



Insurance Companies Act 1982 (repealed)

1982 CHAPTER 50

PART III

CONDUCT OF INSURANCE BUSINESS

72 Insurance advertisements.

- (1) Regulations may be made as to the form and contents of insurance advertisements.
- (2) Regulations under this section may make different provision in relation to insurance advertisements of different classes or descriptions.
- (3) Subject to subsection (4) below, any person who issues an insurance advertisement which contravenes regulations under this section shall be guilty of an offence.
- (4) A person who in the ordinary course of his business issues an advertisement to the order of another person, being an advertisement the issue of which by that other person constitutes an offence under subsection (3) above, shall not himself be guilty of the offence if he proves that the matters contained in the advertisement were not (wholly or in part) devised or selected by him or by any person under his direction or control.
- (5) In this section “insurance advertisement” means an advertisement inviting persons to enter into or to offer to enter into contracts of insurance, and an advertisement which contains information calculated to lead directly or indirectly to persons entering into or offering to enter into such contracts shall be treated as an advertisement inviting them to do so.
- (6) In this section “advertisement” includes every form of advertising, whether in a publication or by the display of notices or by means of circulars or other documents or by an exhibition of photographs or cinematograph films or by way of sound broadcasting or television [^{F1}or by inclusion in any programme service (within the meaning of the Broadcasting Act 1990) other than a sound or television broadcasting service], and reference to the issue of an advertisement shall be construed accordingly.
- (7) For the purposes of this section an advertisement issued by any person on behalf of or to the order of another person shall be treated as an advertisement issued by that other

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person; and for the purposes of any proceedings under this section an advertisement inviting persons to enter into or to offer to enter into contracts with a person specified in the advertisement shall be presumed, unless the contrary is proved, to have been issued by that person.

Textual Amendments

- F1** Words substituted by [Broadcasting Act 1990 \(c. 42, SIF 96\)](#), ss. 4(6), 87(6), 203(1), [Sch. 20 para. 34](#) for words inserted by [Cable and Broadcasting Act 1984 \(c. 46, SIF 96\)](#), s. 57(1), [Sch. 5 para. 43](#)

[^{F2}72A Information for policy holders of UK insurers and EC companies.

Schedule 2E to this Act (which makes provision with respect to information for policy holders of UK insurers and EC companies) shall have effect.]

Textual Amendments

- F2** [S. 72A](#) inserted (1.7.1994) by [S.I. 1994/1696, reg. 40\(1\)](#)

[^{F3}72B Information for policy holders of EFTA companies.

- (1) Subject to subsection (2) below, this section applies to a contract entered into by an EFTA company the effecting of which constitutes the provision of insurance in the United Kingdom.
- (2) This section does not apply to a contract entered into by an authorised person the effecting of which constitutes the carrying on in the United Kingdom of investment business; and in this subsection expressions which are also used in the Financial Services Act 1986 have the same meanings as in that Act.
- (3) Before entering into a contract to which this section applies, the company shall, unless the contract is for the coverage of large risks only, inform the other party to the contract of the EEA State in which is situated the establishment through which the risk or commitment is to be covered; and any document issued to that party by the company shall also contain that information.
- (4) If the information required by subsection (3) above is furnished otherwise than in writing before the time when the contract is entered into, there is a sufficient compliance with that subsection if it is also furnished in writing as soon as practicable after that time.
- (5) Any relevant document issued by an EFTA company in relation to a contract to which this section applies shall state—
 - (a) the address of the establishment through which the risk or commitment is or is to be covered; and
 - (b) where the insurance relates to relevant motor vehicle risks, the name and address of the claims representative.
- (6) In this section 'relevant document', in relation to a contract to which this section applies, means any proposal, policy or other document which, or statements contained in which, will or may bind the other parties to the contract.

