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## STATUTORY INSTRUMENTS

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# 2001 No. 544

## The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001

### PART II

#### SPECIFIED ACTIVITIES

##### CHAPTER III

##### INSURANCE

##### *The activities*

#### **Effecting and carrying out contracts of insurance**

- 10.**—(1) Effecting a contract of insurance as principal is a specified kind of activity.  
(2) Carrying out a contract of insurance as principal is a specified kind of activity.

##### *Exclusions*

#### **Community co-insurers**

**11.**—(1) There is excluded from article 10(1) or (2) the effecting or carrying out of a contract of insurance by an EEA firm falling within paragraph 5(d) of Schedule 3 to the Act—

- (a) other than through a branch in the United Kingdom; and
- (b) pursuant to a Community co-insurance operation in which the firm is participating otherwise than as the leading insurer.

(2) In paragraph (1), “Community co-insurance operation” and “leading insurer” have the same meaning as in [<sup>F1</sup>Article 190 of the Solvency 2 Directive].

#### **Textual Amendments**

- F1** Words in [art. 11\(2\)](#) substituted (1.1.2016) by [The Solvency 2 Regulations 2015 \(S.I. 2015/575\)](#), reg. [1\(2\)](#), [Sch. 2 para. 11\(3\)](#)

#### **Breakdown insurance**

**12.**—(1) There is excluded from article 10(1) or (2) the effecting or carrying out, by a person who does not otherwise carry on an activity of the kind specified by that article, of a contract of insurance which—

*Status: Point in time view as at 28/11/2017.*

*Changes to legislation: The Financial Services and Markets Act 2000 (Regulated Activities) Order 2001, Chapter III is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) is a contract under which the benefits provided by that person ("the provider") are exclusively or primarily benefits in kind in the event of accident to or breakdown of a vehicle; and
  - (b) contains the terms mentioned in paragraph (2).
- (2) Those terms are that—
- (a) the assistance takes either or both of the forms mentioned in paragraph (3)(a) and (b);
  - (b) the assistance is not available outside the United Kingdom and the Republic of Ireland except where it is provided without the payment of additional premium by a person in the country concerned with whom the provider has entered into a reciprocal agreement; and
  - (c) assistance provided in the case of an accident or breakdown occurring in the United Kingdom or the Republic of Ireland is, in most circumstances, provided by the provider's servants.
- (3) The forms of assistance are—
- (a) repairs to the relevant vehicle at the place where the accident or breakdown has occurred; this assistance may also include the delivery of parts, fuel, oil, water or keys to the relevant vehicle;
  - (b) removal of the relevant vehicle to the nearest or most appropriate place at which repairs may be carried out, or to—
    - (i) the home, point of departure or original destination within the United Kingdom of the driver and passengers, provided the accident or breakdown occurred within the United Kingdom;
    - (ii) the home, point of departure or original destination within the Republic of Ireland of the driver and passengers, provided the accident or breakdown occurred within the Republic of Ireland or within Northern Ireland;
    - (iii) the home, point of departure or original destination within Northern Ireland of the driver and passengers, provided the accident or breakdown occurred within the Republic of Ireland;
- and this form of assistance may include the conveyance of the driver or passengers of the relevant vehicle, with the vehicle, or (where the vehicle is to be conveyed only to the nearest or most appropriate place at which repairs may be carried out) separately, to the nearest location from which they may continue their journey by other means.
- (4) A contract does not fail to meet the condition in paragraph (1)(a) solely because the provider may reimburse the person entitled to the assistance for all or part of any sums paid by him in respect of assistance either because he failed to identify himself as a person entitled to the assistance or because he was unable to get in touch with the provider in order to claim the assistance.
- (5) In this article—
- "the assistance" means the benefits to be provided under a contract of the kind mentioned in paragraph (1);
- "breakdown" means an event—
- (a) which causes the driver of the relevant vehicle to be unable to start a journey in the vehicle or involuntarily to bring the vehicle to a halt on a journey because of some malfunction of the vehicle or failure of it to function, and
  - (b) after which the journey cannot reasonably be commenced or continued in the relevant vehicle;
- "the relevant vehicle" means the vehicle (including a trailer or caravan) in respect of which the assistance is required.

[<sup>F2</sup>Information society services [<sup>F3</sup>and managers of UCITS and AIFs]

**12A.** Article 10 is subject to the [<sup>F4</sup>exclusions] in article 72A (information society services), as qualified by paragraph (2) of that article [<sup>F5</sup>, and article 72AA (managers of UCITS and AIFs).]]

**Textual Amendments**

- F2** Art. 12A and words inserted (21.8.2002) by [The Financial Services and Markets Act 2000 \(Regulated Activities\) \(Amendment\) \(No. 2\) Order 2002 \(S.I. 2002/1776\)](#), arts. 1, **3(3)**
- F3** Words in art. 12A heading inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(5)(a)**
- F4** Word in art. 12A substituted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(5)(b)**
- F5** Words in art. 12A inserted (22.7.2013) by [The Alternative Investment Fund Managers Regulations 2013 \(S.I. 2013/1773\)](#), reg. 1, **Sch. 2 para. 1(5)(c)**

*Supplemental*

**Application of sections 327 and 332 of the Act to insurance market activities**

**13.—**(1) In sections 327(5) and (7) and 332(3)(b) of the Act (exemption from the general prohibition for members of the professions, and rules in relation to such persons), the references to “a regulated activity” and “regulated activities” do not include—

- (a) any activity of the kind specified by article 10(1) or (2), where—
- (i) P is a member of the Society; and
  - (ii) by virtue of section 316 of the Act (application of the Act to Lloyd’s underwriting), the general prohibition does not apply to the carrying on by P of that activity; or
- (b) any activity of the kind specified by article 10(2), where—
- (i) P is a former underwriting member; and
  - (ii) the contract of insurance in question is one underwritten by P at Lloyd’s.

(2) In paragraph (1)—

- “member of the Society” has the same meaning as in Lloyd’s Act 1982<sup>M1</sup>; and
- “former underwriting member” has the meaning given by section 324(1) of the Act.

**Marginal Citations**

- M1** 1982 c. 14.

**Status:**

Point in time view as at 28/11/2017.

**Changes to legislation:**

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