



# Enterprise Act 2016

## 2016 CHAPTER 12

### PART 5

#### LATE PAYMENT OF INSURANCE CLAIMS

#### **28 Insurance contracts: implied term about payment of claims**

- (1) After section 13 of the Insurance Act 2015 (remedies for fraudulent claims: group insurance) insert—

#### **“PART 4A**

#### LATE PAYMENT OF CLAIMS

#### **13A Implied term about payment of claims**

- (1) It is an implied term of every contract of insurance that if the insured makes a claim under the contract, the insurer must pay any sums due in respect of the claim within a reasonable time.
- (2) A reasonable time includes a reasonable time to investigate and assess the claim.
- (3) What is reasonable will depend on all the relevant circumstances, but the following are examples of things which may need to be taken into account—
- (a) the type of insurance,
  - (b) the size and complexity of the claim,
  - (c) compliance with any relevant statutory or regulatory rules or guidance,
  - (d) factors outside the insurer's control.

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*Changes to legislation: There are currently no known outstanding effects for the Enterprise Act 2016, PART 5. (See end of Document for details)*

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- (4) If the insurer shows that there were reasonable grounds for disputing the claim (whether as to the amount of any sum payable, or as to whether anything at all is payable)—
  - (a) the insurer does not breach the term implied by subsection (1) merely by failing to pay the claim (or the affected part of it) while the dispute is continuing, but
  - (b) the conduct of the insurer in handling the claim may be a relevant factor in deciding whether that term was breached and, if so, when.
- (5) Remedies (for example, damages) available for breach of the term implied by subsection (1) are in addition to and distinct from—
  - (a) any right to enforce payment of the sums due, and
  - (b) any right to interest on those sums (whether under the contract, under another enactment, at the court's discretion or otherwise)."
- (2) In section 22 of that Act (application etc of Parts 2 to 5), after subsection (3) insert—
 

"(3A) Part 4A applies only in relation to contracts of insurance entered into after that Part has come into force, and variations to such contracts."

## 29 Contracting out of the implied term about payment of claims

- (1) After section 16 of the Insurance Act 2015 (contracting out: non-consumer contracts) insert—

**"16A Contracting out of the implied term about payment of claims:  
consumer and non-consumer insurance contracts**

- (1) A term of a consumer insurance contract, or of any other contract, which would put the consumer in a worse position as respects any of the matters provided for in section 13A than the consumer would be in by virtue of the provisions of that section (so far as relating to consumer insurance contracts) is to that extent of no effect.
- (2) A term of a non-consumer insurance contract, or of any other contract, which would put the insured in a worse position as respects deliberate or reckless breaches of the term implied by section 13A than the insured would be in by virtue of that section is to that extent of no effect.
- (3) For the purposes of subsection (2) a breach is deliberate or reckless if the insurer—
  - (a) knew that it was in breach, or
  - (b) did not care whether or not it was in breach.
- (4) A term of a non-consumer insurance contract, or of any other contract, which would put the insured in a worse position as respects any of the other matters provided for in section 13A than the insured would be in by virtue of the provisions of that section (so far as relating to non-consumer insurance contracts) is to that extent of no effect, unless the requirements of section 17 have been satisfied in relation to the term.
- (5) In this section references to a contract include a variation.

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- (6) This section does not apply in relation to a contract for the settlement of a claim arising under an insurance contract.”
- (2) In section 17(1) of that Act (the transparency requirements), after “16(2)” insert “ or 16A(4) ”.

**30 Additional time limit for actions for damages for late payment of insurance claims**

After section 5 of the Limitation Act 1980 insert—

**“5A Additional time limit for actions for damages for late payment of insurance claims**

- (1) An action in respect of breach of the term implied into a contract of insurance by section 13A of the Insurance Act 2015 (late payment of claims) may not be brought after the expiration of one year from the date on which the insurer has paid all the sums referred to in subsection (1) of that section.
- (2) Any payment which extinguishes an insurer's liability to pay a sum referred to in section 13A of the Insurance Act 2015 is to be treated for the purposes of this section as payment of that sum.”

**Changes to legislation:**

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