

Legal Liabilities Property Owners Legal Protection

Property Owners Legal Protection

Definitions

(Also refer to the policy definitions at the front of the policy booklet.)

The following definitions apply to this Section and shall keep the same meaning wherever they appear in the Section unless an alternative definition is stated to apply.

As soon as You are aware of an incident, You should get legal advice from the legal helpline on 0845 300 1899 without delay. Please have Your policy number to hand.

If You think that You might need to claim, contact the helpline on 0845 300 1899 and request a claim form. We can only proceed with Your claim once We have received details of the incident in writing. A claim form is available to download at www.aviva.co.uk/legalprotection.

Appointed Representative

The lawyer, accountant or other suitably qualified person, who has been appointed by Us to act on behalf of an Insured Person.

Aspect Enquiry

An examination by HM Revenue and Customs which considers one or more specific aspects of Your self-assessment and/or corporation tax return.

Attendance Expenses

- (1) The salary or wages of the Insured Person for the time they are off work
 - (a) to attend any arbitration, court or tribunal hearing at Our request
 - (b) as a defendant or while attending jury service.
- (2) We will pay for each half or whole day that the
 - (a) court
 - (b) tribunal
 - (c) employer of the Insured Personwill not pay for.
- (3) The amount We will pay is based on the following
 - (a) the time the Insured Person is off work including the time it takes to travel to and from the hearing. This will be calculated to the nearest half day assuming that a whole day is eight hours.
 - (b) if the Insured Person
 - (i) works full time, the salary or wages for each whole day equals 1/250th of the annual salary or wages of the Insured Person.
 - (ii) Works part-time, the salary or wages will be a proportion of the weekly salary or wages of the Insured Person.

Costs and Expenses

- (1) All reasonable and necessary legal or accounting costs charged by the Appointed Representative and agreed by Us.
- (2) Legal costs which an Insured Person has been ordered to pay by a court or other body which We have agreed to authorise.

Date of Occurrence

- (1) In all civil cases, when the cause of action accrued (other than Contingencies 4A, 4B or 4C - Tax).
- (2) In all criminal cases, when the Insured Person broke or is alleged to have broken the criminal law in question.
- (3) Full Enquiries, Aspect Enquiries or Intervention Enquiries, when HM Revenue and Customs first notifies in writing the intention to make enquiries.
- (4) Employers compliance and Value Added Tax disputes, when the relevant authority sends an assessment or written decision to You.
- (5) Licence or registration appeals, when You were first notified of the proposal by the relevant licensing or regulatory authority to suspend, alter the terms of, refuse to renew or cancel Your licence or British Standard Certificate of Registration.

Full Enquiry

An extensive examination by HM Revenue and Customs which considers all aspects of Your tax affairs, excluding those enquiries which are limited to one or more specific aspects of Your self-assessment and/or corporation tax return.

Intervention Enquiry

An examination by HM Revenue and Customs to measure the level of compliance in Your financial accounting records to highlight areas where errors have or may occur

Insured Person

- (1) You
- (2) any director of Yours, or partner, or proprietor of The Business
- (3) any employee of Yours under a contract of employment with You.

Intervention Enquiry

An examination by HM Revenue and Customs to measure the level of compliance in Your financial accounting records to highlight area where errors have or may occur

Legal Proceedings

Legal action for

- (1) the pursuit or defence of a claim for damages
- (2) the defence of a criminal prosecution
- (3) appeal proceedings

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- (4) specific performance or injunction

dealt with by negotiation or in a court of law, tribunal or arbitration or any other body which We have agreed to or authorised.

Limit of Indemnity

The maximum amount stated in the Schedule which We will pay for Costs and Expenses in respect of any or all claims arising out of one originating cause in connection with the business as stated in the Schedule.

Prospects of Success

In respect of all civil cases, it is always more likely than not that an Insured Person will

- (1) recover damages or obtain any other legal remedy which We have agreed to
- (2) make a successful defence
- (3) make a successful appeal or defence of an appeal.

