



## ST. CHRISTOPHER AND NEVIS

### CHAPTER 5.17

## THIRD PARTIES (RIGHTS AGAINST INSURERS) ACT

### Revised Edition

showing the law as at 31 December 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, No. 9 of 1986.

This edition contains a consolidation of the following laws—

### THIRD PARTIES (RIGHTS AGAINST INSURERS) ACT

**Act 6 of 1949** ... in force 23rd December, 1949

Amended by: Act 7 of 1976

Act 13 of 1977

Act 9 of 1986

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**CHAPTER 5.17**

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

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**CHAPTER 5.17**

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

AN ACT TO PROVIDE FOR THE RIGHTS OF THIRD PARTIES AGAINST INSURERS ON BANKRUPTCY ETC; AND TO PROVIDE FOR RELATED OR INCIDENTAL MATTERS.

**Short title.**

1. This Act may be cited as the Third Parties (Rights against Insurers) Act.

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

2. (1) Where under any contract of insurance a person (hereinafter referred to as the insured) is insured against liabilities to third parties which he or she may incur, then—

- (a) in the event of the insured becoming bankrupt or making a composition or arrangement with his or her 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 or her 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 111 of the Bankruptcy Act, Cap. 5:04 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 or she 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 Bankruptcy 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 alter the rights of the parties thereunder upon the happening to the insured of any of the events specified in paragraph (a) or paragraph (b) of subsection (1), or upon the making of an order under section 111 of the Bankruptcy Act, Cap. 5.04 in respect of his or her estate, the contract shall be of no effect.

(4) Upon a transfer under subsection (1) or subsection (2), the insurer shall, subject to the provisions of section 4, be under the same liability to the third party as he or she 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 where a company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company.

#### **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 or her creditors, or in the event of an order being made under section 111 of the Bankruptcy Act, Cap. 5.04 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 or her such information as may reasonably be required by him or her for the purpose of ascertaining whether any rights have been transferred to and vested in him or her 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 or her 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 imposed to be inspected and copies thereof to be taken.

(4) If, without reasonable excuse, any person fails to comply with the provisions of this section or wilfully makes any false statement in reply to such demand he or she commits an offence and shall be liable, on summary conviction, to a fine not exceeding three thousand dollars or to imprisonment for a term not exceeding three months.

*(Amended by Acts 7 of 1976 and 9 of 1986)*

**Settlement between insurers and insured persons.**

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 of the bankruptcy 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.

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