

8 Warranties and representations [j501]

- (1) This section applies to representations made by the insured in connection with—
 - (a) a proposed non-consumer insurance contract, or
 - (b) a proposed variation to a non-consumer insurance contract.
- (2) Such a representation is not capable of being converted into a warranty by means of any provision of the non-consumer insurance contract (or of the terms of the variation), or of any other contract (and whether by declaring the representation to form the basis of the contract or otherwise).

9 Breach of warranty [j500]

- (1) Any rule of law that breach of a warranty (express or implied) in a contract of insurance results in the discharge of the insurer's liability under the contract is abolished.
- (2) Subject to section 10, an insurer has no liability under a contract of insurance in respect of any loss occurring, or attributable to something happening, after a warranty (express or implied) in the contract has been breached but before the breach has been remedied (if it can be remedied).
- (3) But subsection (2) does not apply if—
 - (a) because of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract,
 - (b) compliance with the warranty is rendered unlawful by any subsequent law,
 - (c) the insurer waives the breach of warranty.
- (4) Subsection (2) does not affect the liability of the insurer in respect of losses occurring, or attributable to something happening—
 - (a) before the breach of warranty, or
 - (b) if the breach can be remedied, after it has been remedied.
- (5) Subsection (6) applies in the case of breach of a warranty requiring that by an ascertainable time—
 - (a) something is to be done, or not done,
 - (b) a condition is to be fulfilled, or
 - (c) something is, or is not, to be the case.
- (6) For the purposes of this section, the breach [is to] be taken as remedied if at a later time the risk to which the warranty relates becomes essentially the same as that originally contemplated by the parties.
- (7) In the Marine Insurance Act 1906—
 - (a) in section 33 (nature of warranty), in subsection (3), omit the second sentence,
 - (b) omit section 34 (when breach of warranty excused).

10 Terms relevant to particular descriptions of loss [j502]

- (1) This section applies to any term (express or implied) of a contract of insurance compliance with which would tend to reduce the risk of one or both of the following—
 - (a) loss of a particular kind,
 - (b) loss at a particular location or time.
- (2) Breach of such a term may not be relied upon by the insurer to exclude, limit or discharge its liability for, respectively—
 - (a) loss of a different kind,
 - (b) loss at a different location or time.
- (3) This section may apply in addition to section 9.