

Press Release
Embargoed until 00:01 on 20 December 2011

Making insurance contract law work for bereaved families and dependants

In a consultation opening today, the Law Commission of England and Wales and the Scottish Law Commission are proposing reforms to allow a wider range of people to insure the lives of those on whom they are dependent.

The existing law is based on the Life Assurance Act 1774 which prohibits people from insuring the lives of others without an "insurable interest". This means that you can insure your own life or the life of your husband, wife or civil partner - but you have no automatic right to insure the life of someone else, such as a live-in partner, parent or child. You can only insure another person where you are tied by a legal obligation. The courts have interpreted this narrowly, refusing to allow insurance based on a moral obligation for a son to look after his father, or to bury his mother.

The Commissions are seeking views on whether the existing rules should be changed to allow people to insure another's life where:

- there is a real probability that the policyholder will benefit economically from the continued life of the insured or suffer economic loss if they were to die, or
- a couple have lived together in the same household as spouses for five years before the start of the policy.

The Commissions are also asking whether parents should be entitled to insure the lives of children under 18-years-old for a limited amount.

David Hertzell, the Law Commissioner leading the project for England and Wales, said:

"The English law of insurable interest has fallen out of step with modern families. In a world in which people are often dependent on others for long-term care, the restrictions look increasingly outdated. We need a law that works in the 21st century, not the 18th."

Professor Hector MacQueen, Scottish Law Commissioner, said:

"We are keen to hear people's views on our ideas for clarifying and simplifying the law, bringing it up to date and making it work for bereaved families and dependants."

The consultation is part of a wider review of insurance contract law, which also includes proposals to:

- improve remedies for late payment of valid insurance claims;
- clarify the law on insurers' remedies for fraudulent claims;
- simplify the law on policies and premiums in marine insurance.

Regarding remedies for late payment of valid insurance claims, the Commissions are proposing that insurance contract law in England and Wales should be brought into line with the law in Scotland and follow the principles of normal contract law.

Professor Hector MacQueen, Scottish Law Commissioner, said:

“We believe the Scottish approach to damages for late payment is fair and could provide a good model for the law in England and Wales.”

A separate press release on this topic is available on request.

The Commissions seek responses by 20 March 2012. The consultation paper is available at: <http://www.lawcom.gov.uk> and <http://www.scotlawcom.gov.uk>

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. 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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