

**Jersey Law 4/1948**

**THIRD PARTIES (RIGHTS AGAINST INSURERS) (JERSEY)  
LAW, 1948.**

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**A LAW** to protect the rights of third parties where persons insured against third party risks become insolvent, and in certain other events, sanctioned by Order of His Majesty in Council of the

**2nd day of JUNE, 1948.**

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*(Registered on the 18th day of June, 1948).*

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**STATES OF JERSEY.**

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The 5th day of February, 1948.

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**THE STATES**, subject to the sanction of His Most Excellent Majesty in Council, have adopted the following Law: -

**ARTICLE 1**

**RIGHTS OF THIRD PARTIES AGAINST INSURERS ON  
BANKRUPTCY ETC. OF THE INSURED**

(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 Royal Court granting an application made by the insured to place his property under the control of the Court ("de remettre ses biens entre les mains de la Justice"); or

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- (b) in the event of the property of the insured being declared “en désastre”; or
- (c) in the event of the Royal Court granting an application made by the insured to make a general cession of his property (“de faire cession générale de tous ses biens-meubles et héritages”); or
- (d) in the event of the property of the insured being adjudged by the Royal Court to be renounced (“adjudée renoncée”); or
- (e) in the event of the Royal Court granting an application made by the insured to make a composition with his creditors in virtue of the Law entitled “Loi sur les Concordats entre Débiteurs et Créanciers” passed by the States on the eighth day of April, 1867, and confirmed by Order of Her Majesty in Council of the twenty-sixth day of June, 1867;<sup>1</sup> or
- (f) in the event of the insured making a private composition or arrangement with his creditors; or
- (g) in the event of the Royal Court granting an application for the holding of a “bénéfice d’inventaire” on the estate of the deceased insured; or
- (h) in the event of the Royal Court ordering the administration by the Viscount of the estate of the deceased insured as a result of the repudiation thereof by the heirs of the deceased insured; or
- (i) in the case of the insured being a company, in the event of the company being dissolved or wound up either compulsorily or voluntarily (but not where the company is wound up voluntarily merely for the purposes of reconstruction or of amalgamation with another company),

<sup>1</sup> Tomes I–III, page 307.

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or of a receiver or manager of the company's business or undertaking being duly appointed;

if, either before or after that event, any such liability as aforesaid is incurred by the insured, his rights, or, in the case of a deceased insured, the rights appertaining to his estate, against the insurer under the contract in respect of the liability shall notwithstanding anything in any enactment or rule of law to the contrary, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Insofar as any contract of insurance made after promulgation of this Law 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 the events specified in sub-paragraphs (a) to (i), inclusive, of paragraph (1) of this Article, the contract shall be of no effect.

(3) Upon a transfer under paragraph (1) of this Article, the insurer shall, subject to the provisions of Article 3 of this Law 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 Law 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 Law shall affect the rights of the third party against the insured in respect of the balance.

(4) For the purposes of this Law, 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.

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ARTICLE 2

**DUTY TO GIVE NECESSARY INFORMATION TO THIRD  
PARTIES**

(1) Upon the happening to the insured of any of the events specified in sub-paragraphs (a) to (i), inclusive, of paragraph (1) of Article 1 of this Law, it shall be the duty both of the insured and of the person charged with the administration of the property of the insured as the result of the happening of such event, or, in the case of a deceased insured, of the person charged with the administration of the estate of the deceased insured as the result of the happening of such event, to give, at the request of any person claiming that the insured or deceased insured 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 Law and for the purpose of enforcing such rights, if any, and any contract of insurance, insofar 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 paragraph (1) of this Article discloses reasonable ground for supposing that there have or may have been transferred to him under this Law rights against any particular insurer, that insurer shall be subject to the same duty as is imposed by the said paragraph on the persons therein mentioned.

(3) The duty to give information imposed by this Article 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.

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### ARTICLE 3

#### **SETTLEMENT BETWEEN INSURERS AND INSURED PERSONS**

No agreement made between the insurer and the insured after the happening to the insured of any of the events specified in subparagraphs (a) to (i), inclusive, of paragraph (1) of Article 1 of this Law and after liability has been incurred to a third party, nor any waiver, assignment or other disposition made by, or payment made to, the insured after the happening of such event as aforesaid, shall be effective to defeat or affect the rights transferred to the third party under this Law, but those rights shall be the same as if no such agreement, waiver, assignment, disposition or payment had been made.

### ARTICLE 4

#### **SHORT TITLE**

This Law may be cited as the Third Parties (Rights against Insurers) (Jersey) Law, 1948.