

Council Directive 92/49/EEC of 18 June 1992 on the coordination of laws, regulations and administrative provisions relating to direct insurance other than life assurance and amending Directives 73/239/EEC and 88/357/EEC (third non-life insurance Directive) (repealed)

TITLE III

HARMONIZATION OF THE CONDITIONS GOVERNING THE BUSINESS OF INSURANCE

Chapter 1

Article 12

- 1 Article 11 (2) to (7) of Directive 88/357/EEC is hereby repealed.
- 2 Under the conditions laid down by national law, each Member State shall authorize insurance undertakings with head offices within its territory to transfer all or part of their portfolios of contracts, concluded either under the right of establishment or the freedom to provide services, to an accepting office established within the Community, if the competent authorities of the home Member State of the accepting office certify that after taking the transfer into account the latter possesses the necessary solvency margin.
- 3 Where a branch proposes to transfer all or part of its portfolio of contracts, concluded either under the right of establishment or the freedom to provide services, the Member State of the branch shall be consulted.
- 4 In the circumstances referred to in paragraphs 2 and 3, the competent authorities of the home Member State of the transferring undertaking shall authorize the transfer after obtaining the agreement of the competent authorities of the Member States in which the risks are situated.
- 5 The competent authorities of the Member States consulted shall give their opinion or consent to the competent authorities of the home Member State of the transferring insurance undertaking within three months of receiving a request; the absence of any response within that period from the authorities consulted shall be considered equivalent to a favourable opinion or tacit consent.
- 6 A transfer authorized in accordance with this Article shall be published as laid down by national law in the Member State in which the risk is situated. Such transfers shall automatically be valid against policy-holders, insured persons and any other persons having rights or obligations arising out of the contracts transferred.

This provision shall not affect the Member States' rights to give policy-holders the option of cancelling contracts within a fixed period after a transfer.