Prospects of success will be assessed by Us or an Appointed Representative on Our behalf

Territorial Limits

For Contingencies 2 Legal Defence (other than Contingency 2(4)) and 6 Bodily Injury

The European Union, the Isle of Man, the Channel Islands, Albania, Andorra, Bosnia Herzegovina, Croatia, Gibraltar, Iceland, Liechtenstein, Macedonia, Monaco, Montenegro, Norway, San Marino, Serbia, Switzerland and Turkey (West of the Bosphorus).

For all other Contingencies

Great Britain, Northern Ireland, the Isle of Man and the Channel Islands.

Cover

We will indemnify You or an Insured Person where specified for any Costs and Expenses and Attendance Expenses incurred in respect of Legal Proceedings following the occurrence of a Contingency stated as applying in the Schedule provided that

- (1) the Contingency occurs within the Territorial Limits and the Date of Occurrence is within the Period of Insurance
- (2) any legal proceedings take place within the Territorial Limits
- (3) Prospects of Success exist for the duration of the claim
- (4) in respect of any appeal or defence of an appeal, it has been reported to Us at least 10 working days prior to the deadline for any appeal
- (5) the maximum We will pay is the Limit of Indemnity.

Contingencies

1A - Property Protection

We will represent You in any Legal Proceedings for civil action relating to material property which is owned by You, or for which You are responsible following

- (1) any event which causes or could cause physical damage to such material property
- (2) any nuisance or trespass

provided that in the event of physical damage to The Premises let under either

- (a) an assured shorthold tenancy
- (b) a short assured tenancy
- (c) an assured tenancy

(as defined by the Housing Act 1988 as amended by the Housing Act 1996 or the Housing (Scotland) Act 1988) the amount in dispute exceeds £1,000

and/or

- (3) any nuisance or trespass including the eviction of squatters or any person occupying premises owned by You or for which You are responsible.

We will not indemnify You in respect of any claim relating to

- (1) a contract entered into by You
- (2) goods
 - (a) in transit
 - (b) lent or hired out
 - (c) at premises You do not occupy unless for
 - (i) installation or
 - (ii) use in work to be carried out by You
- (3) mining subsidence
- (4) a motor vehicle whilst being driven by an Insured Person

Contingency Conditions

- (1) You must prepare prior to the grant of the tenancy, a detailed inventory allowing space for comments to be made as a condition of the items in the inventory on check in and comments to be made later on check out of the premises.
- (2) You must conduct regular inspections of The Premises (by reference to such inventory) at no less intervals than every six months.
- (3) You must as soon as possible after a tenant has checked out or has otherwise vacated the premises, prepare a detailed Schedule of Dilapidations.

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1B - Residential Repossession

We will indemnify You in respect of

- (1) Your legal rights in trying to get possession of The Premises that You have let under either
 - (a) an assured shorthold tenancy
 - (b) a short assured tenancy
 - (c) an assured tenancy

(as defined by the Housing Act 1988 as amended by the Housing Act 1996 or the Housing (Scotland) Act 1988).

You must be trying to get possession under

- (i) Schedule 2 Part 1
 - ground 1 - Landlord's former or intended occupation
 - ground 2 - Landlord's Mortgage default
 - ground 3 - Out of season holiday letting
 - ground 4 - Out of term letting by an educational institute
 - ground 5 - Property required for a minister of religion
 - ground 6 - Demolition or substantial works to premises
 - ground 7 - Death of Tenant
 - ground 8 - Statutory minimum rent arrears

of the Housing Act 1988 as amended by the Housing Act 1996

- (ii) Schedule 5 Part 1
 - ground 1 - Landlord's former or intended occupation
 - ground 2 - Landlord's default of a heritable security
 - ground 3 - Out of season holiday letting
 - ground 4 - Out of term letting by an educational institute
 - ground 5 - Property required for a minister of religion
 - ground 6 - Demolition or substantial works to premises
 - ground 7 - Death of Tenant
 - ground 8 - Statutory minimum rent arrears

of the Housing (Scotland) Act 1988

You must give the tenant the correct notices telling him or her that You want possession of The Premises.

- (2) Your legal rights in trying to get possession of The Premises that You have let within Northern Ireland, the Isle of Man or the Channel Islands.
- (3) Your legal rights in trying to get possession of The Premises if You have let The Premises to a limited company or partnership and The Premises has been let for people to live in.
- (4) Your legal rights in trying to get possession of The Premises if You have let The Premises and You live in The Premises as the landlord

- (5) Your legal rights to evict anyone in The Premises who has not got Your permission to be there.
- (6) Your legal rights to recover any rent Your tenant owes You for The Premises
- (7) We will pay hotel expenses while You try to get a possession order for The Premises so You can live in it.

