



# Third Parties (Rights against Insurers) Act 2010

## 2010 CHAPTER 10

### *Enforcement of insured's liability*

#### **14 Effect of transfer on insured's liability**

- (1) Where rights in respect of an insured's liability to a third party are transferred under section 1, the third party may enforce that liability against the insured only to the extent (if any) that it exceeds the amount recoverable from the insurer by virtue of the transfer.
- (2) Subsection (3) applies if a transfer of rights under section 1 occurs because the insured person is a relevant person by virtue of—
  - (a) section 4(1)(a) or (e), (2)(b) or (3)(b) or (c),
  - (b) section 6(1)(a), (2)(a), (3)(c) or (4)(a), or
  - (c) section 7(1)(b).
- (3) If the liability is subject to the arrangement, trust deed or compromise by virtue of which the insured is a relevant person, the liability is to be treated as subject to that arrangement, trust deed or compromise only to the extent that the liability exceeds the amount recoverable from the insurer by virtue of the transfer.
- (4) Subsection (5) applies if a transfer of rights under section 1 occurs in respect of a liability which, after the transfer, becomes one that is subject to a composition approved in accordance with Schedule 4 to the Bankruptcy (Scotland) Act 1985.
- (5) The liability is to be treated as subject to the composition only to the extent that the liability exceeds the amount recoverable from the insurer by virtue of the transfer.
- (6) For the purposes of this section the amount recoverable from the insurer does not include any amount that the third party is unable to recover as a result of—
  - (a) a shortage of assets on the insurer's part, in a case where the insurer is a relevant person, or

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*Status: This is the original version (as it was originally enacted).*

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- (b) a limit set by the contract of insurance on the fund available to meet claims in respect of a particular description of liability of the insured.
- (7) Where a third party is eligible to make a claim in respect of the insurer's liability under or by virtue of rules made under Part 15 of the Financial Services and Markets Act 2000 (the Financial Services Compensation Scheme)—
- (a) subsection (6)(a) applies only if the third party has made such a claim, and
  - (b) the third party is to be treated as being able to recover from the insurer any amount paid to, or due to, the third party as a result of the claim.