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- (7) In this Act 'EFTA company' means an insurance company—
- (a) whose head office is in an EFTA State;
 - (b) which is authorised in accordance with Article 6 of the first general insurance Directive (as extended by the EEA Agreement) or Article 6 of the first long term insurance Directive (as so extended); and
 - (c) whose business in the United Kingdom is not restricted to reinsurance business.]

Textual Amendments

F3 S. 72B inserted (1.7.1994) by S.I. 1994/1696, reg. 41

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Textual Amendments

F4 S. 73 repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), Sch. 17 Pt. I

74 Intermediaries in insurance transactions.

- (1) Regulations may be made for requiring any person who—
- (a) invites another person to make an offer or proposal or to take any other step with a view to entering into a contract of insurance with an insurance company; and
 - (b) is connected with that company as provided in the regulations,
- to give the prescribed information with respect to his connection with the company to the person to whom the invitation is issued.
- (2) Regulations may be made for requiring any person who, in the course of carrying on any business or profession, issues any such invitation as is mentioned in subsection (1)
- (a) above in relation to an insurance company which is not an authorised insurer in respect of the contract in question to inform the person to whom the invitation is issued that the company is not such an insurer as aforesaid.

In this subsection “authorised insurer”, in relation to a contract of any description, means a person entitled to carry on in the United Kingdom insurance business of a class comprising the effecting of contracts of that description [^{F5}or an EC or EFTA company entitled to provide in the United Kingdom insurance of such a class].

- (3) Any person who contravenes regulations under this section shall be guilty of an offence.

Textual Amendments

F5 Words in s. 74(2) inserted (1.7.1994) by S.I. 1994/1696, reg. 42

Modifications etc. (not altering text)

C1 S. 74 restricted by Financial Services Act 1986 (c.60, SIF 69), s. 129, Sch. 10 para. 5(2)

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75 Statutory notice by insurer in relation to long term policy.

[^{F6}(1) Subject to subsections (5) and (5A) below, unless the requirements of subsection (1A) below are fulfilled—

- (a) no insurance company which is authorised under section 3 or 4 above, no EC company and no member of Lloyd’s shall enter into a contract the effecting of which constitutes the carrying on of long term business in the United Kingdom; and
- (b) no UK, EC or EFTA company and no member of Lloyd’s shall enter into a contract the effecting of which constitutes the provision of long term insurance in the United Kingdom.]

(1A) The requirements of this subsection are that—

- (a) the company or member (“the insurer”) sends by post to the other party to the contract, at or before the time when it is entered into, a statutory notice in relation to the contract; or
- (b) in the case of an EC contract, a representative of the insurer gives such a notice to that party at that time.

(1B) Where, in the case of an EC contract, a statutory notice is sent to the other party to the contract before the time when it is entered into, the insurer shall, not later than 14 days after the contract has become binding, inform that party in writing that it has done so.

(2) For the purposes of this section a statutory notice is a notice which—

- (a) contains such matters (and no others) and is in such form as may be prescribed for the purposes of this section and complies with such requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) as may be prescribed for securing that the notice is easily legible; and
- (b) has annexed to it a form of notice of cancellation of the prescribed description for use under section 76 below.

(3) The [^{F7}Treasury] may, on the application of any insurer, alter the requirements of any regulations made for the purposes of subsection (2)(a) above so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract proposed to be entered into by that insurer.

(4) Any insurer who contravenes this section shall be guilty of an offence but, without prejudice to section 76(2) below, no contract shall be invalidated by reason of the fact that the insurer has contravened this section in relation to that contract.

- (a) the insurer is a company whose head office is in a member State or a member of Lloyd’s; and
- (b) the other party is habitually resident in the United Kingdom;

and “non-EC contract” means a contract to which subsection (1) above applies which is not an EC contract.

(5) Subsection (1) of this section does not apply to [^{F8}any non-EC contract] the effecting of which by the insurer constitutes the carrying on of industrial assurance business; and regulations may exempt from that subsection contracts of any other class or description.

