

Insurance act update

Insurance Act 2015: Your questions answered

Thursday, July 28, 2016

This month we thought it would be helpful to focus on the questions that members have been asking us and decided to put them to Justin Clarke our Commercial Pricing & Underwriting Director to get his response. Justin has been keen to work with members in ensuring our position is clear and states: “along with any new legislation comes a certain amount of uncertainty. The best means of tackling that uncertainty is by having open and honest conversations and by operating in a transparent manner”. We hope this bulletin goes some way to do that.

So Justin, the Insurance Act has obviously been a focus for the business but how would you describe your approach to the Insurance Act?

We are fully embracing the Insurance Act. We are updating all of our documentation to ensure that it is compliant with the provisions of the Act and will be releasing this for all New Business written on or after 12th August 2016 and on all policies that renew on or after 12th August 2016.

Fair presentation is obviously a major element of the Act but will you be going so far as to providing a standard set of questions in order to collect risk information?

For eTraded business, we will keep things straightforward and regard responses to the questions that we ask as representing a Fair Presentation of Risk.

For complex business, including farm risks, this is hard to define. We will consider the information presented to us and may subsequently gather additional information from publically available sources, or, request additional information from our members. Once all this information has been gathered we will then regard it as a Fair Presentation of Risk. This also includes all new business presented on Connect

So will NIG be requiring any additional information from members to meet duty of Fair Presentation requirements?

Much of the information needed will already be covered by members existing investigations and presentations. There has always been a duty to disclose all material facts. A Fair

Presentation of Risk needs to ensure that information provided is accurate and thus creates a complete picture of the risk being proposed. One requirement will be for customers to conduct a "reasonable search" for material information on their risks, as going forward they will be taken to know anything that should have been revealed by a reasonable search of information available to them.

What information will we be considering as public and collating ourselves?

Unfortunately that is very difficult to categorise, but our underwriters already do undertake additional research on cases from data that is publically available. It's not possible to give you a complete list as this will vary from case to case.

What actions will we be taking for non-deliberate or non-reckless non-disclosure?

We will apply a Proportionate Remedy. This means that we need to consider what we would have done had we known the complete position. If we feel we would not have accepted the risk, then we will avoid the policy, refuse all claims and return all premiums paid. If we would have underwritten the risk but on different terms (e.g. a higher excess), then those changed terms will be applied retrospectively. Finally, if we would have charged a higher premium, then the claim settlement will be reduced proportionately.

Following the application of a Proportionate Remedy to a claim settlement, will you be adjusting the premium for the remaining of the period of cover?

Yes. This may consist of applying the correct terms (for example a revised excess) or charging an additional premium on a pro-rata basis for the remaining period of insurance, or both as the circumstances dictate.

And what about deliberate or reckless failure to make a fair presentation of the risk?

Our position is clear we will avoid the policy, refuse all claims and retain the premiums paid.

Does the Act and the new proportionate remedies affect the compulsory classes of cover as far as third parties are concerned?

We will not be applying proportional payments to mandatory covers i.e. EL and Motor RTA but will when it is third party but not mandatory e.g. PL / Products and Motor TPPD.

Do you envisage TOBAs being re-negotiated in light of the introduction of the Act?

No, we don't intend to re-negotiate at this point.

So moving onto another element of the Act – what will we be doing with Warranties?

We are replacing all Warranties with Conditions Precedent to liability. This means that all of our policy wordings will be warranty free, which goes beyond what the Insurance Act requires us to do.

Are all our policy wordings consistent with the Act?

Yes. All of our policy wordings will be Insurance Act compliant by 12th August 2016.

What are our timescales for implementation?

All open market and scheme policy wordings will be Insurance Act compliant as at 12th

August 2016. All policies that renew on or after 12th August 2016 will be updated to make them Insurance Act compliant. All new business written on or after 12th August 2016 will be written on our new Insurance Act compliant wordings.

Will we be contracting out of any element of the Act?

No and we have stated publically that we will not be contracting out of the Insurance Act.

Thank you Justin that clears a few points up but where can members go if they need any more information or have any further questions?

Members can contact Andy Brock or Sonya Bryson to discuss any question or our Gloucester Underwriting Team directly who will be happy to answer any questions that our members have on this matter.