

Directive 2009/138/EC of the European Parliament and of the Council
of 25 November 2009 on the taking-up and pursuit of the business of
Insurance and Reinsurance (Solvency II) (recast) (Text with EEA relevance)

TITLE II

SPECIFIC PROVISIONS FOR INSURANCE AND REINSURANCE

CHAPTER II

Provisions specific to non-life insurance

Section 4

Legal expenses insurance

Article 198

Scope of this Section

1 This Section shall apply to legal expenses insurance referred to in class 17 in Part A of Annex I whereby an insurance undertaking promises, against the payment of a premium, to bear the costs of legal proceedings and to provide other services directly linked to insurance cover, in particular with a view to the following:

- a securing compensation for the loss, damage or injury suffered by the insured person, by settlement out of court or through civil or criminal proceedings;
- b defending or representing the insured person in civil, criminal, administrative or other proceedings or in respect of any claim made against that person.

2 This Section shall not apply to any of the following:

- a legal expenses insurance where such insurance concerns disputes or risks arising out of, or in connection with, the use of sea-going vessels;
- b the activity pursued by an insurance undertaking providing civil liability cover for the purpose of defending or representing the insured person in any inquiry or proceedings where that activity is at the same time pursued in the own interest of that insurance undertaking under such cover;
- c where a Member State so decides, the activity of legal expenses insurance undertaken by an assistance insurer which complies with the following conditions:
 - (i) the activity is pursued in a Member State other than that in which the insured person is habitually resident;
 - (ii) the activity forms part of a contract covering solely the assistance provided for persons who fall into difficulties while travelling, while away from their home or their habitual residence.

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For the purposes of point (c) of the first subparagraph, the contract shall clearly state that the cover concerned is limited to the circumstances referred to in that point and is ancillary to the assistance.