[^{F9}(5A) Subsection (1) of this section does not apply to a contract if the party other than the insurer is habitually resident in a member State other than the United Kingdom.

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- (5B) For the purposes of this section and section 76 below, “EC contract” means a contract to which subsection (1) above applies which fulfils the following conditions, namely—
- ^{F10}(a) [the insurer is a UK, EC or EFTA company or a member of Lloyd’s;]
 - (b) the other party is habitually resident in the United Kingdom;
- and “non-EC contract” means a contract to which subsection (1) above applies which is not an EC contract.
- (5C) In the case of a contract involving two or more parties other than the insurer, this section and section 76 below shall have effect as if a separate contract were being or had been entered into by the insurer with each of those parties.]
- (6) In sections 76 and 77 below “insurer” and “statutory notice” have the same meaning as in this section.

Textual Amendments

- F6** S. 75(1) substituted (1.7.1994) by S.I. 1994/1696, **reg. 9(1)**
- F7** Words in s. 75(3) substituted (5.1.1998) by S.I. 1997/2781, art. 8(1), **Sch. Pt. I para. 43(g)** (with art. 7)
- F8** Words in s. 75(5) inserted (20.5.1993) by S.I. 1993/1327, **reg. 2(2)**
- F9** S. 75(5A)(5B)(5C) inserted (20.5.1993) by S.I. 1993/1327, **reg. 2(3)**
- F10** S. 75(5B)(a) substituted (1.7.1994) by S.I. 1994/1696, **reg. 9(2)**

Modifications etc. (not altering text)

- C2** Ss. 75–77 restricted by **Financial Services Act 1986 (c. 60, SIF 69)**, s. 129, **Sch. 10 para. 5(3)(4)**
- C3** S. 75(3): power to contract out functions conferred (18.11.1998) by S.I. 1998/2842, arts. 2, 3, **Sch. Pt. I para. 49**

76 Right to withdraw from transaction in respect of long term policy.

- ^{F11}(1) A person who has received a statutory notice in relation to an EC contract may, before the expiration of the fourteenth day after that on which he is informed in writing that the contract has become binding, serve a notice of cancellation on the insurer.
- (1A) A person who has received a statutory notice in relation to a non-EC contract may, before the expiration of—
- (a) the tenth day after that on which he received the notice, or
 - (b) the earliest day on which he knows both that the contract has been entered into and that the first or only premium has been paid,
- whichever is the later, serve a notice of cancellation on the insurer.]
- (2) A person to whom an insurer ought to have, but has not, sent a statutory notice in relation to any such contract as aforesaid may serve a notice of cancellation on the insurer; but if the insurer sends him a statutory notice in relation to that contract before he has served a notice of cancellation under this subsection, then, without prejudice to his right to serve a notice of cancellation under ^{F12}subsection (1) or (1A)] above, his right to do so under this subsection shall cease.
- (3) A notice of cancellation may, but need not, be in the form annexed to the statutory notice and shall have effect if, however expressed, it indicates the intention of the

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person serving it to withdraw from the transaction in relation to which the statutory notice was or ought to have been sent.

- (4) Where a person serves a notice of cancellation, then—
- (a) if at the time when the notice is served the contract has been entered into, the notice shall operate so as to rescind the contract;
 - (b) in any other case, the service of the notice shall operate as a withdrawal of any offer to enter into the contract which is contained in, or implied by, any proposal made to the insurer by the person serving the notice of cancellation and as notice to the insurer that any such offer is withdrawn.
- (5) Where a notice of cancellation operates to rescind a contract or as the withdrawal of an offer to enter into a contract—
- (a) any sum which the person serving the notice has paid in connection with the contract (whether by way of premium or otherwise and whether to the insurer or to a person who is the agent of the insurer for the purpose of receiving that sum) shall be recoverable from the insurer by the person serving the notice;
 - (b) any sum which the insurer has paid under the contract shall be recoverable by him from the person serving the notice.
- (6) Any sum recoverable under subsection (5) above shall be recoverable as a simple contract debt in any court of competent jurisdiction.

