
STATUTORY INSTRUMENTS

1993 No. 174

The Insurance Companies (Amendment) Regulations 1993

amendments of the 1982 act

Law applicable to certain contracts of insurance

- 5.—(1) Part V of the 1982 Act (supplementary provisions) is amended as follows.
- (2) In subsection (1) of section 94B(1) (law applicable to certain contracts of insurance), after the words “the provisions of” insert the words “Part I of”.
- (3) For subsection (2) of that section substitute—
- “(1A) The law applicable to a contract of insurance to which Article 1 of the first long term insurance Directive applies shall be determined in accordance with the provisions of Part II of Schedule 3A to this Act if—
- (a) where the policy holder is an individual, he is habitually resident in a member State; or
- (b) where the policy holder is not an individual, the establishment of the policy holder to which the contract relates is situated in a member State.
- (2) Subsections (1) and (1A) above do not apply in relation to a contract of reinsurance.”
- (4) The provisions of Schedule 3A to the 1982 Act(2) (law applicable to certain contracts of insurance) shall become Part I of that Schedule under the heading “GENERAL BUSINESS”; and in that Part—
- (a) in paragraphs 3(2), 4(2) and 5(1), for the words “this Schedule” substitute the words “this Part of this Schedule”;
- (b) in paragraph 5(1), for the words from “shall apply” to the end substitute the words “shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990;” and
- (c) in paragraph 5(2), for the words “those rules” substitute the words “those provisions”.
- (5) After that Part of that Schedule insert—

“PART II

LONG TERM BUSINESS

General rules as to applicable law

6. The law applicable to the contract is the law of the member State of the commitment. However, where the law of that member State so allows, the parties may choose the law of another country.

(1) Section 94B was inserted by S.I.1990/1333, reg. 6(1) and renumbered by S.I. 1992/2890, reg. 9(2).
(2) Schedule 3A was inserted by S.I. 1990/1333, reg. 6(2).

7. Where the policy holder is an individual and has his habitual residence in a member State other than that of which he is a national, the parties may choose the law of the member State of which he is a national.

Mandatory rules

8. Nothing in this Part of this Schedule restricts the application of the rules of a part of the United Kingdom in a situation where they are mandatory, irrespective of the law otherwise applicable to the contract.

Supplementary provisions

9.—(1) Where a member State includes several territorial units, each of which has its own rules of law concerning contractual obligations, each unit shall be considered as a country for the purposes of identifying the applicable law.

(2) The provisions of this Part of this Schedule apply to conflicts between the laws of the different parts of the United Kingdom.

10.—(1) Subject to the preceding provisions of this Part of this Schedule, a court in a part of the United Kingdom shall act in accordance with the provisions of the Contracts (Applicable Law) Act 1990.

(2) In particular, reference shall be made to those provisions to ascertain for the purposes of paragraph 6 what freedom of choice the parties have under the law of a part of the United Kingdom.”