



Number 11 of 2022

Insurance (Miscellaneous Provisions) Act 2022



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INSURANCE (MISCELLANEOUS PROVISIONS) ACT 2022

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ACTS REFERRED TO

Central Bank (National Claims Information Database) Act 2018 (No. 42)

Central Bank Act 1942 (No. 22)

Consumer Insurance Contracts Act 2019 (No. 53)

Finance (Miscellaneous Provisions) Act 2015 (No. 37)

Social Welfare Consolidation Act 2005 (No. 26)



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INSURANCE (MISCELLANEOUS PROVISIONS) ACT 2022

An Act to enable the collection by the Central Bank of Ireland of certain information regarding deductions by insurance undertakings from amounts paid in satisfaction of claims and, for that purpose, to amend the Central Bank (National Claims Information Database) Act 2018; to provide for the preparation of a report by the Central Bank of Ireland on certain practices of insurance undertakings regarding pricing; to amend the law regarding mutual duties of disclosure in relation to information supporting or prejudicing the validity of insurance claims, to provide for the disclosure by insurance undertakings of information in relation to deductions from amounts paid in satisfaction of claims and to amend the law in relation to exclusions from contracts of insurance and, for those purposes, to amend the Consumer Insurance Contracts Act 2019; to amend the European Union (Insurance and Reinsurance) Regulations 2015, as regards undertakings authorised in the United Kingdom or Gibraltar which are carrying on reinsurance business or subject to winding-up proceedings or reorganisation measures; and to provide for related matters. [27th June, 2022]

Be it enacted by the Oireachtas as follows:

PART 1

GENERAL PROVISIONS

Short title and commencement

1. (1) This Act may be cited as the Insurance (Miscellaneous Provisions) Act 2022.
- (2) This Act shall come into operation on such day or days as the Minister may by order or orders appoint either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or different provisions.

Definitions

2. In this Act—
“Act of 2018” means the Central Bank (National Claims Information Database) Act 2018;

“Act of 2019” means the Consumer Insurance Contracts Act 2019;

“Minister” means the Minister for Finance;

“Regulations of 2015” means the European Union (Insurance and Reinsurance) Regulations 2015 (S.I. No. 485 of 2015).

PART 2

AMENDMENT OF ACT OF 2018

Amendment of section 4 of Act of 2018

3. Section 4 of the Act of 2018 is amended, in subsection (1), by the insertion of the following definition:

“ ‘public moneys’ means moneys charged on or issued out of the Central Fund or the growing produce thereof or provided by the Oireachtas;”.

Amendment of section 8 of Act of 2018

4. Section 8 of the Act of 2018 is amended, in subsection (4), by the substitution of the following paragraph for paragraph (e):

“(e) details of the costs borne and provisions made associated with dealing with relevant claims, including details of deductions, in respect of payments out of public moneys, made by insurance undertakings from the amounts paid in satisfaction of relevant claims;”.

PART 3

INSURANCE MEASURES REPORT

Interpretation (*Part 3*)

5. In this Part—

“Bank” means the Central Bank of Ireland;

“consumer” means a natural person, in the State, who is acting wholly or mainly for purposes unrelated to the person’s trade, business or profession;

“home insurance” means insurance in respect of the risks classified under classes 8 and 9 in Part 1 of Schedule 1 to the Regulations of 2015;

“insurance intermediary” has the same meaning as it has in the European Union (Insurance Distribution) Regulations 2018 (S.I. No. 229 of 2018);

“insurance undertaking” has the same meaning as it has in Part 4 of the Finance

(Miscellaneous Provisions) Act 2015;

“motor insurance” means insurance in respect of the risks classified under classes 1(d), 3, 7 and 10 in Part 1 of Schedule 1 to the Regulations of 2015;

“non-life insurance” has the same meaning as it has in the Regulations of 2015;

“non-life insurance contract” means a contract entered into by a consumer with an insurance undertaking or an insurance intermediary in respect of non-life insurance;

“relevant insurance contract” means a contract entered into by a consumer with an insurance undertaking or an insurance intermediary in respect of home insurance or motor insurance, including where that contract provides for insurance in respect of risks other than those referred to in the definition of home insurance or motor insurance, as the case may be.

