



Third Parties (Rights Against Insurers) Act 2010

Introduction

The Third Parties (Rights Against Insurers) Act 2010 makes provision to make it easier for a third party to bring a claim against an insurer when the insured party has become insolvent. The Third Parties Act 2010 will replace the Third Parties (Rights Against Insurers) Act 1930.

Whilst the Third Parties Act 2010 received Royal Assent in 2010, it will not come into force until 1 August 2016.

Background

The original Third Parties Act 1930 allowed third parties to pursue a claim against the insurer of a person, company or entity which had commenced insolvency proceedings, and protected the proceeds of a claim from being distributed together with the insured's other assets to pay its creditors upon insolvency. However, it was widely believed that there were difficulties with the practical application of the Third Parties Act 1930 which needed to be addressed.

Just over seventy years after the original Third Parties Act 1930 came into force, the Law Commissions of England, Wales and Scotland conducted a review of the Act in 2001. Its final report proposed a series of reforms to the legislation which the then Labour Government accepted.

That government then tabled the Third Parties Bill in 2001, incorporating the reforms, and it completed its passage through parliament in 2002. The Bill did not however receive Royal Assent until 25 March 2010. The Act has not yet come into force, as it overlooked a number of inconsistencies with the latest insolvency law of the time.

The Third Parties Act 2010 will be amended by the Insurance Act 2015, which will grant powers to the Secretary of State to change the meaning of "relevant person" by regulation.

Key changes

At present, if a third party brings a claim against an insurer, it needs to go through a complex series of proceedings. The third party must first establish liability of the insured in court, arbitration proceedings or in an enforceable agreement. The Third Parties Act 2010 will institute a number of changes:

- Third party will only have to issue one set of proceedings against the insurer. It will ask the court to make declarations both on the insured's liability to the third party and the insurer's liability under the policy.
- The insurer can no longer use the defence that the insured has failed to notify them of the claim when the third party has notified them.
- The automatic transfer of rights to the third party is retained but the legislation enables the third party to pursue its claim in a single set of proceedings. It also makes it easier for the third party to find out information about the insurance policy from an early stage.
- Updates to, and expansion of, the list of insolvency procedures to reflect changes in insolvency law since the 1930s.
- Increase legislative remit to also cover the insured who are subject to an administration order or a debt relief order, partnerships, companies subject to a Companies Act Scheme and struck-off companies not restored to the Register.
- Removal of the requirement for the third party to have an insolvent company (which has been completely dissolved) restored to the register of companies before the third party can bring a claim against.

In addition, secondary legislation arising from the Insurance Act 2015 will amend the Third Parties Act 2010. It will:

- Make provision for the Secretary of State to add or remove circumstances in which a person is a "relevant person" for the purposes of the Insurance Act 2015.

State of play

The Government laid down secondary legislation on 25 February 2016 and which passed through Parliament at the end of April 2016. As a result, the Third Parties (Rights Against Insurers) Act 2010 will come into force on 1 August 2016.



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Contact

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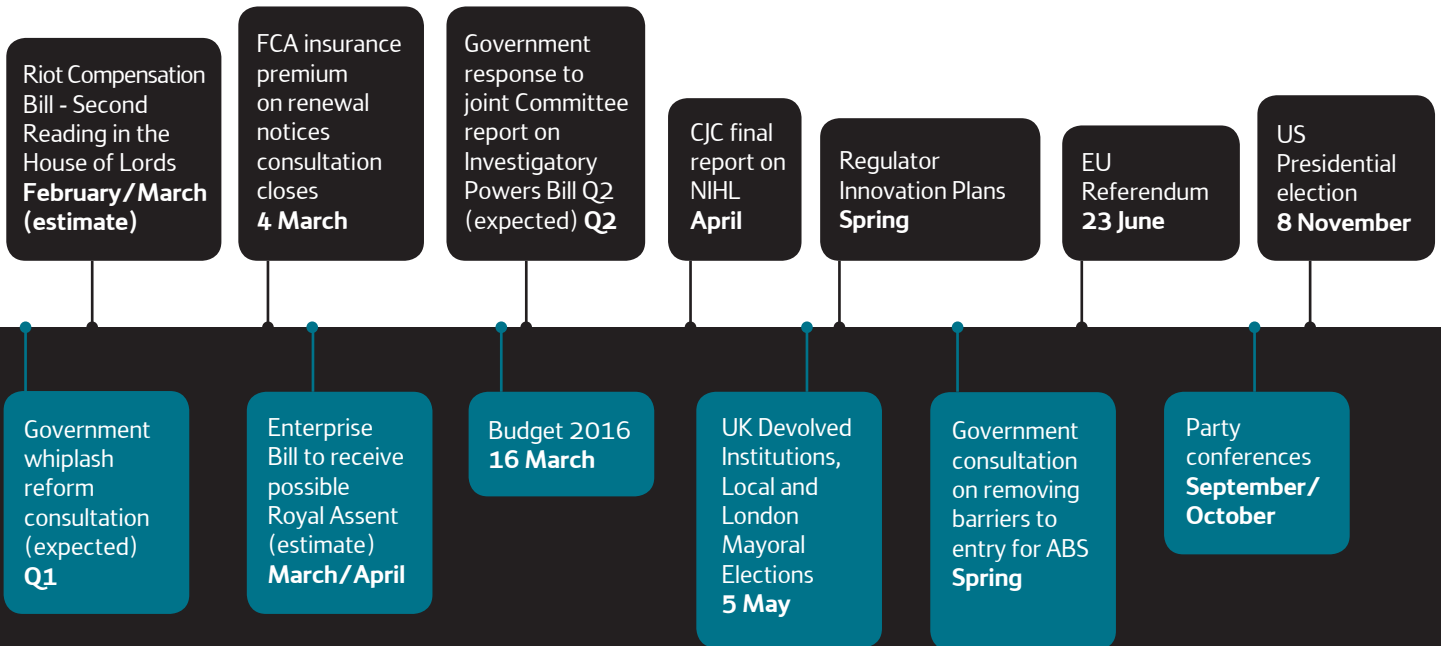


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