We will not provide indemnity in respect of

- (1) any dispute with Your tenant where the cause of action arises within the first 90 days of the start of this cover and the tenancy agreement commenced prior to the start of this cover
- (2) any claim relating to registering rents, reviewing rents, buying the freehold of The Premises or any matter that relates to rent tribunals, land tribunals or rent assessment committees unless You are defending an action brought against You by Your tenant
- (3) any claim related to someone legally obtaining The Premises whether You are offered money or not or restrictions or controls placed on The Premises by any government or public or local authority unless the claim is for accidental physical damaged caused by any of the above
- (4) any claim relating to work done by any government or public or local authority unless the claim is for accidental physical damage by any of the above.

2 - Legal Defence

2A Criminal Prosecution

We will defend an Insured Person

- (1) prior to the issue of legal proceedings when dealing with the
 - (a) Police
 - (b) Health and Safety Executive and/or Local Authority Health and Safety Enforcement Officerwhere it is alleged the Insured Person has or may have committed a criminal offence
- (2) following an event which leads to the Insured Person being prosecuted in a court of criminal jurisdiction

We will not provide indemnity in respect of any claim which leads to the Insured Person being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.

2B Data Protection

- (1) We will defend the legal rights of an Insured Person following civil action taken against the Insured Person for compensation under Section 13 of the Data Protection Act 1998. (We will also pay any compensation award made against the Insured Person under Section 13 of the Data Protection Act 1998)

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- (2) We will represent You in appealing against the refusal of the Information Commissioner to register Your application for registration.

2C Wrongful Arrest

We will defend Your legal rights following civil action taken against You for wrongful arrest in respect of an accusation of theft alleged to have been carried out during the Period of Insurance

2D Employee Civil Legal Defence

At Your request We will defend the legal rights of an Insured Person (other than You) if

- (1) an event arising from their work as an Insured Person leads to civil action being taken against them under legislation for unlawful discrimination on the grounds of
- (a) sex
 - (b) sexual orientation
 - (c) race
 - (d) disability
 - (e) age
 - (f) religious belief
 - (g) political opinion
- (2) civil action is being taken against them as a trustee of a pension fund set up for the benefit of Your employees

2E Statutory Notice

At Your request We will represent the Insured Person in appealing against the imposition or terms of Statutory Notice issued under legislation affecting Your Business

2F Jury Service

We will pay the Attendance Expenses of an Insured Person for jury service provided that

- (1) in respect of proceedings under the Health and Safety at Work etc. Act 1974, the Territorial Limits shall be any place where the Act applies
- (2) at the time of the insured incident, You are registered with the Information Commissioner in respect of Contingency 2B (1).

2G Disciplinary Hearings

We will defend an Insured Person if an event results in a disciplinary case brought against an Insured Person by a regulatory authority or professional body.

We will not provide indemnity in respect of any claim which leads to the Insured Person being prosecuted for infringement of road traffic laws or regulations in connection with the ownership, driving or use of a motor vehicle.

3 Contract Disputes

We will represent You in any Legal Proceedings for civil action relating to a contractual dispute arising from that agreement or that alleged agreement

which has been entered into by You or on Your behalf for the

- (1) sale
- (2) provision
- (3) purchase
- (4) hire

of goods or of services provided that

- (a) the amount in dispute exceeds £250
- (b) if the amount in dispute is payable by instalments, the instalments due and payable at the time of making the claim exceed £250
- (c) if the dispute relates to money owed to You, a claim must be made within 90 days of the money becoming due and payable.

We will not provide indemnity in respect of

- (1) any claim relating to
 - (a) the cover, claims process or settlement payable under an insurance policy.
 - (b) a lease, licence or tenancy of land or buildings other than a dispute with a professional adviser in connection with the drafting of a lease, licence or tenancy agreement.
 - (c) a loan, mortgage, pension or any other financial product and choses in action.
- (2) a dispute with an Insured Person or former Insured Person which arises out of or relates to a contract of employment with You.
- (3) a dispute relating to computer hardware, software, systems or services which have been specifically tailored.
- (4) a dispute arising from the breach or alleged breach of professional duty by an Insured Person.
- (5) the recovery of money and interest due from another party other than disputes where the other party intimates that a defence exists.