Textual Amendments

F11 s. 76(1)(1A) substituted for s. 76(1)(1A) (20.5.1993) by S.I. 1993/1327, reg. 2(4)

F12 Words in s. 76(2) substituted (20.5.1993) by S.I. 1993/1327, reg. 2(5)

Modifications etc. (not altering text)

C4 Ss. 75–77 restricted by Financial Services Act 1986 (c. 60, SIF 69), s. 129, Sch. 10 para. 5(3)(4)

77 Service of notice of cancellation.

- (1) For the purposes of section 76 above a notice of cancellation—
- (a) shall be deemed to be served on the insurer if it is sent by post addressed to any person specified in the statutory notice as a person to whom a notice of cancellation may be sent, and is addressed to that person at an address so specified; and
 - (b) where paragraph (a) above applies, shall be deemed to be served on the insurer at the time when it is posted.
- (2) Subsection (1) above shall have effect without prejudice to the service of a notice of cancellation (whether by post or otherwise) in any way in which the notice could be served apart from that subsection, whether the notice is served on the insurer or on a person who is the agent of the insurer for the purpose of receiving such a notice.
- (3) A notice of cancellation which is sent by post to a person at his proper address, otherwise than in accordance with subsection (1) above, shall be deemed to be served on him at the time when it is posted.
- (4) So much of section 7 of the ^{M1}Interpretation Act 1978 as relates to the time when service is deemed to have been effected shall not apply to a notice of cancellation.

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Modifications etc. (not altering text)

C5 Ss. 75-77 restricted by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), s. 129, [Sch. 10 para 5\(3\)\(4\)](#)

Marginal Citations

M1 [1978 c. 30.](#)

78 Linked long term policies.

- (1) Regulations may be made, as respects the matters specified in subsection (2) below, in relation to contracts the effecting of which constitutes the carrying on of ordinary long-term insurance business and which—
 - (a) are entered into by insurance companies to which Part II of this Act applies ^[F13] ,by EC companies] or by members of Lloyd's; and
 - (b) are contracts under which the benefits payable to the policy holder are wholly or partly to be determined by reference to the value of, or the income from, property of any description (whether or not specified in the contract) or by reference to fluctuations in, or in an index of, the value of property of any description (whether or not so specified).
- (2) Regulations under this section may make provision for—
 - (a) restricting the descriptions of property or the indices of the value of property by reference to which benefits under the contracts may be determined;
 - ^[F14](aa) restricting the proportion of those benefits which may be determined by reference to property of a specified description or a specified index;]
 - (b) regulating the manner in which and the frequency with which property of any description is to be valued for the purpose of determining such benefits and the times at which reference is to be made for that purpose to any index of the value of property;
 - (c) requiring insurers under the contracts to appoint valuers for carrying out valuations of property of any description for the purpose of determining such benefits (being valuers who comply with the prescribed requirements as to qualifications and independence from the insurer) and to furnish the ^[F15]Treasury] with the prescribed information in relation to such appointments;
 - (d) requiring insurers under the contracts to furnish, in such manner and at such times or intervals as may be prescribed, such information relating to the value of the benefits under the contracts as may be prescribed, whether by sending notices to policy holders, depositing statements with the [Treasury] or the registrar of companies or the registrar of companies in Northern Ireland or with both such registrars, publication in the press or otherwise;
 - (e) requiring insurers under the contracts to furnish to the ^[F15]Treasury], in such manner and at such times or intervals as may be prescribed, such information certified in such manner as may be prescribed with respect to so much of their business as is concerned with the contracts or with any class or description of the contracts, and enabling the ^[F15]Treasury] to publish such information in such ways as ^[F16]they think] appropriate.
- (3) Regulations made for the purposes of subsection (2)(d) above may, in relation to notices required to be sent to policy holders, impose requirements (whether as to type, size, colour or disposition of lettering, quality or colour of paper, or otherwise) for securing that such notices are easily legible.

