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# Improving Insurance Contract Law

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We need your feedback on a draft Bill that will make changes to insurance contract law.

## Background

In November 2019, the Government agreed to reform New Zealand's insurance contract law to ensure insurance markets work well and enable individuals and businesses to effectively protect themselves against risk. We are currently drafting a Bill that would give legal effect to the Government's decisions.

We want your feedback on a draft version of the proposed law. In particular, the following three areas are likely to be of specific interest to consumers.

*Please note that the Government has already made decisions on the policy in the Bill, and at this stage we are seeking feedback on the detailed drafting.*

Submissions are due by  
4 May 2022. Please email  
[insurancereview@mbie.govt.nz](mailto:insurancereview@mbie.govt.nz)

[Read the Bill here](#)

## Making it easier for consumers to understand insurance policies

The Government agreed to require consumer insurance policies to be presented and worded clearly to help consumers understand them. To do this a duty is put on insurers to write and present their policies in a clear, concise and effective manner. To comply with this duty, insurers will have to think about whether the wording and presentation of the policy helps consumers to understand their rights and obligations in relation to the insurance they are buying.

### 1. Do you think the proposed new duty for insurers will help consumers better understand insurance policies?

The Bill also allows for other new rules to be made in relation to consumer policies that set out:

- › Specific presentation requirements, for the purpose of improving understanding (such as layout or font size).
- › That insurers must publish certain information in a prescribed format (such as claim acceptance rates), to assist consumers with choosing an insurance provider and to promote transparency.

### 2. Do you think further presentation and information requirements would be helpful, and if so, how?

## Unfair contract terms

Unfair contract terms are prohibited under the Fair Trading Act 1986 (FTA). A term can be declared unfair if it causes a significant imbalance in the parties' rights and obligations under the contract, it is not reasonably necessary, and the term would cause detriment. However, the FTA currently doesn't apply to all insurance contract terms.

The Government agreed to change this and consult on two different options for clarifying how the unfair contract terms provisions can apply to insurance.

The Bill sets out two options for amending unfair contract terms provisions in the FTA in relation to insurance contracts.

In all consumer contracts, terms that set the “main subject matter” of a contract cannot be declared unfair. The two options in the Bill differ in what would be considered part of the main subject matter of an insurance contract.

Option A defines the main subject of insurance contracts in narrow terms (i.e. to describe the thing that is insured such as a house, a car, the life of a person). Clause 171 of the Bill gives effect to this first option.

This would mean that a wider range of insurance terms could be declared unfair.

Option B defines the main subject matter of insurance contracts in broad terms (i.e. terms that define the scope of the risk accepted by the insurer). Clause 172 of the Bill gives effect to this option.

This would mean that policy limitations and exclusions that affect the scope of cover (e.g. exclusions for use of a vehicle by certain drivers) would be considered to be part of the main subject matter and would not be open to review for unfairness.

### 3. Which option do you support?

### 4. Do you have any feedback on the detail of the above options?

## Disclosure of information to insurers

Currently, you must tell insurers everything that is relevant to their decision to offer you insurance or how much they charge you in premiums. If you don't, insurers can void your insurance, meaning you will not be able to claim under that insurance policy.

The Government decided to change the law so that in effect consumers are instead required to answer insurers' questions truthfully and accurately, rather than work out what they need to disclose to the insurer.

The Bill provides that whether a consumer has met the duty requirements will depend on factors like how clear and specific the insurer's questions were, and how clearly the insurer communicated the importance of answering the questions (see clauses 14-16 of the Bill).

*For example, it would be more difficult for an insurer to say a consumer breached their duties if the insurer asks a broad question like “Tell us about your medical history”.*

The Bill will also introduce new remedies for how insurers deal with instances of breach misrepresentation by consumers (see part 2 and schedule 2 of the Bill).

*For example, if an insurer would have charged higher premiums if the consumer had disclosed the truth the Bill provides that the insurer can reduce what it pays the consumer for the consumer's claim.*

### 5. Do you have any comments on how the Bill deals with disclosure of information to insurers?

#### Next steps

We will analyse the feedback received and consider any changes that may be required to the Bill. Once any changes have been made, the Bill will be introduced to Parliament. The Bill will then go through the normal Parliamentary process, which will include a further opportunity for the public to make submissions to a select committee.