

# INSURANCE ACT 2015

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## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### Part 7: General

##### *Section 21: Provision consequential on Part 2*

142. This section amends or repeals:
- a) the Marine Insurance Act 1906, sections 18, 19 and 20;
  - b) the Road Traffic Act 1988, section 152;
  - c) [Road Traffic \(Northern Ireland\) Order 1981 \(S.I. 1981/154 \(N.I.\)\)](#), Article 98A;  
and
  - d) the Consumer Insurance (Disclosure and Representations) Act 2012, section 11.

#### **Marine Insurance Act 1906, sections 18, 19 and 20**

143. [Part 2](#) of the Act now provides the content of the duty imposed on the non-consumer insured in the pre-contractual phase of the relationship between insurer and insured. Section 21(2) therefore repeals sections 18 to 20 of the 1906 Act, which currently govern the pre-contractual relationship between insured and insurer. The 1906 Act applies directly to marine insurance but it has also been held to be an authoritative statement of common law principles to be applied to non-marine insurance contracts. Therefore, section 21(3) abolishes any rule of law to the same effect as those statutory provisions.
144. The combined effect of the relevant provisions of CIDRA and this Act is to replace sections 18, 19 and 20 of the Marine Insurance Act 1906.

#### **Road Traffic Act 1988, section 152**

145. [Section 21\(4\)](#) amends section 152 of the Road Traffic Act 1988 (RTA). The RTA provides for a scheme of compulsory motor insurance by which motor insurers generally have an obligation to satisfy judgments obtained by third parties, even if the insured has breached the insurance contract. However, there is a limited exception in section 152(2) of the RTA, by which an insurer may obtain a declaration that it is entitled to avoid a policy because the insured has made a non-disclosure or misrepresentation. The effect of this section is much more limited than first appears. Under an agreement between the Motor Insurance Bureau and the government, insurers have undertaken to ensure that the third party is compensated.
146. The amendments to this section made by these provisions mean that an insurer is only entitled to avoid a non-consumer insurance policy under section 152(2) if it may avoid the policy under Part 2 of the Act.
147. [Section 21\(5\)](#) amends the equivalent provisions for Northern Ireland.

*These notes refer to the Insurance Act 2015 (c.4)  
which received Royal Assent on 12 February 2015*

**Consumer Insurance (Disclosure and Representations) Act 2012**

148. As a result of the amendments to the 1906 Act and the RTA 1988 set out in section 21, sections 11(1) and 11(2) of CIDRA, which deal with the points in relation to consumer insurance, are now superseded and are repealed by section 21(6).