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- (4) The [^{F15}Treasury] may, on the application of any insurer, alter the requirements of any regulations under this section so as to adapt those requirements to the circumstances of that insurer or to any particular kind of contract entered into or proposed to be entered into by that insurer.
- (5) Regulations under this section may, to such extent as may be specified therein, apply in relation to contracts entered into before the coming into operation of the regulations, including contracts entered into before the passing of this Act.
- (6) Regulations under this section shall not apply in relation to any contract the effecting of which by the insurer constitutes the carrying on of industrial assurance business or to any contract entered into by an insurance company to which Part II of this Act applies by reason only that the policy holder is eligible to participate in any established surplus as defined in section 30(4) above.

Textual Amendments

- F13** Words in s. 78(1)(a) inserted (1.7.1994) by S.I. 1994/1696, **reg. 44**
- F14** S. 78(2)(aa) inserted by Financial Services Act 1986 (c. 60, SIF 69), **s. 137**
- F15** Words in s. 78 substituted (5.1.1998) by S.I. 1997/2781, art. 8(1), **Sch. Pt. I para. 44(a)** (with art. 7)
- F16** Words in s. 78(2)(e) substituted (5.1.1998) by S.I. 1997/2781, art. 8(1), **Sch. Pt. I para. 44(b)** (with art. 7)

Modifications etc. (not altering text)

- C6** S. 78(4): power to contract out functions conferred (18.11.1998) by S.I. 1998/2842, arts. 2, 3, **Sch. Pt. I para. 50**

79

^{F17}

Textual Amendments

- F17** S. 79 repealed by Financial Services Act 1986 (c. 60, SIF 69), s. 212(3), **Sch. 17 Pt. I**

80 Capital redemption business.

Where an insurance company to which Part II of this Act applies carries on capital redemption business in the case of which the premiums in return for which a contract is effected are payable at intervals of less than six months, the company shall not give the holder of any policy issued after 2nd December 1909 any advantage dependent on lot or chance.

This section shall not be construed as in any way prejudicing any question as to the application to any such transaction, whether in respect of a policy issued before, on or after that date, of the law relating to lotteries.

81 Penalties and offences under Part III.

- (1) Any person guilty of an offence under section 72, 73 or 74 above shall be liable—
- (a) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine, or to both;

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- (b) on summary conviction—
- (i) in England and Wales ^{F18}, to a fine not exceeding £1,000 or, if it is greater, the prescribed sum within the meaning of section 32 of the ^{M2}Magistrates' Courts Act 1980;
 - (ii) in Scotland, to a fine not exceeding £1,000 or, if it is greater, the prescribed sum within the meaning of [^{F19}section 225(8) of the Criminal Procedure (Scotland) Act 1995],
 - [^{F20}(iii) in Northern Ireland, to a fine not exceeding £1,000 or, if it is greater, the prescribed sum within the meaning of Article 4 of the Fines and Penalties (Northern Ireland) Order 1984.]
- (2) Any person who makes default in complying with, or with a requirement imposed under, any other provision of this Part of this Act shall be guilty of an offence and liable, on summary conviction in England and Wales and Scotland to a fine not exceeding level 5 on the standard scale and, on summary conviction in Northern Ireland to a fine not exceeding £400.

Textual Amendments

F18 Words repealed by S.I. 1984/703 (N.I. 3), art. 19(1)(2), **Sch. 6 para. 32(a)**, Sch. 7

F19 Words in s. 81(1)(b)(ii) substituted (1.4.1996) by 1995 c. 40, ss. 5, 7(2), **Sch. 4 para. 45(4)**(with Sch. 3)

F20 S. 81(1)(b)(iii) substituted for words after sub-paragraph (ii) by S.I. 1984/703 (N.I. 3), art. 19(1), **Sch. 6 para. 32(b)**

Marginal Citations

M2 1980 c. 43

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