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Interpretations of Supreme People's Court on Several Issues on Application of the Insurance Law of the People's Republic of China (I)

Fa Shi (2009) 12

Adopted by the 1473rd Session of the Judicial Committee of Supreme People's Court on 14 September 2009

21 September 2009

For the purposes of proper trial of insurance contract dispute cases and pragmatic safeguarding of the legitimate rights and interests of the parties concerned, the following provisions are made pertaining to the relevant issues on application by the Supreme People's Court of the Insurance Law of the People's Republic of China (hereinafter referred to as the "Insurance Law") revised by the Seventh Session of the Standing Committee of the Eleventh National People's Congress on 28 February 2009:

Article 1 The provisions of the Insurance Law shall apply to disputes over insurance contracts concluded after the implementation of the Insurance Law. For disputes over insurance contracts concluded before the implementation of the Insurance Law, unless otherwise stipulated by these Interpretations, the legal provisions prevailing at that time shall apply; where there are no legal provisions prevailing at that time, the relevant provisions of the Insurance Law shall apply by reference.

For determination of whether an insurance contract is concluded, the laws prevailing at the time of conclusion of the contract shall apply.

Article 2 In the case of an insurance contract concluded before the implementation of the Insurance Law which is deemed invalid by application of the laws prevailing at that time but deemed valid by application of the Insurance Law, the provisions of the Insurance Law shall apply.

Article 3 In the case of an insurance contract concluded before the implementation of the Insurance Law but an act or an event such as transfer of subject matter insured, insurance accident, claim adjustment, subrogation, etc, occurred after the implementation of the Insurance Law, the provisions of the Insurance Law shall apply.

Article 4 In the case of an insurance contract concluded before the implementation of the Insurance Law but the insurer asserts rescission of the contract after the implementation of the Insurance Law, citing that the insurance applicant has not performed notification obligations truthfully or has made untruthful declaration of the age of the insured, the provisions of the Insurance Law shall apply.

Article 5 For insurance contracts concluded before the implementation of the Insurance Law, the duration of the following circumstances shall commence from 1 October 2009:

(1) where the insurer receives a claim for compensation or payment of insurance monies before the implementation of the Insurance Law, the 30-day period stipulated by Article 23 of the Insurance Law shall apply after the implementation of the Insurance Law;

(2) where the insurer becomes aware of a rescission event before the implementation of the Insurance Law, the 30-day period stipulated by Article 16 of the Insurance Law shall apply after the implementation of the Insurance Law for exercise of rescission rights pursuant to the provisions of Article 16 and Article 32 of the Insurance Law;

(3) where the insurer requests for rescission of contract pursuant to the provisions of the second paragraph of Article 16 of the Insurance Law after the implementation of the Insurance Law, the two-year period stipulated by Article 16 of the Insurance Law shall apply;

(4) where the insurer receives a notice of transfer of subject matter insured before the implementation of the Insurance Law and requests for increase of insurance premium or rescission of contract after the implementation of the Insurance Law, citing that the transfer of subject matter insured results in significant increase of risks, the 30-day period stipulated by Article 49 of the Insurance Law shall apply.

Article 6 Where the parties concerned apply for a re-trial of a case which has undergone final trial before the implementation of the Insurance Law or where an application for a re-trial of a case which has undergone final trial before the implementation of the Insurance Law is made pursuant to the procedures for trial supervision, the provisions of the Insurance Law shall not apply.



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