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Terms and Conditions of Legal Aid Insurance



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Legal aid provisions are common provisions drawn up by Forsikring & Pension and used in addition to insurance that includes legal aid for private individuals.

1. Which insurance policies include legal aid insurance?

The common provisions of legal aid insurance are included in the following personal loss insurance:

- a) contents insurance
- b) buildings insurance (home and second home)
- c) motor insurance
- d) boat insurance

The nature of a dispute is a decisive factor in terms of which insurance can cover the dispute (see Section 13).

If insurance only covers liability and/or fire insurance, legal aid insurance is not included.

The terms and conditions of the insurance referred to above, including who is covered, apply insofar there are no particular deviations in the legal aid provisions.

2. Notification

The company must be notified as soon as possible after a case has been assigned to a lawyer.

2.1 Notification by lawyer

Cover shall be contingent upon the insured having sought advice from a lawyer who has accepted the case. The lawyer shall report the case to the company.

In the case of small claims, insured persons may report cases themselves and bring proceedings without a lawyer (see Section 12.1).

2.2 Election of lawyer

Insured persons shall elect lawyers themselves from among those lawyers who are authorized to represent in accordance with the Danish Administration of Justice Act.

If a dispute is contested outside Denmark, a foreign lawyer shall be elected in agreement with the company.

Lawyers may not obtain cover to conduct their own cases.

2.3 What must notifications contain?

Notifications must contain the following information:

- a) parties' pleas and arguments
- b) facts of the case
- c) correspondence between the parties
- d) policy documents
- e) details of envisaged procedural action

The company may request the submission of additional documentation and information.

2.4 Combined cases and collective actions

In combined cases, the lawyer must submit a list detailing the name and legal aid insurance of each party involved.

Notification shall be sent to the company having the most parties involved.

In collective actions, where the opt-in model is used, the lawyer representing the group must also provide a list detailing the name and legal aid insurance of each person involved in the collective action.

Notification shall be sent to the group representative's company.

2.5 Ongoing information

Lawyers shall inform the company of any procedural action that is significant in terms of costs during the course of the case.

3. What does legal aid insurance cover?

The insurance covers disputes arising in personal lives.

3.1 Dispute

A dispute means a specific, ongoing conflict, which the parties themselves are unable to resolve and which can be dealt with by a court or through arbitration.

The insurance does not cover expenses for general legal advice from a lawyer.

3.2 Reasonable grounds

A condition of cover is that there are reasonable grounds to bring a dispute to the courts or arbitration. If, in the company's opinion, there are not reasonable grounds, the company shall justify this.

3.3 Complaints board

If a dispute can be handled by a complaints board, for example approved complaints board or complaints board established by law, the insured shall be obliged to pursue this option first. This obligation shall not apply, however, if it is evident that the complaints board is unable to examine the factual aspects of the case. Costs in connection with such handling of complaints shall not be covered (see Section 7).

3.4 Public handling of complaints

If disputes can be dealt with by a public authority, the insured shall be obliged to pursue this course of action first. Costs in connection with public handling of complaints shall not be covered (see Section 7).

4. Period of cover

The insurance shall cover the costs of disputes, where the grounds for action arise during the period from entry into effect of the insurance until its termination.

Grounds for action shall be regarded as having arisen on the date of the most significant reason for the dispute.

5. What disputes are not covered?

The following disputes are not included under legal aid cover:

5.1 Disputes in connection with an insured party's business activities

Business activities mean any activity, regardless of profit or loss, which has the character of, connection with or arises from the insured party's

- a) main business
- b) secondary activity (including secondary activities with the character of a hobby)
- c) arrangements regarding assets in connection with the above activities
- d) employment relationships
- e) financial speculation

Disputes relating to personal injury to drivers sustained while driving for business purposes in motor vehicles shall not be regarded as business activities.

5.2 Disputes with authorities in matters relating to tax or levies

5.3 Disputes relating to separation, divorce, custody, access and maintenance obligation

However, the insurance covers such types of disputes in the case of

- a) disputes in second instance, where the insured has been successful in whole or in part in first instance
- b) disputes which are dealt with in an international court

5.4 Disputes relating to assets, right of ownership, co-owner relationship

Disputes relating to assets, right of ownership, co-owner relationship if respective dispute has arisen in connection with contraction or dissolution of

- a) marriage
- b) civil partnership
- c) other forms of cohabitation (including partner relationships)
- d) partnership

5.5 Disputes in connection with the handling of a deceased's estate and inheritance

5.6 Private defamation of character cases

The insurance provides cover, however

- a) if the insured, as plaintiff, succeeds in all claims
- b) if the insured, as plaintiff, is found not guilty in all claims

5.7 Criminal cases

The insurance covers the costs of civil disputes, which are settled in connection with a criminal case.

