of it or to inspect or take copies of it.

SCHEDULE 2

Section 19(3).

REPEALS AND REVOCATION

15

<i>Short title or title, and chapter or number</i>	<i>Extent of repeal or revocation</i>	
Third Parties (Rights against Insurers) Act 1930 (c. 25)	The whole Act.	
Insolvency Act 1985 (c. 65)	In Schedule 8, paragraph 7.	20
Bankruptcy (Scotland) Act 1985 (c. 66)	In Schedule 7, paragraph 6.	
Insolvency Act 1986 (c. 45)	In Schedule 14, the entry relating to the Third Parties (Rights against Insurers) Act 1930.	25
Limited Liability Partnerships Regulations 2001 (S.I. 2001/1090)	In Schedule 5, paragraph 2.	