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The laws under which you arrange commercial insurance are changing, creating new duties for insurers and policyholders to comply with.

The legislation is seeking to create a new and fairer balance between policyholder and insurer and to raise professional standards at placement.



DID YOU KNOW?

- Insurers will lose their historic rights to repudiate claims for breaches of condition irrelevant to the loss suffered
- They will also be unable to avoid the policy when material non-disclosure is discovered if they would still have written the risk
- If underwriters do not read through submissions thoroughly, and ask follow up questions, before agreeing to accept a risk then they will waive the right to rely on information that those queries would have revealed
- Underwriters will need to allot more time to review each submission and consider the risk
- If insurers seek to contract out of the new law they will need to do so in a clear and transparent way that takes the type of sale into account
- There is a new and explicit duty to ask questions of the whole business, not just senior staff, before renewal. The level of questioning needed will depend on the specific size and nature of the business, not what other policyholders in the market are doing
- In the event that key information is not provided to the insurer and this is discovered - e.g. during the investigation of a big claim - the insurer can add in new exclusions or sub-limits that apply from the start of the policy. This means that previously settled claims could be unravelled as well as the new claim being undermined

Insurance Act 2015:

What do policyholders need to know about their new statutory duties?

The new law, which comes into force in August 2016, makes significant changes to how insurance will need to be bought and sold, affecting:

But, in return, policyholders will need to make a more concerted effort to assist the underwriter in understanding the risk:

- Policyholders will have to ask anyone benefitting from cover whether they know anything material about the risk. For a Directors' and Officers' policy, this could mean questioning anyone in a management capacity
- All presentations must be reasonably clear and accessible to the insurer. This means that just providing a link to a website will not meet the new standard, nor will 'data dumping' or sending over lots of data in an unstructured format

- The processes used by policyholders to gather data for renewal information provided to insurers
- The time and effort insurers will have to discharge to underwrite the risk
- Renewal timescales
- Policy wordings
- Claims

BIBA and Mactavish have produced 'Insurance Act 2015 - An Introductory Guide' to provide a toolkit to respond to client questions on change and set out areas to consider ahead of the law coming into force.

To request a copy of the guide please email enquiries@biba.org.uk or mail@mactavishgroup.com



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