



**BERMUDA
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THIRD PARTIES (RIGHTS AGAINST INSURERS) ACT 1963

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[13 February 1963]

[preamble and words of enactment omitted]

Interpretation

1 In this Act, unless the context otherwise requires—

"company" means any association recognized as a company by the Companies Act 1981 [*title 17 item 5*] operating in Bermuda;

"contract of insurance" means a contract whereby the insured is covered against the risk of liability to third parties;

"insured" means a person who is covered by a contract of insurance;

"insurer" means a person who undertakes insurance business whereby the insured is covered against the risk of liability to a third party.

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Rights of third parties on bankruptcy of insured person

2 (1) Where under any contract of insurance a person is insured against liabilities to third parties which he may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or
- (b) in the case of the insured being a company, in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to the company, or of a receiver or liquidator of the company's business or undertaking being duly appointed, or of possession being taken, by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights against the insurer under the contract in respect of the liability shall, notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where any of the events specified in subsection (1)(a) or (b) occur, the rights of any of the creditors of the insured to or in respect of moneys paid or owing by the insurer to the insured under a contract of insurance shall, notwithstanding anything in any Act or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(3) In so far as any contract of insurance whether made before or after 13 February 1963 in respect of any liability of the insured to third parties purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in subsection (1)(a) or (b), the contracts shall be of no effect.

(4) Upon a transfer under subsection (1) or subsection (2), the insurer shall, subject to section 4, be under the same liability to the third party as he would have been under to the insured:

Provided that—

- (a) if the liability of the insurer to the insured exceeds the liability of the insured to the third party, nothing in this Act shall affect the rights of the insured against the insurer in respect of the excess; and
- (b) if the liability of the insurer to the insured is less than the liability of the insured to the third party, nothing in this Act shall affect the rights of the third party against the insured in respect of the balance.

(5) For the purposes of this Act, "liabilities to third parties", in relation to a person insured under any contract of insurance, shall not include any liability of that person in the capacity of insurer under some other contract of insurance.

Duty to give necessary information to third parties

3 (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of a winding-up order being made, or a resolution for a voluntary winding-up being passed, with respect to any company or of a receiver or liquidator of the company's business or undertaking being duly appointed or of possession being taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the charge it shall be the duty of the bankrupt, debtor, personal representative of the deceased debtor or company, and, as the case may be, of the trustee in bankruptcy, trustee, liquidator, receiver, or person in possession of the property to give at the request of any person claiming that the bankrupt, debtor, deceased debtor, or company is under a liability to him such information as may reasonably be required by him for the purpose of ascertaining whether any rights have been transferred to and vested in him by this Act and for the purpose of enforcing such rights, if any, and any contract of insurance, in so far as it purports, whether directly or indirectly, to avoid the contract or to alter the rights of the parties thereunder upon the giving of any such information in the events aforesaid or otherwise to prohibit or prevent the giving thereof in the said events shall be of no effect.

(2) If the information given to any person in pursuance of subsection (1) discloses reasonable ground for supposing that there have or may have been transferred to him under this Act rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by subsection (1) on the persons therein mentioned.

(3) The duty to give information imposed by this section shall include a duty to allow all contracts of insurance, receipts for premiums, and other relevant documents in the possession or power of the person on whom the duty is so imposed to be inspected and copies thereof to be taken.

Settlement between insurer and insured

4 Where the insured has become bankrupt or where in the case of the insured being a company, a winding-up order has been made or a resolution for a voluntary winding-up has been passed, with respect to the company, no agreement made between the insurer and the insured after liability has been incurred to a third party and after the commencement of the bankruptcy or winding-up, as the case may be, nor any waiver, assignment, or other disposition made by, or payment made to the insured after the commencement aforesaid shall be effective

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to defeat or affect the rights transferred to the third party under this Act, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

Effect of Act

5 This Act shall apply to any claim by a third party against the insured whether such claim has arisen before or after 13 February 1963.

Saving for Motor Car Insurance (Third Party Risks) Act 1943

6 Nothing in this Act derogates from or abridges the Motor Car Insurance (Third Party Risks) Act, 1943 [*title 21 item 5*].

[Amended by

1981 : 59]