Central Bank of Ireland report on insurance measures

6. (1) The Bank shall, within 6 months of the first anniversary of the commencement of this section, prepare and submit to the Minister a report detailing the following:
 - (a) the opinions of the Bank in relation to the oversight of pricing practices of insurance undertakings and insurance intermediaries relating to relevant insurance contracts;
 - (b) the measures the Bank has implemented, if any, in the relevant period in respect of the practice whereby the price offered by an insurance undertaking or insurance intermediary to a consumer in respect of a second or subsequent renewal of a relevant insurance contract is higher than the price that would have been offered by the insurance undertaking or insurance intermediary, as the case may be, to the consumer were the consumer renewing the contract for the first time;
 - (c) the measures the Bank has implemented, if any, in the relevant period in respect of the practice whereby non-life insurance contracts are automatically renewed at the end of their term;
 - (d) the conclusions of the Bank as to whether measures or further measures, as the case may be, should be implemented in respect of all or any of the practices referred to in *paragraphs (a), (b), and (c)* and the basis for those conclusions.
- (2) The Minister shall lay a copy of a report submitted under *subsection (1)* before each House of the Oireachtas as soon as practicable following its receipt.
- (3) In this section, “relevant period” means the period from the date of the commencement of this section to the date of submission of the report under *subsection (1)*.

PART 4

AMENDMENT OF ACT OF 2019 AND OF CENTRAL BANK ACT 1942

Amendment of section 16 of Act of 2019

7. Section 16 of the Act of 2019 is amended by the deletion of subsection (10).

Duties of disclosure

8. The Act of 2019 is amended by the insertion of the following sections after section 16:

“Mutual duties of disclosure in claims handling

16A. (1) Where, after a claim has been made by a consumer, the consumer or the insurer concerned becomes aware of information (including non-factual information) that would either support or prejudice the validity of the claim—

(a) in a case in which the consumer has become aware of the information, the consumer shall disclose the information to the insurer, and

(b) in a case in which the insurer has become aware of the information, the insurer shall disclose the information to the consumer.

(2) Where the information referred to in subsection (1) is contained in a report prepared for the purposes of pending or contemplated civil proceedings—

(a) that subsection shall apply notwithstanding any enactment or rule of law by virtue of which the report would otherwise be subject to litigation privilege, and

(b) the consumer or insurer, as the case may be, in receipt of the report shall disclose the report within 60 days from the date of receipt.

(3) This section shall not affect the operation of any enactment or rule of law by virtue of which—

(a) a report prepared by a lawyer, or

(b) a communication between a lawyer and another person, is privileged.

(4) In this section—

‘claim’ means a claim made under a contract of insurance;

‘report’ means a report, letter or statement—

(a) in draft or final form,

(b) in physical or electronic form,

- (c) prepared by an accountant, actuary, architect, dentist, doctor, engineer, occupational therapist, psychologist, psychiatrist, scientist or other expert,
- (d) which—
 - (i) has been procured by or on behalf of a consumer or insurer for the purposes of assessing the validity of a claim, or
 - (ii) contains information which either supports or prejudices a claim,and
- (e) which has been received by the consumer or insurer concerned, and includes any maps, drawings, photographs, graphs, charts, calculations or other like matter referred to in any such report, letter or statement.

Disclosure of deductions from claim settlement

- 16B.** (1) Where an insurer has deducted from a claim settlement any amount, including where the deduction is in respect of amounts paid out of public moneys to a claimant (other than deductions in respect of payments in relation to which a corresponding amount has been paid to the Minister for Social Protection in accordance with Part 11B of the Social Welfare Consolidation Act 2005), the insurer shall notify the claimant that an amount has been so deducted.
- (2) The notification referred to in subsection (1) shall—
- (a) specify the amount of the deduction,
 - (b) specify the reason why that amount has been deducted from the claim settlement, and
 - (c) be provided to the claimant on paper or another durable medium.
- (3) In this section—
- ‘claimant’ means a consumer who has made a claim under a relevant contract of insurance;
- ‘claim settlement’ means the amount payable to a claimant in respect of a claim under a relevant contract of insurance, before any deduction, whether in accordance with that contract or otherwise, is made by the insurer;
- ‘public moneys’ means moneys charged on or issued out of the Central Fund or the growing produce thereof or provided by the Oireachtas;
- ‘relevant contract of insurance’ means a contract of insurance in respect of non-life insurance.”

