

## MARSH INSIGHTS: THE INSURANCE ACT 2015

### Marsh's Viewpoint

The Insurance Act 2015 (the "Act") received Royal Assent on 12 February 2015, and will come into force in August 2016, bringing about the biggest change to English insurance contract law in more than 100 years. Marsh welcomes the Act and has been lobbying the Law Commission about reform of insurance contract law since consultations began in 2006.

The Act is generally a positive step forward for insureds as it redresses an imbalance in the current law, which can sometimes overly favour insurers. For example, the Act will abolish basis of contract clauses; avoidance will no longer be the only remedy for material non-disclosure and misrepresentation; and automatic discharge of cover will no longer be the only remedy for breach of warranty. The Act also clarifies an insured's pre-contractual duty of disclosure, as the current duty can cause problems for insureds who are sometimes unclear as to whose knowledge is relevant. The Act also requires more active engagement by underwriters at the placement stage.

Like any new law, the Act may create some areas of uncertainty. For example, under the current law, as avoidance is the only remedy for material non-disclosure/misrepresentation, insurers are sometimes reluctant to invoke it (for example, where there has been an innocent non-disclosure); whereas it is possible insurers will use the new remedies available to them under the Act, such as proportionate reduction of claims payments, more often. You should also compare your existing insurance policies with the Act, as in some cases you may have terms that are already more favourable.

We will be working proactively to help you maximise the benefits available under the Act where appropriate.

For further information, please contact your usual Marsh representative.



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