

within seven days after the commencement of that action he has given notice thereof to the person who is plaintiff in the action under the policy specifying the non-disclosure or false representation on which he proposes to rely and that he intends to seek a declaration, and any person to whom notice of such action is given may, if he desires, be made a party thereto.

(4) If the amount which an insurer under the provisions of this section becomes liable to pay in respect of the liability of a person insured by a policy exceeds the amount for which he would, apart from the provisions of this paragraph, be liable to pay under the policy in respect of that liability he shall be entitled to recover the excess from that person.

(5) In this paragraph—

“liability covered by the terms of the policy” means a liability which is covered by the policy or which would be so covered were it not that the insurer is entitled to avoid or cancel or has avoided or cancelled the policy; and

“material” means of such a nature as to influence the judgment of a prudent insurer in determining whether he will accept the risk and if so, at what premium and on what conditions.

3. (1) Where under a policy issued for the purposes of Part V of this Act a person, hereinafter referred to as the insurer, is insured against liabilities to third parties which he may incur, then—

Rights of
third parties
against
insurers.
Cap. 229,
s.11.

(a) in the event of the insured becoming bankrupt or making a composition or arrangement with his creditors; or

(b) in the event of the insured being a company and a winding-up order being made or a resolution for the voluntary winding-up of the company being passed in respect of the company or a receiver or manager of the company's business or undertaking being duly appointed or in the event of possession being taken by or on behalf of the holders of any debentures secured by a floating charge, of any property comprised in or subject to the charge,

if either before or after either event any such liability is incurred by the insured his rights against the insurer under the policy in respect of that liability shall, notwithstanding anything in any written law to the contrary contained, be transferred to and vest in the third party to whom the liability was so incurred.

(2) Where under the provisions of any law an order is made for the administration in bankruptcy of the estate of a deceased debtor then if any debt, which may be proved in bankruptcy, is owing by the deceased in respect of a liability against which he was insured under a policy issued for the purposes of Part V of this Act as being a liability to a third party then the rights of the deceased