
STATUTORY INSTRUMENTS

1993 No. 2519

The Friendly Societies (Amendment) Regulations 1993

AMENDMENTS OF 1992 ACT

Law applicable to contracts of insurance

6.—(1) For section 101 of the 1992 Act there shall be substituted the following section—

“101 Law applicable to contracts of insurance with friendly societies.

(1) The law applicable to a contract of insurance made by a friendly society the effecting of which constitutes general business and which covers risks situated in the United Kingdom or another member State shall be determined—

- (a) in the case of a society to which section 37(3) above applies, in accordance with Part I of Schedule 20 to this Act; and
- (b) in any other case, in accordance with that Part of that Schedule as modified by subsection (3) below.

(2) The law applicable to a contract of insurance made by a friendly society the effecting of which constitutes long term business and which covers commitments or risks situated in the United Kingdom or another member State shall be determined—

- (a) in the case of a society to which section 37(2) above applies, in accordance with Part II of Schedule 20 to this Act; and
- (b) in any other case, in accordance with Part I of that Schedule as modified by subsection (3) below.

(3) For the purposes of paragraph (b) of subsections (1) and (2) above, Part I of Schedule 20 to this Act shall be modified as follows—

- (a) the words “or central administration”, in each place where they occur, shall be omitted;
- (b) in paragraph 5(1), for the words from “shall act” to the end there shall be substituted the words “shall apply the general rules of private international law of that part of the United Kingdom concerning contractual obligations”; and
- (c) in paragraph 5(2), for the words “those provisions” there shall be substituted the words “those rules”.

(4) The provisions of this section do not apply in relation to a contract of reinsurance.”

(2) The provisions of Schedule 20 to that Act (law applicable to certain contracts of insurance) shall become Part I of that Schedule under the heading “GENERAL BUSINESS BY SOCIETIES TO WHICH SECTION 37(3) APPLIES”.

(3) In that Part of that Schedule—

- (a) after the words “habitual residence”, in each place where they occur, there shall be inserted the words “or central administration”;
- (b) in paragraphs 3(2), 4(2) and 5(1), for the words “this Schedule” there shall be substituted the words “this Part of this Schedule”;

- (c) in paragraph 5(1), for the words from “shall apply” to the end there shall be substituted the words “shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990”; and
 - (d) in paragraph 5(2), for the words “those rules” there shall be substituted the words “those provisions”.
- (4) After that Part of that Schedule there shall be inserted the following Part—

“Part II

LONG TERM BUSINESS BY SOCIETIES TO WHICH SECTION 37(2) APPLIES

General rules as to applicable law

6. The law applicable to the contract of insurance is the law of the member State in which the commitment is situated.

However, where the law of that member State so allows, the parties may choose the law of another country.

7. Where the person who has entered into the contract of insurance is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

Mandatory rules

8. Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

Supplementary provisions

9.—(1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.

(2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.

10.—(1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990.

(2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 above what freedom of choice the parties have under the law of a part of the United Kingdom.”

(5) For subsection (1A) of section 2 of the Contracts (Applicable Law) Act 1990(1) (conventions to have the force of law) there shall be substituted the following subsection—

“1A) The internal law for the purposes of Article 1(3) of the Rome Convention is whichever of the following are applicable, namely—

(1) 1990 c. 36; subsection (1A) of section 2 was inserted by regulation 9 of the Insurance Companies (Amendment) Regulations 1993 (S.I.1993/174).

- (a) the provisions of Schedule 3A to the Insurance Companies Act 1982 (law applicable to certain contracts of insurance with insurance companies), and
- (b) the provisions of Schedule 20 to the Friendly Societies Act 1992⁽²⁾ as applied by subsections (1)(a) and (2)(a) of section 101 of that Act (law applicable to certain contracts of insurance with friendly societies).”

⁽²⁾ 1992 c. 40.