



Policyholders Protection Act 1975

1975 CHAPTER 75

Powers of the Board to protect policyholders of companies in financial difficulties

17 Special provision with respect to long term business of a company in financial difficulties

- (1) Without prejudice to subsection (8) of section 16 above, the Board shall not take any measures in pursuance of subsection (3) or (4) of that section for the purpose of safeguarding any policyholders of a company in financial difficulties in respect of long term policies of the company, other than measures allowed by subsection (2) below, in any case where it appears to the Board that to take those other measures would cost them more than to take measures allowed by subsection (2) below.
- (2) The measures allowed by this subsection are any measures open to the Board under subsection (3) or (4) of section 16 above for the purpose of safeguarding policyholders of a company in financial difficulties which involve the imposition by the Board, as a prerequisite of their incurring any expenditure or liabilities for that purpose, of conditions requiring—
 - (a) the reduction of all liabilities of the company under relevant long term policies and of all benefits provided for under any such policies which have not fallen due to be paid by the company before the time when the reduction is to take effect, to ninety per cent, of the amount which would otherwise have been payable in accordance with the terms of the policies; and
 - (b) the reduction of all premiums under any such policies which have not fallen due before that time to ninety per cent, of the amount which would otherwise have been so payable.

A long term policy is a relevant long term policy for the purposes of this subsection if it is included in any transfer secured or facilitated by the Board under subsection (3) of section 16 or in any business continued by virtue of any assistance given by the Board under subsection (4) of that section.

- (3) Without prejudice to the power of the Board to impose conditions in relation to taking any measures under subsection (3) or (4) of section 16 above with respect to matters other than those covered by the conditions mentioned in subsection (2) above, the

benefits mentioned in paragraph (a) of subsection (2) shall not include any bonus provided for under a policy unless it was declared before the time when any such reduction of liabilities and benefits under that policy as is mentioned in that paragraph is to take effect.

- (4) If it appears to the Board, in the case of any long term policy of a company in financial difficulties which was a United Kingdom policy at the relevant time as defined by section 16(6) above, that the benefits provided for thereunder are or may be excessive in any respect, having regard to the premiums paid or payable and to any other terms of the policy, the Board shall refer the policy to an independent actuary.
- (5) Where an actuary to whom a policy of a company in financial difficulties is referred under subsection (4) above makes to the Board a report in writing—
 - (a) stating, with respect to any of the benefits provided for under the policy, that in his view the benefit or benefits in question are excessive ; and
 - (b) recommending, accordingly, that for the purposes of any measures to be taken by the Board in pursuance of subsection (3) or (4) of section 16 above for safeguarding the policyholder in question against loss arising from the financial difficulties of the company any such benefit should be treated as reduced or (as the case may be) disregarded ;

the Board may determine in the light of any recommendation contained in the actuary's report that any benefit to which that recommendation relates shall be treated as reduced or disregarded for those purposes.
- (6) Where in a case falling within subsection (5) above the Board determine that the benefit in question shall be disregarded for the purposes there mentioned, the conditions mentioned in subsection (2) above shall include conditions requiring the cancellation of that benefit or (as the case may be) of any liability representing that benefit.
- (7) Where in a case falling within subsection (5) above the Board determine that the benefit in question shall be treated as reduced for the purposes there mentioned, subsection (2)(a) above shall apply in relation to the policy as if the amount of that benefit or (as the case may be) of any liability representing that benefit, as reduced in accordance with the Board's determination, were the amount which would otherwise have been payable in accordance with the terms of the policy.
- (8) In this section " company in financial difficulties " has the same meaning as in section 16 above.