



Society of Actuaries in Ireland

General Insurance Newsletter

May 2019

General Insurance Committee

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Periodic Payment Orders (PPOs)

Legislation commenced

Periodic Payment Order legislation was brought into being by the Civil Liability (Amendment) Bill 2017. This was passed into law by the Oireachtas in November 2017. A Ministerial order was signed in September 2018 with a commencement date of 1 October 2018.

The Bill as passed amends several previous Acts to deal with the additional complexities of introducing PPOs. Some sixteen other Acts are referred to in the Bill. Of these, five amendments are directly relevant to insurers and claimants:

- amendments to the Civil Liability Act 1961 to recognise Periodic Payment Orders and some of the details that have to be clarified. These details include (i) which elements of an award can be paid by a regular payment, (ii) circumstances the court should have regard to in deciding whether to make a PPO, (iii) allowance for stepped payments, (iv) a requirement that the court should consider whether the PPO is reasonably secure and (v) indexation.
- amendments to the Insurance Act 1964 to remove the limit in the Insurance Compensation Fund in cases of PPOs.
- amendments to the Bankruptcy Act 1988 to take account of cases where the individual in receipt of the PPO becomes bankrupt, essentially protecting the care elements of the payments.
- amendments to the Taxes Consolidation Act 1997 exempting the PPO payments from income tax.

- amendments to the Civil Liability & Courts Act 2004 in respect of the form in which formal offers are to be made and in respect of considerations to be taken into account when awarding costs

First PPO

The first PPO was awarded in the Republic of Ireland in February 2019 in a case against the Rotunda Hospital¹. There is an expectation in the market that a number of cases could settle as PPOs during 2019 where interim payments were made over the last few years in anticipation of the PPO legislation.

PPO Working Group

The General Insurance Committee established a PPO working group a number of years ago and this group is due to publish a Paper shortly to set out areas of consideration for insurers and reinsurers.

¹<https://www.irishtimes.com/news/crime-and-law/courts/high-court/brain-damaged-girl-to-receive-610-000-annually-1.3801858>

EIOPA action plan on sustainability risks

In November last, as part of its [action plan on sustainability](#), EIOPA issued a consultation on draft technical advice on amendments to delegated acts, to integrate sustainability risks and factors. In mid-January, EIOPA issued a call for evidence, via national regulators, to collect information from (re)insurers on the integration of sustainability risks and factors in the prudential assessment of assets and liabilities.

Sustainability

In view of importance of insurers and pension funds as investors in the European economy, the aim of EIOPA's action plan is to ensure that insurers and pension funds operate in a sustainable manner by

- managing and mitigating Environmental, Social and Governance (ESG) risks appropriately;
- reflecting the preferences of policyholders and pension scheme members for sustainable investments; and
- adopting a sustainable approach to their investments and other activities.

Consultation

The November [consultation](#), which closed on 31st January, covered a wide range of discussion and proposals. Among these were amendments to add specific references to sustainability risks in Articles 269 (Risk Management Function) and 272 (Actuarial Function) of the Solvency II delegated acts. The consultation also proposed amendments on the Insurance Distribution Directive delegated acts. The Society contributed to drafting the AAE's [response](#).

Call for evidence

The aim of EIOPA's [call for evidence](#) was to analyse how sustainability risks affect (re)insurers' investments, with a particular focus on climate change, and to collect information on market practices on insurance underwriting. The deadline for responses was 8th March.

Next Steps

Based on the consultation and call for evidence, EIOPA will prepare a draft Opinion for submission to the European Commission in Quarter 3 2019.

National Claims Information Database

The [Central Bank \(National Claims Information Database\) Act 2018](#) was signed into law on 27 December 2018.

This Act confers a function on the CBI in respect of the collection and study of data from insurance undertakings in relation to the carrying on of certain non-life insurance business in the State and, in particular, information on the

income generated by, and costs associated with, the carrying on of such business.

The CBI's first data request relates to private motor business written in Ireland. They issued a final specification and template to the relevant insurance providers in early 2019 with an expectation that data would be delivered to the CBI by 30 April 2019. It is anticipated that the CBI will report on their findings later in 2019.

Consultation Paper 124: Provision of Renewal Information

Consultation Paper 124 – “*Second Consultation on Non-Life Insurance Amendments to the Non-Life Insurance (Provision of Information) (Renewal of Policy of Insurance) Regulations 2007*” was published by the CBI in August 2018. The closing date for submissions was 14 September 2018.

This purpose of CP124 was to set out a summary of the feedback received to CP114, and, in addition, to seek views on an additional proposal arising from the submissions received.

To recap, the purpose of CP114 was to seek views from interested stakeholders on two recommendations from the Action Plan contained in the Government’s Cost of Insurance Working Group’s first report, as summarised below:

- insurers to provide additional information on the premium breakdown to consumers; and
- insurers to extend the current renewal notification period from 15 working days to 20 working days to make it easier for motorists to compare pricing when purchasing insurance.