4 - Debt Recovery

We will negotiate for Your legal rights including enforcement of judgement to recover money and interest due from the sale or provision of goods or services provided that

- (1) the amount in dispute exceeds £250
- (2) You have exhausted all reasonable credit control and accounting procedures
- (3) We have right to select the method of enforcement or to forego enforcing judgement if We are not satisfied that there are, or will be, sufficient assets available to satisfy judgement
- (4) You supply the correct and current name and address of the debtor

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- (5) a claim for debt recovery under this Contingency is made within 90 days of the money becoming due and payable.

We will not provide indemnity in respect of

- (1) any claim relating to
 - (a) the settlement payable under an insurance policy
 - (b) a lease, licence or tenancy of land or buildings
 - (c) a loan, mortgage, pension or any other financial product and choses in action.
 - (d) a motor vehicle owned by, hire or leased to You other than agreements relating to the sale of motor vehicles where You are engaged in the business of selling motor vehicles.
- (2) a dispute with an Insured Person or former Insured Person which arises out of, or relates to, a contract of employment with You.
- (3) a dispute relating to computer hardware, software, systems or services which have been specifically tailored.
- (4) the recovery of money and interest due from another party where the other party intimates that a defence exists.

Condition to Contingencies 5A, 5B and 5C

If in relation to any claim You have failed to fulfil any of the following conditions You will lose Your right to indemnity or payment for that claim.

Reasonable Care

You must have taken reasonable care to ensure that all returns are complete and correct and such returns are submitted within the statutory time limits allowed.

We will not provide indemnity

- (1) in respect of any claim caused by Your failure to register for value added tax.
- (2) in respect of any claim arising from any investigations or enquiries undertaken by the Inland Revenue Special Investigation Section or Special Compliance Office.
- (3) in respect of any claim arising from any investigations or enquiry by HM Customs and Excise into alleged dishonesty or alleged criminal offences.
- (4) in respect of any claim arising from a tax avoidance scheme.
- (5) for the first 10% of Costs and Expenses for Aspect Enquiries and Intervention Enquiries in respect of any one claim.

5A - Tax Protection

We will represent You in any appeal proceedings in respect of a Full Enquiry and/or Aspect Enquiry carried out by the HM Revenue and Customs, or in any dealings with HM Revenue and Customs in respect of a tax Intervention Enquiry.

The maximum amount We will pay for Aspect Enquiries in respect of any one claim is the limit stated in the Schedule.

The maximum amount We will pay for Intervention Enquiries is £2,000.

5B - Employers' Compliance

We will represent You in any appeal proceedings in respect of a dispute concerning Your compliance with

- (1) Pay as You Earn
or
- (2) Social Security Regulations

following a review by the HM Revenue and Customs or the Department of Social Security Contributions Agency.

5C - VAT Disputes

We will represent You in any appeal proceedings following an assessment by HM Customs and Excise in respect of value added tax due.

6A - Employment Disputes

We will represent You in defending Your legal rights

- (1) prior to the issue of legal proceedings in a court or tribunal following the dismissal of an Insured Person
- (2) in the resolution of unfair dismissal disputes under the ACAS Arbitration Scheme
- (3) in legal proceedings in respect of any dispute with
 - (a) an Insured Person
 - (b) a former Insured Person
 - (c) a trade union acting on behalf of an Insured Person or a former Insured Person

which arises out of, or relates to, a contract of employment with You

- (4) in legal proceedings in respect of any dispute with
 - (a) an Insured Person
 - (b) a former Insured Person
 - (c) a prospective Insured Person

arising from an alleged breach of their statutory rights under employment legislation.

We will not provide indemnity for any claim in respect of damages for personal injury or loss of or physical damage to material property.

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6B - Compensation Awards

We will indemnify You in respect of

- (1) any basic and compensatory award
- (2) an order for compensation following a breach of Your statutory duties under employment legislation

which You are ordered to pay by a tribunal or through ACAS Arbitration scheme, under a judgement made after full argument and approved by Us in writing in respect of a claim We have accepted under Contingency 6A - Employment Disputes.