5.8 Debt collection proceedings against the insured

The insurance provides cover if there is justifiable doubt about the existence and/or size of a claim.

6. What costs are covered?

The following costs are included under legal aid insurance:

- a) own legal costs
- b) costs imposed on counterparty
- c) costs of appraisal by court-appointed expert
- d) costs of mediation, which must be subject to prior approval by the company
- e) other legal costs approved by the company

7. What costs are not covered?

The following costs are not included under legal aid insurance:

- a) costs, which are not incurred on reasonable grounds, for example, if the insured is not deemed to have reasonable grounds to bring proceedings, or because costs are not in reasonable proportion to the subject matter of the case in question
- b) insured party's own travel expenses or lost earnings
- c) costs in connection with enforcement proceedings, arrest of property, temporary decision on ban or injunction, including provision of security, and provision of security in connection with collective actions, unless these are paid in agreement with the company
- d) costs relating to disputes, which can be handled by a complaints board or which can be handled by a public authority (see Sections 3.3 and 3.4).
- e) costs covered by insured party's public liability insurance
- f) costs, which are the result of negligence by the insured or the insured's legal representative (for example, lack of appearance in court or failure to present relevant evidence), unless it is established that negligence has had no impact on the costs of the case

8. Compensation, excess and sum insured

Compensation, excess and sum insured are determined in accordance with the following regulations:

8.1 Compensation

Compensation shall be paid to cover costs (see Section 6) less the costs the insured is awarded from the counterparty.

The insured party or insured party's legal representative shall seek to collect costs from the counterparty.

If payment of costs by the counterparty is unsuccessful, the company shall cover the costs less any excess, and the company shall subrogate the insured in respect of its entitlement vis-à-vis the liable party.

8.2 Excess

Any excess shall be set out in the individual policy or terms and conditions of insurance.

Excess shall not be calculated if the financial conditions for receiving legal aid are met.

Excess in combined cases and collective actions (see Section 8.4).

8.3 Sum insured

The company's obligation to pay compensation shall be limited for a single insured event to the maximum amount stipulated in the individual policy or terms and conditions of insurance.

Sum insured in combined cases and collective actions (see Section 8.4).

A dispute, in which one or more parties insured under the same policy are on the same side, shall be deemed to be a single insured event. The same applies to disputes between insured parties and one or more counterparties, if the respective claim is based essentially on the same facts.

8.4 Combined cases

If one or more insured parties in the same or different companies bring cases, which have common origins and fulfil the conditions in Section 23 of the Danish Administration of Justice Act relating to accumulation, compensation, excess and sum insured shall be determined and distributed in accordance with the regulations below.

The same regulations apply to collective actions, where the opt-in model is used, see Section 23a of the Danish Administration of Justice Act.

- a) If the number of insured parties is between 2 and 5.
The current insurance provisions regarding sum insured and excess shall apply to each individual insured party.

Costs shall be divided between all interested legal parties (see Section 9).

- b) If the number of insured parties is over 5.

Total compensation shall be limited to an amount corresponding to the largest maximum sum insured in the insurance multiplied by 5.

Excess shall be calculated from the lowest of any percentage applied, but shall always constitute at least the lowest excess or minimum excess amount multiplied by 5.

Costs shall be divided between all legal interested parties - see Section 9.

Compensation and excess shall be divided equally between the insured parties. These regulations shall also apply to disputes, which are settled out of court, and to disputes, which are handled abroad.

8.5 If an appeal is filed in a case

If an appeal is filed, the above-mentioned sums insured shall apply to the handling process as a whole unless the company indicates otherwise.

Costs shall be compensated independently for each instance less any excess - including minimum excess for each instance.

9. Allocation of costs

Upon conclusion of the proceedings, the costs of the case shall either be allocated by the court or approved by the company.

The insured shall be obliged to provide the court with the necessary information in order to determine costs.

If the settlement of a dispute has an impact on parties other than the insured parties involved, the costs shall be allocated among all interested legal parties.

If an amicable settlement is reached regarding payment against discharge of all liabilities, the amount shall be allocated on a pro rata basis between principal, interest and awarded costs.

10. When is compensation paid?

Fees shall be paid when a dispute is finally resolved.

In the event of a change of legal representative, settlement shall be made to the outgoing lawyer in agreement with the company.

If an appeal is filed, fees shall be calculated independently after each instance.

Other legal costs shall be paid where these are incurred.

11. How are fees calculated?

Fees are calculated in accordance with the following regulations:

11.1 Fee calculation

Fees are calculated in accordance with the rates indicated for the type of case fixed by the President of the Danish High Court. Fees, which are included under insurance cover, but which exceed the maximum amount of cover, are calculated in the same way.

Disputes relating to public legal aid shall be settled in accordance with the guidelines set out in Section 31 of the Danish Administration of Justice Act.

