
STATUTORY INSTRUMENTS

2003 No. 1476

**The Financial Services and Markets Act 2000
(Regulated Activities) (Amendment) (No. 2) Order 2003**

PART 2

AMENDMENTS TO THE PRINCIPAL ORDER

Further exclusions in connection with activities carried on in relation to contracts of insurance

11. After article 72A (information society services)(1), insert—

“Activities carried on by a provider of relevant goods or services

72B.—(1) In this article—

“connected contract of insurance” means a contract of insurance which—

- (a) is not a contract of long-term insurance;
- (b) has a total duration (or would have a total duration were any right to renew conferred by the contract exercised) of five years or less;
- (c) has an annual premium (or, where the premium is paid otherwise than by way of annual premium, the equivalent of an annual premium) of 500 euro or less, or the equivalent amount in sterling or other currency;
- (d) covers the risk of—
 - (i) breakdown, loss of, or damage to, non-motor goods supplied by the provider; or
 - (ii) damage to, or loss of, baggage and other risks linked to the travel booked with the provider (“travel risks”);
- (e) does not cover any liability risks (except, in the case of a contract which covers travel risks, where that cover is ancillary to the main cover provided by the contract);
- (f) is complementary to the non-motor goods being supplied or service being provided by the provider; and
- (g) is of such a nature that the only information that a person requires in order to carry on an activity of the kind specified by article 21, 25, 39A or 53 in relation to it is the cover provided by the contract;

“non-motor goods” means goods which are not mechanically propelled road vehicles;

“provider” means a person who supplies non-motor goods or provides services related to travel in the course of carrying on a profession or business which does not otherwise consist of the carrying on of regulated activities.

(2) There is excluded from article 21 any transaction for the sale or purchase of a connected contract of insurance into which a provider enters as agent.

(3) There are excluded from article 25(1) and (2) any arrangements made by a provider for, or with a view to, a transaction for the sale or purchase of a connected contract of insurance.

(4) There is excluded from article 39A any activity carried on by a provider where the contract of insurance in question is a connected contract of insurance.

(5) There is excluded from article 53 the giving of advice by a provider in relation to a transaction for the sale or purchase of a connected contract of insurance.

(6) For the purposes of this article, a contract of insurance which covers travel risks is not to be treated as a contract of long-term insurance, notwithstanding the fact that it contains related and subsidiary provisions such that it might be regarded as a contract of long-term insurance, if the cover to which those provisions relate is ancillary to the main cover provided by the contract.

Provision of information on an incidental basis

72C.—(1) There is excluded from articles 25(1) and (2) the making of arrangements for, or with a view to, a transaction for the sale or purchase of a contract of insurance or an investment of the kind specified by article 89, so far as relevant to such a contract, where that activity meets the conditions specified in paragraph (4).

(2) There is excluded from articles 37 and 40 any activity—

(a) where the assets in question are rights under a contract of insurance or an investment of the kind specified by article 89, so far as relevant to such a contract; and

(b) which meets the conditions specified in paragraph (4).

(3) There is excluded from article 39A any activity which meets the conditions specified in paragraph (4).

(4) The conditions specified in this paragraph are that the activity—

(a) consists of the provision of information to the policyholder or potential policyholder;

(b) is carried on by a person in the course of carrying on a profession or business which does not otherwise consist of the carrying on of regulated activities; and

(c) may reasonably be regarded as being incidental to that profession or business.

Large risks contracts where risk situated outside the EEA

72D.—(1) There is excluded from articles 21, 25(1) and (2), 39A and 53 any activity which is carried on in relation to a large risks contract of insurance, to the extent that the risk or commitment covered by the contract is not situated in an EEA State.

(2) In this article, a “large risks contract of insurance” is a contract of insurance the principal object of which is to cover—

(a) risks falling within paragraph 4 (railway rolling stock), 5 (aircraft), 6 (ships), 7 (goods in transit), 11 (aircraft liability) or 12 (liability of ships) of Part 1 of Schedule 1;

- (b) risks falling within paragraph 14 (credit) or 15 (suretyship) of that Part provided that the risks relate to a business carried on by the policyholder; or
 - (c) risks falling within paragraph 3 (land vehicles), 8 (fire and natural forces), 9 (damage to property), 10 (motor vehicle liability), 13 (general liability) or 16 (miscellaneous financial loss) of that Part provided that the risks relate to a business carried on by the policyholder and that the condition specified in paragraph (3) is met in relation to that business.
- (3) The condition specified in this paragraph is that at least two of the three following criteria were met in the most recent financial year for which information is available—
- (a) the balance sheet total of the business (within the meaning of section 247(5) of the Companies Act 1985⁽²⁾ or article 255(5) of the Companies (Northern Ireland) Order 1986⁽³⁾) exceeded 6.2 million euro,
 - (b) the net turnover (within the meaning given to “turnover” by section 262(1) of that Act or article 270(1) of that Order) exceeded 12.8 million euro,
 - (c) the number of employees (within the meaning given by section 247(6) of that Act⁽⁴⁾ or article 255(6) of that Order) exceeded 250,
- and for a financial year which is a company’s financial year but not in fact a year, the net turnover of the policyholder shall be proportionately adjusted.

(4) For the purposes of paragraph (3), where the policyholder is a member of a group for which consolidated accounts (within the meaning of the Seventh Company Law Directive) are drawn up, the question whether the condition specified by that paragraph is met is to be determined by reference to those accounts.”.

⁽²⁾ 1985 c. 6; amended by S.I. 1997/220.

⁽³⁾ S.I. 1986/1032 (N.I. 6).

⁽⁴⁾ Amended by S.I. 1996/189.