In response to CP114, a specific additional proposal was put forward by the Department of Finance in their submission. The Department proposed that insurers should be required to provide the previous year’s premium in renewal documentation (for motor and other classes of non-life insurance) for comparative purposes, and referred to a similar measure in the UK.

The CBI proposed that S.I. no. 74 of 2007 be further amended and require insurers to provide the insurance premium paid by the policyholder for the previous year in renewal documentation, and they sought views on this topic in CP124.

Seven submissions to CP124 were received by the CBI, all of which are available at www.centralbank.ie.

There were six submissions from industry representative bodies and insurance distributors, which included the Society of Actuaries in Ireland, and one from the Department of Finance.

The SAI’s response is available on the websites of both the CBI and the SAI.

Insurance Guarantee Schemes

Proposals for pan-European insurance guarantee schemes have been mooted since the 2008 financial crisis, with the European Commission announcing a review of such schemes in 2010; a 2017 review is available here:

https://ec.europa.eu/info/business-economy-euro/banking-and-finance/insurance-and-pensions/insurance-guarantee-schemes_en

Following the introduction of Solvency II, and some failures of cross-border insurers subject to different insurance guarantee schemes in their home countries, this topic has gained new impetus.

In July 2018 EIOPA published its discussion paper on *Resolution Funding and National Insurance*

Guarantee Schemes – the discussion paper can be accessed here:

https://eiopa.europa.eu/Publications/Consultations/EIOPA-CP-18-003_Discussion_paper_on_resolution_funding%20and.pdf

The Actuarial Association of Europe (AAE) submission to the consultation is available here:

https://actuary.eu/wp-content/uploads/2018/11/20181025-EIOPA_CP_18_003_comments_aae_final.pdf

The General Insurance Committee is keeping a watching brief on developments in this area.

HoAF's Opinion on Underwriting – Thematic Review

During 2018 the CBI carried out a thematic review of Underwriting Opinions provided under Solvency II and the Domestic Actuarial Regime. The CBI's aim was to understand the strength of the control that these opinions provide and to communicate feedback to industry as appropriate.

In total 21 firms were selected for review across the life, non-life, health insurance and reinsurance sectors. Two thirds of firms received Risk Mitigation Plans following the review.

The CBI highlighted four main observations to the industry:

- The opinion should include all the material underwriting and pricing policies and processes.

- The opinion should be forward looking and take into account planned changes to the business.
- The opinion should consider the links between underwriting and other aspects of the business.
- The opinion should be based on up to date data. This observation was particularly aimed at non-life business as underwriting and pricing is constantly evolving.

The CBI acknowledged that the actuarial function is not expected to replicate the work of others. However, they do have valuable knowledge and insights about the medium and longer term impact of pricing decisions, and can therefore provide a different perspective.

The full message from the CBI is available [here](#).

Brexit: UK and Irish Temporary Permissions

In March of last year, as part of the Brexit negotiations, the UK government and their EU counterparts agreed an implementation period, which would run until December 2020. It was envisaged that this implementation period would allow companies currently using passporting arrangements to sell cross border business to prepare for the UK's exit from the European Economic Area (EEA).

However, despite the recent postponement of Brexit day, a no-deal Brexit is still a very real risk. This introduces uncertainty around how this passported business can be treated should negotiations fail.

Irish Regime

In January, the Irish Government tackled the no-deal issue with the European Union (Consequential Provisions) Bill 2019. The Bill passed all stages in the Oireachtas in March. The new Act empowers relevant Ministers to commence their parts of the Act by statutory instrument when required.

A Temporary Permission Regime will allow existing UK (and Gibraltar) based insurance companies to run off any existing block of Irish

business over a three-year period. During this time, these companies may not write any new Irish business and must be engaged solely in terminating their Irish block of business.

Should they wish to continue to write new Irish business, they would need to seek authorisation as normal in accordance with the normal process for third countries. The regime applies whether the company is writing business on a Free of Establishment or Freedom of Services basis.

UK Regime

The regime proposed in Ireland is less generous than the corresponding one proposed by the FCA in the UK.

The UK regime allows EU based companies to continue to write business into the UK, consistent with their existing authorisation, for up to three years. The “home host” state restrictions would not apply and these companies would be under the authority of the FCA/PRA.

In the interim, companies are expected to apply for authorisation to continue to write into the UK market.

CPD events

Date/Time	Title / Speakers	Location
Thursday: 6th June 2019 12.00pm – 12.30pm: Tea / Coffee 12.30pm – 2.00pm: Event	Operational Risk in insurance Clive Kelly	Grand Canal Hotel
Thursday: 27th June 2019 (Half day - afternoon)	GI Pricing Seminar	The Alex, 41-47 Fenian St, Dublin 2.

The General Insurance Practice Professionalism Event was held on 16th May and was attended by 80 members. Thanks to Joe Kennedy and Dermot Marron for facilitating the discussion on the case studies, and to the working group which developed the case studies – Dermot, Joe, Cora Ciechanowicz, Tom Heduan, Declan Lavelle and Ciara McKeown.

There were a number of General Insurance topics on the agenda at the Society's Annual Convention on 24th May; further details are available [here](#).