

(2) No sum shall be payable by an insurer under the foregoing provisions of this paragraph—

6TH SCH.
—cont.

- (a) in respect of any judgment, unless before, or within seven days after, the commencement of the proceedings in which the judgment was given, the insurer had notice of the bringing of the proceedings; or
- (b) in respect of any judgment, so long as execution thereon is stayed pending an appeal; or
- (c) in connection with any liability, if both—
 - (i) the policy was cancelled by mutual consent or by virtue of any provision contained therein, and the cancellation took effect before the happening of the event which was the cause of the loss or damage giving rise to the liability, and
 - (ii) a written notice of the cancellation stating the time at which it takes effect was, not less than seven clear days before the date of the happening of the said event, served by the insurer on the Minister.

Any notice to be served for the purposes of this sub-paragraph on the Minister shall be deemed to be duly served if it is sent by registered post in a letter addressed to the Secretary of the Ministry of Civil Aviation, London.

(3) No sum shall be payable by an insurer under the foregoing provisions of this paragraph, if, in an action commenced before, or within three months after, the commencement of the proceedings in which the judgment was given, he has obtained a declaration that, apart from any provision contained in the policy, he is entitled to avoid it on the ground that it was obtained by the non-disclosure of a material fact, or by a representation of fact which was false in some material particular, or, in a case where he has avoided the policy on that ground, that he was entitled so to do apart from any provision contained in the policy:

Provided that an insurer who has obtained such a declaration as aforesaid in an action shall not thereby become entitled to the benefit of this sub-paragraph as respects any judgment obtained in proceedings commenced before the commencement of that action, unless before, or within seven days after, the commencement of that action, he has given notice thereof to the person who is the plaintiff in the said proceedings, specifying the non-disclosure or false representation on which the insurer proposes to rely; and any person to whom notice of such an action is so given shall be entitled, if he thinks fit, to be made a party to the action.

(4) Nothing in this paragraph shall, in relation to any particular policy of insurance, require the insurer to pay any sum in excess of the amount for which, apart from this paragraph, he is liable under the policy or would be liable under the policy if it had not been cancelled or avoided; and where, by reason of two or more judgments against a person insured by the policy having been obtained in respect of loss or damage, caused on any one occasion, several claims under this paragraph are made against, or apprehended by, the insurer in relation to any aircraft, he may make application to the High Court,