



Webinar – The Insurance Act

Guarding against the consequences of a breach of a condition precedent to liability



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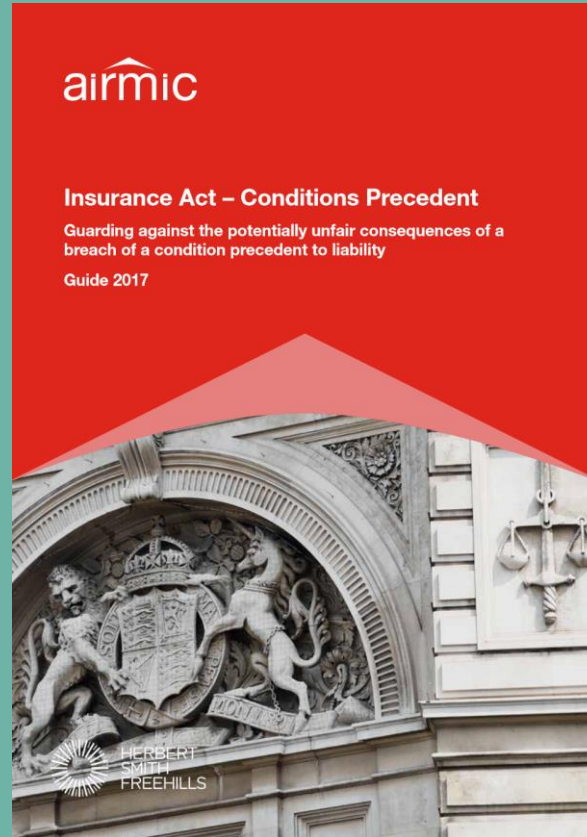
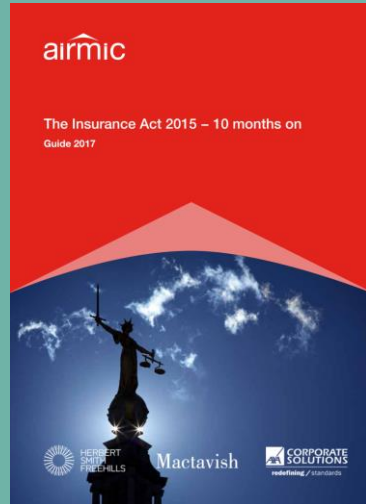
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Airmic research and guidance

2



Insurance Policy Conditions

A quick reminder

Conditions precedent to the validity of the contract

Conditions precedent to the insurers liability

Bare conditions

Identifying conditions precedent

- Term labelled as a condition precedent
- The significance of the term identifies it as a condition precedent
- Consequences of term breach are set out
- Policy has a sweeper clause

Clauses to be aware of

4

Sweeper clauses

- A clause declaring all terms in a policy to be conditions precedent
- Can circumvent the requirement that warranties become suspensive conditions
- Review policies and resist the inclusion of sweeper clauses

Critical information clauses

- A clause converting pre-contractual representations made by an insured into warranties
- Can counter-effect the requirement that basis clauses are abolished
- Review policies and understand the impact of any critical information clauses

Protecting against conditions precedent

Legal review



Policy endorsement

Proposed endorsement #1

"It is understood and agreed between the insured and the insurer that no term of this policy is intended to be nor should be construed as a condition precedent to the attachment of cover under this policy or to the insurer's liability to pay a claim or any part of it".

Be aware

Identify conditions precedent

Proposed endorsement #2

"No term of this policy is intended to be nor shall be construed as a condition precedent to the attachment of cover or to the payment of a claim unless the specific term is individually and expressly described as such. Any term of this policy which purports to make the compliance with any other term of this policy, whether identified specifically or generically, a condition precedent to the attachment of cover or to the payment of a claim shall be void and of no effect."



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Insurance Act – Conditions Precedent

Guarding against the potentially unfair consequences of a breach of a condition precedent to liability

Guide 2017



Thank you

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