The maximum amount We will pay in respect of compensation awards in any one Period of Insurance is £1,000,000.

We will not provide indemnity in respect of

- (1) non payment of money due under the relevant contract of employment or related statutory provision.
- (2) any compensation award related to
 - (a) trade union activities, trade union membership or non-membership
 - (b) pregnancy or maternity rights
 - (c) health & safety related dismissals brought under section 44 of the Employment Rights Act 1996
 - (d) statutory rights in relation to trustees of occupational pension schemes
 - (e) statutory rights in relation to Sunday shop and betting work.
- (3) any award ordered as a result of a breach of statutory rights in relation to the provision of relevant records to employees under the National Minimum Wage Act 1998.

Conditions to Contingency 6B

If in relation to any claim You have failed to fulfil any of the following conditions You will lose Your right to indemnity or payment for that claim.

- (1) Performance and/or Conduct

In cases relating to performance and/or conduct, throughout the dispute, You have either

 - (a) followed the ACAS Code of Disciplinary Practice and Procedures in Employment as prepared by the Advisory Conciliation and Arbitration Service
 - or
 - (b) followed equivalent codes of practice issued by the Labour Relations Agency in Northern Ireland
 - or

(c) sought and followed the advice from Our 24 hour legal helpline (0845 300 1899).

- (2) Unlawful Discrimination

In respect of an order of compensation following a breach of Your statutory duties under employment legislation You must have at all times sought and followed the advice of Our 24 hour legal helpline since the date You knew or should have known about the employment dispute.

- (3) Redundancy

In respect of any compensation award for

- (a) redundancy
- (b) alleged redundancy
- (c) unfair selection for redundancy

You have sought and followed the advice of Our 24 hour legal helpline prior to serving notice of dismissal (0845 300 1899).

- (4) Compensation Awards

In respect of compensation awards,

- (a) is awarded by a tribunal or through the ACAS Arbitration Scheme, under a judgement made after full argument.
- (b) is approved by Us in writing.

6C - Service Occupancy

We negotiate for Your legal rights against an Insured Person or former Insured Person to recover possession of premises owned by You, or for which You are responsible.

We will not indemnify You in respect of any claim relating to defending Your legal rights other than defending a counter claim.

7 - Bodily Injury

We will pursue the legal rights of an Insured Person and their family members, if they are accompanying an Insured Person, following an event which causes the death of, or bodily injury, to them.

We will not indemnify You in respect of any claim relating to

- (1) any illness or bodily injury which develops gradually or is not caused by a specific or sudden accident.
- (2) defending the legal rights of an Insured Person or their family members other than defending a counter claim.
- (3) a motor vehicle whilst being driven by an Insured Person or their family members.

8 - Statutory Licence Protection

We will represent You in appealing to the relevant

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statutory or regulatory authority, court, or tribunal following an event which results in the relevant licensing or regulatory authority suspending, or altering the terms of, or refusing to renew, or cancelling Your licence or British Standard Certificate of Registration.

We will not provide indemnity in respect of

- (1) an original application or application for renewal of a statutory licence or British Standard Certificate of Registration.
- (2) any licence appeal relating to the ownership, driving or use of a motor vehicle.

Section Exceptions - Applying to all Contingencies

The following Exceptions apply to this Section.

(Also refer to the policy exceptions at the back of this policy booklet).

We will not provide indemnity in respect of any claim

- (1) if an Insured Person does not keep to the terms, exceptions and conditions of this Section. The cover will also not apply if an Insured Person can claim under another policy.
- (2) if any Costs and Expenses are incurred prior to Our written acceptance of a claim.
- (3) for any legal action an Insured Person takes which We have not agreed to or where the Insured Person does anything to hinder Us or the Appointed Representative.
- (4) for any fines, penalties, compensation or damages which an Insured Person is ordered to pay by a court or other authority other than compensation awards covered under Contingency 1B (Compensation Awards) and Contingency 2 (Legal Defence)
- (5) relating to
 - (a) patents
 - (b) copyrights
 - (c) trademarks
 - (d) merchandise marks
 - (e) registered designs
 - (f) intellectual property
 - (g) secrecy and confidentiality agreements
- (6) relating to franchise or agency rights where You have the legal capacity to alter the legal relations of another
- (7) deliberately or intentionally caused by an Insured Person
- (8) in respect of a dispute Us not catered for in Section Conditions 6 and 7
- (9) for an application for judicial review

