

**THE EEC DIRECTIVE ON
LEGAL EXPENSES INSURANCE**
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For years there has been disagreement about whether a composite insurer should be allowed to write legal expenses insurance alongside other classes. Some felt that there would be a conflict of interest if one insurer was paying the insured's legal expenses to pursue a claim, and was at the same time liable to pay the defendant's costs to defend the claim, and any damages awarded against the defendant.

The council of the EEC has now decided that composites shall be allowed to write legal expenses insurance, but only if certain safeguards are provided. Insurers may choose any one of these options:-

- 1 they may establish a separate management for legal expenses claims

or
- 2 they may arrange for legal expenses claims to be managed by a separate undertaking

or
- 3 they may provide a free choice of lawyer for any policyholder making a claim

The directive also provides that:-

- 1 if at any time a conflict of interest arises the policyholder shall be entitled to choose his own lawyer. This rule applies even if options 1 or 2 above have been chosen by the insurer.
- 2 insurers may use "inhouse" lawyers, but if clients are referred to external lawyers there must be a free choice.
- 3 the policy wording for legal expenses insurance shall be presented separately from that for other insurances – either by being issued as a separate contract or by forming a separate section of the other wording.

The directive does not apply to legal expenses insurance solely concerned with marine risks.

EEC member states must ensure compliance with the directive by July 1990.