

英國 1930 年第三人(向保險人請求權利)法

Third Parties (Rights Against Insurers) Act 1930

Third Party 1930

An Act to confer on third parties rights against insurers of third-party risks in the event of the insured becoming insolvent, and in certain other events [10th July 1930]

於被保險人破產或於某些情況下，本法賦予第三人得向承保第三人風險之保險人為請求之權利(1930年7月10日)

1. Rights of third parties against insurers on bankruptcy etc of the insured

1. 被保險人破產時，第三人得向保險人請求之權利

- (1) Where under any contract of insurance a person (hereinafter referred to as the insured) 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 manager 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 an order is made under section one hundred and thirty of the Bankruptcy Act, 1914, for the administration of the estate of a deceased debtor according to the law of bankruptcy, then, if any debt provable in bankruptcy is owing by the deceased in respect of a liability against which he was insured under a contract of insurance as being a liability to a third party, the deceased debtor's rights against the insurer under the contract in respect of that liability shall, notwithstanding anything in the said Act, be transferred to and vest in the person to whom the debt is owing.
- (3) In so far as any contract of insurance made after the commencement of this Act 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 these

- (1) 任一保險契約下之人(以下稱為被保險人)投保其可能對第三人之責任，於下列情況發生時：
 - (a) 被保險人破產或與其債權人為了解債務之和安排時；或
 - (b) 被保險人為公司，於該公司被令宣告破產清算或通過自願破產清算決議，或破產事務官或破產管理人接管公司業務或被指派，或為任何流動債務或該債務有關之任何財物為債權人或代表該人之人所占有時，前述被保險人所生對第三人之任何責任，無論該責任發生於破產清算之前或之後，被保險人依保險契約得向保險人請求該責任之權利，除任何法律有相反規定外，應移轉並授與給應對其責任之第三人。
- (2) 依 1914 年破產法第 130 條規定對已故債務人財產所為行政上處分，如破產債權中有任何經證明係已故債務人就其所投保對第三人責任之保險契約而向保險人有可請求之權利時，已故債務人依該保險契約對保險人責任可得請求之權利，無論該破產法規定如何，均移轉並授與所積欠債務之第三人。
- (3) 於本法施行後所簽訂有關被保險人對第三人任何責任之任何保險契約，直接或間接意圖規避契約或變更第三人依本條第 1 項 a 款及 b 款所適用之情況或依 1914 年破產法第 130 條對其財產所為處分者，該契約

- events specified in paragraph (a) or paragraph (b) of subsection (1) of this section or upon the making of an order under section one hundred and thirty of the Bankruptcy Act, 1914, in respect of his estate, the contract shall be of no effect.
- (4) Upon a transfer under subsection (1) or subsection (2) of this section, the insurer shall, subject to the provisions of section three of this Act, be under the same liability to the third party as he would have been under to the insured,
- but-
- (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, the expression '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.
- (6) This Act shall not apply
- (a) where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company; or
- (b) to any case to which subsections (1) and (2) of section seven of the Workmen's Compensation Act, 1925, applies.

2. Duty to give necessary information to third parties

- (1) In the event of any person becoming bankrupt or making a composition or arrangement with his creditors, or in the event of an order being made under section one hundred and thirty of the Bankruptcy Act, 1914, in respect of the estate of any person, 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 manager 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 manager, 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

約定無效。

- (4) 依本條第 1 項或第 2 項所生權利之移轉，保險人應依本法第 3 條規定對該第三人負其本應向被保險人負擔之相同責任，
- 然
- (a) 如保險人對被保險人之責任超過被保險人對第三人之責任時，本法不影響被保險人向保險人主張超出部份之責任；且
- (b) 如保險人對被保險人之責任低於被保險人對第三人之責任時，本法不影響第三人向被保險人主張不足額部份之責任。
- (5) 於本法，有關被保險人依任何保險契約所稱之「對第三人之責任」，不包括保險人以其地位向其他相同保險契約投保時所生之責任。
- (6) 本法不適用於
- (a) 公司自願清算之目的係為重組或與另一公司合併；或
- (b) 於適用 1925 年工人賠償法第 7 條第 1 項及第 2 項之情況。

2. 提供必要資料給第三人之義務

- (1) 任何人破產或與其債權人為了結債務之和解安排、或依 1914 年破產法第 130 條規定對已故債務人財產所為行政上處分、或被令宣告破產清算或通過自願破產清算決議，或破產事務官或破產管理人接管公司業務或被指派，或為任何流動債務或該債務有關之任何財物為債權人或代表該人之人所占有時，則破產管理人、債權人、已故債務人或已破產清算公司之個人代表，或該破產管理人、受託人、清算人、破產執行官或經理人或財物占有人有義務應向破產人、債務人、已故債務人或公司求償之人之要求，提供該人為確定其是否具有本法得獲移轉或授與之權利之目的合理所需之資料，且為行使此權利之目的，任何保險契約直接或間接意圖規避或變更前述提供資料之第三人權利或禁止或阻止該資料之提供者均為無效。
- (2) 依本條第 1 項提供給任何人之資料合理顯示第三人已獲或得獲移轉或授

subsection (1) of this section 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 the said subsection 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.

與本法所定對某特定保險人之權利時，該保險人負有如課以前項之人提供資料之相同義務。

- (3) 本條所課以提供資料之義務包括允許檢視或複印負有義務之人所擁有之所有保險契約、保費收據及其它相關文件。

3. Settlement between insurers and insured persons

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 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.

4. Application to Scotland

In the application of this Act to Scotland

- (a) the expression 'company' includes a limited partnership,
- (b) any reference to an order under section one hundred and thirty of the Bankruptcy Act, 1914, for the administration of the estate of a deceased debtor according to the law of bankruptcy, shall be deemed to include a reference to an award of sequestration of the estate of a deceased debtor, and a reference to an appointment of a judicial factor, under section one hundred and sixty-three of the Bankruptcy (Scotland) Act, 1913, on the insolvent estate of a deceased person.

5. Short-title

This Act may be cited as the Third Parties (Rights Against Insurers) Act, 1930.

3. 保險人與被保險人間之和解

於被保險人破產或被保險人清算或被保險人為公司，於該公司被令宣告破產清算或通過自願破產清算決議時，第三人之責任發生後保險人及被保險人間之任何協議，或於破產或清算開始後之任何棄權、轉讓或其他處置協議或前述情況發生後所支付任何賠款等均不得減低或影響本法規定可移轉給第三人之權利，該第三人權利不因該協議、棄權、轉讓、處置或賠款而受到影響。

4. 蘇格蘭之適用

本法適用於蘇格蘭時：

- (a) 「公司」乙詞包括有限合夥；
- (b) 本法所述及 1914 年破產法第 130 條規定對已故債務人財產所為行政上處分應視為包括對已故債務人財物之管收及 1913 年破產(蘇格蘭)法第 133 條對已故債務人財物之管收及對已故之人破產財產之司法分配等規定。

5. 簡稱

本法得稱為 1930 年第三人(向保險人請求權利)法。