(10) relating to any non-contracting party's rights to enforce all or any part of this Section. The Contracts (Rights of Third Parties) Act 1999 does not apply to this policy

(11) notified under this policy when, either at the start of or during the course of the claim You

- (i) are bankrupt
- (ii) have filed a bankruptcy petition or winding-up petition
- (iii) have made an arrangement with creditors
- (iv) have entered into a deed or arrangement
- (v) are in liquidation
- (vi) are or part of or all of Your affairs or property are in the care or control of a receiver or administrator.

Section Conditions - Applying to all Contingencies

The following Conditions apply to this Section.

(Also refer to the policy conditions at the back of the booklet).

(1) Claims - your duty

You must report an incident to Us as soon as possible and in any event no later than 180 days after the date the Insured Person knew or should have known about the incident.

(2) Claims - legal representation

(a) On receipt of a claim, if appropriate, We will appoint an Appointed Representative.

(b) If it is necessary to start court proceedings or there is a conflict of interest, an Insured Person is free to nominate an alternative appointed representative by sending to Us the name and address of the suitably qualified person.

(c) If We do not agree to the Insured Person's choice of Appointed Representative, an Insured Person may choose another suitably qualified person.

(d) If there is still a disagreement with regard to the Appointed Representative, We will ask the president of a relevant national law society to choose a suitably qualified person to represent an Insured Person. We and the Insured Person must accept such choice.

(e) In all other circumstances We will be free to choose an Appointed Representative.

(f) An Appointed Representative will be appointed by us and represent an Insured Person according to our standard terms of appointment.

(3) Claims - our rights and your obligations

(a) We will have direct access to the

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Appointed Representative who will, upon request, provide Us with any information or opinion on Your claim.

- (b) An Insured Person must co-operate fully with us and the appointed representative and must keep Us up-to-date with the progress of the claim.
- (c) At Our request an Insured Person must give the Appointed Representative any instructions that We require.
- (d) An Insured Person must notify Us immediately if anyone offers to settle a claim or makes a payment into court.
- (e) If an Insured Person does not accept the recommendation of the Appointed Representative to accept a reasonable offer or payment into court to settle a claim, We may refuse to pay further costs and expenses.
- (f) No agreement to settle on the basis of both parties paying their own costs is to be made without Our prior approval.

(4) Discontinuance of a claim

If an Insured Person

- (a) settles a claim or withdraws a claim without Our prior agreement
- (b) does not give suitable instructions to the Appointed Representative
- (c) dismisses an Appointed Representative without Our prior consent

the cover We provide will end immediately and We will be entitled to re-claim any Costs and Expenses We have incurred from the Insured Person.

(5) Recoveries

An Insured Person must take every available step to recover Costs and Expenses that We have to pay and must pay Us any Costs and Expenses that are recovered.

(6) Disputes

If any difference arises between Us and an Insured person in respect of the acceptance, refusal, control or handling of any claim under this section, You can take the steps outlined in our complaints procedure stated under our Promise of Service.

(7) Arbitration

You have the right to refer any difference that arises between Us and an Insured Person in respect of the acceptance, refusal, control or handling of any claim under this section to arbitration, which will be decided by counsel chosen jointly by Us and an Insured Person.

If there is a disagreement with regard to the choice of counsel, We will ask the president of a relevant national law society to choose a suitably qualified person.

The arbiter's decision shall be final and binding on both parties.

All costs for resolving the difference will be met by the party whom the decision is made against.

(8) Acts of Parliament

All references to Acts of Parliament within this Section wording shall include equivalent legislation in Scotland, Northern Ireland, the Isle of Man or the Channel Islands as the case may be

Endorsements and Conditions

The following Endorsements and Conditions apply to this Section.

(Also refer to the Policy Endorsements and Conditions at the back of this policy booklet.)

If in relation to any claim You have failed to fulfil any of the following conditions, You will lose Your right to indemnity or payment for the claim.