



Policyholders Protection Act 1975

1975 CHAPTER 75

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

16 Companies in financial difficulties: transfers of business, etc.

- (1) An authorised insurance company, not being a company in liquidation, is a company in financial difficulties for the purposes of this section if—
- (a) it is a company in provisional liquidation within the meaning of section 15 above;
 - (b) it has been proved, in any proceedings on a petition for the winding up of the company under the Companies Act 1948 or (as the case may be) the Companies Act (Northern Ireland) 1960, to be unable to pay its debts ; or
 - (c) an application has been made to the court under section 206 of the Companies Act 1948 or section 197 of the Companies Act (Northern Ireland) 1960 for the sanctioning of a compromise or arrangement proposed between the company and its creditors or any class of them (whether or not any of its members are also parties there to) and the terms of the compromise or arrangement provide for reducing the liabilities or the benefits provided for under any of the company's policies;

provided that, in a case falling within paragraph (b) above, the petition was presented after 29th October 1974, and in a case falling within paragraph (c) above, the application was made after that date.

- (2) Subject to section 17 below and to the following provisions of this section, the Board may exercise any power conferred on them by subsection (3) or (4) below for the purpose of safeguarding policyholders of a company in financial difficulties who are eligible for protection under this section, or any class or description of such policyholders, to any extent appearing to the Board to be appropriate in any case or in any class or description of case, against loss arising from the financial difficulties of the company.
- (3) Subject to section 17 below and to the following provisions of this section, the Board may take any measures appearing to them to be appropriate for securing or facilitating the transfer of all or any part of the insurance business carried on by a company in

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financial difficulties to another authorised insurance company, on terms (including terms reducing the liabilities or the benefits provided for under any policies) appearing to the Board to be appropriate in any case or in any class or description of case.

- (4) Subject to section 17 below and to the following provisions of this section, in any case where it appears to the Board that it would be practicable to secure the purpose mentioned in subsection (2) above by giving assistance to the company in financial difficulties to enable it to continue to carry on insurance business, the Board may take such measures as appear to them to be appropriate for giving such assistance.
- (5) Without prejudice to the generality of subsection (4) above, the Board may make the giving of any assistance to a company in financial difficulties under subsection (4) above conditional on the reduction of any liabilities or benefits provided for under any policies of the company to any extent appearing to them to be appropriate in any case or in any class or description of case.
- (6) The Board shall not exercise any power conferred on them by subsection (3) or (4) above for the purpose of safeguarding any policyholders of a company in financial difficulties in any case where it appears to the Board that—
- (a) persons who were members of the company at the relevant time; or
 - (b) persons who had any responsibility for or who may have profited from the circumstances giving rise to the company's financial difficulties;

would benefit to any material extent as a result of any measures the Board may take under either of those subsections.

In this subsection and in the following provisions of this section " the relevant time " means—

- (a) in a case falling within subsection (1)(a) above, the time when the provisional liquidator was appointed;
 - (b) in a case falling within subsection (1)(b) above, the time when the winding up petition was presented; and
 - (c) in a case falling within subsection (1)(c) above, the time when the application was made under section 206 of the Companies Act 1948 or (as the case may be) under section 197 of the Companies Act (Northern Ireland) 1960.
- (7) The Board shall disregard for the purposes of subsection (6) above any benefit which may accrue to any such persons as are there mentioned who are policyholders of the company in financial difficulties in their capacity as such.
- (8) The Board shall not take any measures in pursuance of subsection (3) or (4) above for the purpose of safeguarding any policyholders of a company in financial difficulties in any case where it appears to the Board that to take whatever measures may be required for the assistance of the policyholders in question under sections 6 to 11 above in the event of the company's going into liquidation would cost them less than to take the measures in question under subsection (3) or (4) above.
- (9) A policyholder of a company in financial difficulties is eligible for protection under this section if he is a policyholder in respect of a general policy or a long term policy of the company which was a United Kingdom policy at the relevant time.