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.

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.
Third Parties (Rights Against Insurers) Act 2010

Contact

For further information on this subject, please contact:

Deborah Newberry
Head of Public Affairs
T+ 44 20 7667 9508
deborah.newberry@kennedyslaw.com

2016
Political timeline

Riot Compensation Bill - Second Reading in the House of Lords February/March (estimate)

FCA insurance premium on renewal notices consultation closes 4 March

Government response to joint Committee report on Investigatory Powers Bill Q2 (expected) Q2

CJC final report on NHI April

Regulator Innovation Plans Spring

EU Referendum 23 June

US Presidential election 8 November

Government whiplash reform consultation (expected) Q1

Enterprise Bill to receive possible Royal Assent (estimate) March/April

Budget 2016 16 March

UK Devolved Institutions, Local and London Mayoral Elections 5 May

Government consultation on removing barriers to entry for ABS Spring

Party conferences September/October

For further details and for full team profiles please see our website
www.kennedyslaw.com

Kennedys is a trading name of Kennedys Law LLP
Kennedys Law LLP is a limited liability partnership registered in England and Wales (with registered number OC353214)