The Insurance Bill—What Businesses Need to Know

The Insurance Bill, a piece of legislation designed to modernise and support the growth of Britain's insurance industry, continues to move through Parliament and may obtain Royal Assent as early as 30 March 2015.

The Bill ushers in a more modern regime for the industry by updating the 100-year-old regulations governing contracts between businesses and insurers. The government believes that updating the regulations will lend transparency to the industry and lower the number of legal disputes, better equipping UK insurers to survive against global competitors who have already adopted more modern regimes for governing insurance.

The Bill contains three main areas of reform: disclosure and misrepresentation in business and other non-consumer insurance contracts, warranties, and remedies for fraudulent claims.

What the Reforms Mean for Businesses

The three main reforms should benefit both the insurance industry and businesses throughout the United Kingdom—the government estimates businesses will benefit by about £100 million over the next ten years through lower litigation and transaction costs. The litany of reforms proposed in the Bill fall into the following three categories:

1. **Disclosure and Misrepresentation in Business Insurance Contracts –** The bill will obligate business owners to disclose honest assessments of the potential risks associated with their particular businesses before entering into insurance contracts. This fair presentation of risk requires business owners to disclose information in a straightforward and concise manner in order to minimise ambiguity and misunderstandings. In the event there is a breach of fair presentation, the Bill provides remedies that could allow insurers to invalidate the policy, refuse all claims and keep the insured's paid premiums.

2. **Warranties –** The Bill abolishes 'basis of the contract' clauses, which automatically transform pre-contractual information supplied to insurers into a warranty. In the event that the insured breaches a warranty, the insurer's liability is suspended. If insured parties can remedy the breach before a loss has occurred, their cover is reinstated. After a warranty has been breached, an insurer cannot decline continued cover if the business owner can provide proof that the breach did not increase the risk of loss.

3. **Remedying Fraudulent Claims –** If a business submits a fraudulent claim, the insurer has the option to terminate the contract at the time of the fraudulent act and, as such, is not responsible to pay the claim. If the insurer had distributed any funds to the owner prior to the discovery of the fraudulent claim, the insurer would be able to recover those payments. However, the insurer would remain liable for any genuine losses that the business experienced prior to the fraudulent claim.

Next Steps for the Bill and Businesses

The effects of the Bill will extend to every insurance policy written in the United Kingdom (with certain exceptions) 18 months after it is passed. Be aware of how the proposed reforms will affect your current contracts and what changes you need to make in the interim to stay prepared, compliant and successful.

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