



# Insurance Act 2015

## 2015 CHAPTER 4

### PART 2

#### THE DUTY OF FAIR PRESENTATION

#### **8 Remedies for breach**

- (1) The insurer has a remedy against the insured for a breach of the duty of fair presentation only if the insurer shows that, but for the breach, the insurer—
  - (a) would not have entered into the contract of insurance at all, or
  - (b) would have done so only on different terms.
- (2) The remedies are set out in Schedule 1.
- (3) A breach for which the insurer has a remedy against the insured is referred to in this Act as a “qualifying breach”.
- (4) A qualifying breach is either—
  - (a) deliberate or reckless, or
  - (b) neither deliberate nor reckless.
- (5) A qualifying breach is deliberate or reckless if the insured —
  - (a) knew that it was in breach of the duty of fair presentation, or
  - (b) did not care whether or not it was in breach of that duty.
- (6) It is for the insurer to show that a qualifying breach was deliberate or reckless.