



For immediate release: 12 February 2015

Insurance Bill becomes law

Today the Insurance Bill received Royal Assent, implementing reforms recommended by the Law Commissions of England and Wales and of Scotland to modernise and simplify insurance contract law across the UK.

The Insurance Act 2015 will give effect to reforms recommended by the Law Commissions in their 2014 report *Insurance Contract Law: Business Disclosure, Warranties, Insurers' Remedies for Fraudulent Claims, and Late Payment*:

Disclosure and misrepresentation. Under a new “duty of fair presentation”, business policyholders will still have a duty to volunteer information, but what is required of them is made clearer, and insurers will have to play a more active role in asking questions of the policyholder. A new scheme of proportionate remedies will replace the existing single remedy of avoidance, which allows insurers to refuse the whole of a claim.

Warranties. Insurers will be liable to pay any claim that arises after a breach of warranty has been remedied such as where a broken burglar alarm has been repaired before the claim arises. And they will no longer be able to escape liability on the basis of the policyholder’s breach of a contract term that is shown to be completely irrelevant to the loss suffered. “Basis of the contract” clauses, which can turn any statement from a policyholder into a warranty, will be abolished.

Remedies for fraudulent claims. The Act provides insurers with clear, robust remedies when a policyholder makes a fraudulent claim. Where any part of a claim is fraudulent, they will be entitled to refuse the whole claim. They will also have the right to refuse any claim arising after the fraud but must pay earlier, valid claims.

Stephen Lewis, Law Commissioner now leading on the Insurance Contract Law project for England and Wales, said:

“We are delighted the Government has implemented the majority of our recommendations in the Insurance Bill. Insurance underpins a healthy and prosperous society. It enables businesses and individuals to protect themselves against risk. But insurance contract law was out of date and no longer reflected the realities of today’s commercial practices.

“The provisions of the Insurance Act 2015 will modernise the law; balance more fairly the interests of insurers and buyers; and provide a framework for an effective, competitive and trusted business insurance market. The Act will come into force in August 2016, giving the industry plenty of time in which to prepare.”

[more]

Professor Hector MacQueen, Law Commissioner leading on the project for Scotland, said:

“The existing law that governs business insurance contracts is weighted in favour of insurers, giving them wide-ranging powers to refuse claims. These powers, even if rarely used, can undermine trust between insurers and policyholders.

“Our recommendations received strong support from across the insurance market, and we were pleased to see these urgently needed reforms complete their passage through Parliament following the Law Commission procedure for uncontroversial Bills. We look forward to the Insurance Act 2015 coming into force and delivering for the UK a legal framework fit to support our world-leading insurance industry.”

The Government did not include in the Insurance Bill the Law Commissions’ recommendations relating to late payment, but has asked the Commissions to continue to work with stakeholders with a view to introducing a solution to this issue in the future.

The Insurance Act 2015 also includes provisions relating to the Third Parties (Rights against Insurers) Act 2010 so that it can be brought into force. The 2010 Act, which also derived from recommendations made by the two Law Commissions, simplifies the procedure by which third parties can claim against an insurer when the insured is, in broad terms, insolvent or has been dissolved.

Notes for editors

1. The Law Commission and the Scottish Law Commission are non-political independent bodies, set up by Parliament in 1965 to keep all the law of England and Wales and of Scotland under review, and to recommend reform where it is needed.
2. The provisions in the Insurance Act 2015 relating to insurance contract law will come into force in August 2016. The provisions relating to the Third Parties (Rights against Insurers) Act 2010 may be brought into force more quickly.
3. For more details on this project, visit the Insurance Contract Law project pages on <http://www.lawcom.gov.uk> or <http://www.scotlawcom.gov.uk>
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