Amendment of section 18 of Act of 2019

9. Section 18 of the Act of 2019 is amended, in subsection (4)—

(a) by the substitution of the following paragraph for paragraph (a):

“(a) Where a contract of insurance, under which 2 or more consumers are co-insureds, contains a term or condition excluding coverage for loss or damage to property caused by a criminal or intentional act or omission of a co-insured, the exclusion shall apply only to the claim of a consumer—

- (i) whose act or omission caused the loss or damage,
- (ii) who abetted or colluded in the act or omission, or
- (iii) who consented to the act or omission and knew or ought to have known that the act or omission would cause the loss or damage.”,

(b) by the substitution of the following paragraph for paragraph (b):

“(b) Nothing in paragraph (a) shall be interpreted as—

- (i) allowing a person whose property is insured under the contract of insurance to recover more than that person’s proportionate interest in the lost or damaged property, or
- (ii) affecting the operation of a term or condition in the contract of insurance excluding coverage for loss or damage to property caused by war, an act of terrorism, a nuclear attack or a cyberattack.”,

and

(c) by the insertion of the following paragraph after paragraph (c):

“(d) For the purposes of paragraph (a), 2 or more consumers are each a co-insured under a contract of insurance where each of those consumers—

- (i) has an interest in the insured property, and
- (ii) is insured against loss or damage to the insured property.”.

Amendment of Central Bank Act 1942

10. (1) The Central Bank Act 1942 is amended, in Part 1 of Schedule 2, by the substitution of the following item for item 47:

“

47	No. 53 of 2019	Consumer Insurance Contracts Act 2019	Sections 10, 11, 12, 13, 14, 16, 16A and 16B (including those sections as modified by <i>section 10(2) and (3) of the Insurance (Miscellaneous Provisions) Act 2022</i>)
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”.

- (2) With respect to the amendment effected to the Central Bank Act 1942 by *subsection (1)*, and that amendment only and so as not to affect the operation of the general law specified in *subsection (3)*, where a reference occurs in section 10, 11, 12, 13, 14, 16, 16A or 16B of the Act of 2019 to “insurer”, that reference shall be construed, where an insurance intermediary is acting on behalf of an insurer, as including a reference to the insurance intermediary.
- (3) The general law referred to in *subsection (2)* is the general law whereby an act or omission done or made by an agent, such as an insurance intermediary, on behalf of an insurer is regarded as an act or omission done or made by the insurer.
- (4) In this section, “insurer” and “insurance intermediary” have the same meanings as they have in the Act of 2019.

PART 5

AMENDMENT OF REGULATIONS OF 2015

Amendment of Regulations of 2015**11.** The Regulations of 2015 are amended—

(a) in Regulation 13A—

(i) in paragraph (1)—

(I) by the substitution of the following subparagraph for subparagraph (a):

“(a) the person was—

- (i) immediately before the relevant date, authorised as an insurance undertaking, within the meaning of the Directive, under the law of the United Kingdom or Gibraltar giving effect to the Directive, or
- (ii) before the relevant date, authorised as an insurance undertaking, within the meaning of the Directive, under the law of the United Kingdom or Gibraltar giving effect to the Directive, but that person’s authorisation was withdrawn prior to the relevant date

as a consequence of the commencement of winding-up proceedings or reorganisation measures where such winding-up proceedings or reorganisation measures are, at the relevant date, continuing;”,

and

(II) in subparagraph (c), by the substitution of the following clause for clause (ii):

“(ii) after that date, as regards insurance business in the State, exclusively administers its existing portfolio in order to terminate its activity in the State;”,

(ii) in paragraph (2), by the substitution of the following subparagraph for subparagraph (a):

“(a) satisfying either of the conditions described in subparagraph (a) of paragraph (1), and”,

and

(iii) by the substitution of the following paragraph for paragraph (5):

“(5) A person to whom this Regulation applies shall—

(a) where this Regulation first applies to the person prior to the date on which *section 11* of the *Insurance (Miscellaneous Provisions) Act 2022* comes into operation, not later than 3 months from the relevant date, notify the Bank of the application of this Regulation to that person, and

(b) where this Regulation first applies to the person on or after the date on which *section 11* of the *Insurance (Miscellaneous Provisions) Act 2022* comes into operation, not later than 3 months from the date on which this Regulation first applies to the person, notify the Bank of the application of this Regulation to that person.”,

and

(b) in Regulation 13B—

(i) in paragraph (1), by the substitution of “subject to paragraph (3) and the modifications specified in paragraph (2)” for “subject to the modifications specified in paragraph (2)”,

(ii) in paragraph (2)(a)—

(I) by the substitution of the following clause for clause (i):

“(i) Regulations 13, 14 and 15;”,

(II) by the substitution of the following clause for clause (xvii):

“(xvii) Regulations 215 to 299;”,

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and

(III) by the deletion of clause (xviii),

and

(iii) by the insertion of the following paragraph after paragraph (2):

“(3) Where a person to whom Regulation 13A applies carries on reinsurance business in the State, these Regulations shall not apply in respect of that reinsurance business.”.