Lawyers must not enter into a secondary agreement with insured parties regarding their fees.

11.2 Ban on special fees

It is a condition of cover that lawyers only charge fees and other legal costs to the insurance company.

However, this shall not apply to

- a) excess and any amounts exceeding the maximum insurance cover
- b) legal work and costs not included under insurance cover

11.3 Direct entitlement to fees

An insured party's lawyer shall have a direct entitlement to fees and expenses from the company (see Section 6).

12. Small claims

The following regulations shall also apply to cases, which can be dealt with as small claims in accordance with Section 39 of the Danish Administration of Justice Act:

12.1 Notification

An insured party can report a case to the company.

12.2 What costs are covered?

- a) Individual costs of lawyers or legal representatives for main proceedings in court
- b) Court fees
- c) Costs imposed on counterparty
- d) Expenses for expert report approved by court
- e) Other legal costs approved by the company

Fees paid to lawyers or legal representatives shall be calculated in accordance with the rates indicated by the President of the Danish High Court for negotiated small claims.

12.3 What costs are not covered?

- a) Individual costs of lawyers or legal representatives incurred during case preparations
- b) Additional costs, which are incurred in a case because the parties agree that the case will not be dealt with in small claims proceedings, unless this is approved by the company in advance, or it is evident that the case could not have been dealt with in small claims proceedings

12.4 Conditional cover

The company may make cover contingent upon an insured party seeking advice from a lawyer or other professional legal representative and/or a request being made to a court that the case is handled in accordance with general practice, see Section 402 of the Danish Administration of Justice Act.

13. Which insurance can cover disputes?

The nature of a dispute is decisive in terms of which legal aid insurance can cover the respective dispute and under which insurance a claim can be made.

As a starting point, disputes relating to real estate, motor vehicles and boats can only be covered by legal aid insurance for the respective real estate, motor vehicle or boat.

All other disputes can only be covered by legal aid insurance linked to contents insurance.

Cover shall be in accordance with the following regulations:

13.1 Real estate

If an insured party is involved in a dispute as an owner or previous owner of the insured property or user of the property in its entirety, disputes can only be covered by legal aid insurance linked to buildings insurance.

If loss insurance has not been taken out for real estate, legal aid insurance cannot be obtained for this type of dispute with the exceptions below.

In the following cases legal aid insurance linked to contents insurance can cover disputes relating to real estate:

- a) Disputes where an insured party is involved as owner or user of real estate for a period of up to 14 days after the insured party has become the owner of the property.
- b) Disputes relating to vacant land. Cover shall cease 14 days after construction of house or second home has begun.
- c) Disputes relating to the use of real estate in its entirety between insured party as user and the owner
- d) Disputes where an insured party is independently involved as owner or user of a cooperative apartment or owner-occupied apartment in its entirety and which is primarily used as the insured party's private residence. Housing cooperatives are not covered by an individual part owners' legal aid insurance
- e) Disputes where a homeowners' association represents the individual owners. This shall apply if the homeowners' association has not taken out legal aid insurance or the sum insured in the homeowners' association's legal aid insurance has been exhausted

13.2 Motor vehicles

If the insured party is involved in a dispute as owner, previous owner, user or driver of the insured vehicle, a dispute can be covered by legal aid insurance linked to motor vehicle insurance (including caravans, trailers and motorcycles).

If loss insurance has not been taken out for a motor vehicle, legal aid insurance cannot be obtained for this type of dispute.

Legal aid insurance shall not affect an insured party's right to receive or protect bonus/discount on loss insurance.

13.3 Boats

If an insured party is involved in a dispute as owner, previous owner, user or pilot of an insured boat, a dispute can only be covered by legal aid insurance linked to boat insurance.

If loss insurance has not been taken out for a boat, legal aid insurance cannot be obtained for this type of dispute with the exceptions below.

In the following cases legal aid insurance linked to contents insurance can cover disputes relating to boats:

- a) Disputes where an insured party is involved as owner or user of a boat for a period of up to 14 days after the insured party has become the owner of the respective vessel.
- b) Disputes relating to small vessels, which are included in loss cover as part of contents insurance

13.4 Other disputes

Other disputes can only be covered by legal aid insurance linked to contents insurance.

If contents insurance has not been taken out, legal aid insurance cannot be obtained for this type of dispute.

Apart from the cases referred to in Sections 13.1 and 13.3, legal aid insurance linked to contents insurance shall not cover disputes where an insured party is involved as

- a) owner, previous owner or user of real estate
- b) owner, previous owner, user or driver/pilot of motor vehicle or vessel

The Danish Insurance Association (DIA) is the trade association of Danish insurance companies and industry-wide pension funds. The majority of life insurance companies and industry-wide pension funds operating in the Danish market are members of the DIA. Most non-life insurance companies are members, as well.



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