

# Submission template

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## Review of insurance contract law

### Instructions

This is a submission template for the summary discussion document *How could insurance laws be better?*

The Ministry of Business, Innovation and Employment (MBIE) seeks written submissions on the issues raised in the discussion document by 5pm on **Friday 13 July 2018**. Please make your submission as follows:

1. Fill out your name and organisation in the table, "Your name and organisation".
2. Fill out your responses to the consultation document questions in the table, "Responses to discussion document questions". Your submission may respond to any or all of the questions in the discussion document. Where possible, please include evidence to support your views, for example references to independent research, facts and figures, or relevant examples.
3. We also encourage your input on any other relevant issues in the "Other comments" section below the table.
4. MBIE intends to upload PDF copies of submissions received to MBIE's website at [www.mbie.govt.nz](http://www.mbie.govt.nz). MBIE will consider you to have consented to uploading by making a submission, unless you clearly specify otherwise in your submission.
5. When sending your submission:
  - a. Delete these first two pages of instructions.
  - b. Include your e-mail address and telephone number in the e-mail or cover letter accompanying your submission – we may contact submitters directly if we require clarification of any matters in submissions.
  - c. If your submission contains any confidential information:
    - i. Please state this in the cover letter or e-mail accompanying your submission, and set out clearly which parts you consider should be withheld, together with the reasons for withholding the information. MBIE will take such objections into account and will consult with submitters when responding to requests under the Official Information Act 1982.
    - ii. Indicate this on the front of your submission (e.g. the first page header may state "In Confidence"). Any confidential information should be clearly marked within the text of your submission (preferably as Microsoft Word comments).
    - iii. Please provide a separate version of your submission excluding the relevant information for publication on our website (unless you wish your submission to remain unpublished). If you do not wish your submission to be published, please clearly indicate this in the cover letter or e-mail accompanying your submission.

Note that submissions are subject to the Official Information Act 1982.

6. Send your submission:

- as a Microsoft Word document to [insurancereview@mbie.govt.nz](mailto:insurancereview@mbie.govt.nz) (preferred), or
- by mailing your submission to:

Financial Markets Policy  
Building, Resources and Markets  
Ministry of Business, Innovation & Employment  
PO Box 1473  
Wellington 6140  
New Zealand

Please direct any questions that you have in relation to the submissions process to [insurancereview@mbie.govt.nz](mailto:insurancereview@mbie.govt.nz)

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# Submission on discussion document: Insurance contract law review

## Your name and organisation

Name	s 9(2)(a)
Organisation	NA

## Regarding consumers' disclosure obligations

Were you aware of your general duty to disclose all material information when applying for insurance, and that the duty goes beyond the specific questions you are asked in your application for insurance?
<i>No, I had no idea. How are you supposed to know what disclosures a company requires if they don't ask? It should be up to insurance companies to ask the questions, there shouldn't be repercussions for not disclosing something if the insured wasn't asked to disclose it.</i>
If you were aware of your duty to disclose material information, who informed you of this duty?
<i>Saw something about this recently on TV</i>
When applying for insurance, do you understand what material information you need to give the insurer so they can assess the risk of providing you with insurance?
<i>I've been providing whatever information the insurer requests</i>
Do consumers understand the potential consequences of breaching their duty of disclosure?
<i>I don't think this is well understood at all</i>
Have you ever breached your duty of disclosure? What consequences were there for you in terms of the insurance cover you were able to obtain under the policy following the breach?
<i>No, not that I'm aware of.</i>

## Regarding conduct of insurers

What do you think fair treatment looks like from both an insurer's and consumer's perspective? What behaviours and obligations should each party have during the lifecycle of an insurance contract that would constitute fair treatment?
<i>The insurer should ask all necessary questions re disclosures and assess suitability prior to</i>

*approving the insurance and NOT when it is time to make a claim, they should not be allowed to take payment at all unless they have done their due diligence. If the insurer finds that the insured was not properly assessed (e.g. not enough information provided) then they should be returning all payments made as they failed to check if the person actually qualified in the first place and cannot provide the service for which they were being paid. The insured should be responsible for making sure the information provided to the insurer is accurate and kept up to date. If the insured has misled the insurer then their claim should be dismissed IF the claim is related to the disclosure. There should be a set time frame to acknowledge, assess and respond to claims made and this should be communicated in the policy document. There should also be a requirement for a transparent and traceable complaints process e.g. via email. I realised my insurance only accepts complains via post – this is completely unacceptable and results in unnecessary delays.*

What has your experience been of the claims handling process? Please comment particularly on:

- information from the claims handler about:
  - timeframes and updates on timeframes
  - reasons for declining the claim (if relevant)
  - how you can complain if declined
- The handling of complaints (if relevant)

*The claims process I'm currently going through with State involved me first calling to lodge the claim, as it was a Saturday I was told they would respond "early" next week, by Thursday I had no response and had to call again. Then I was given an email address to send some information to. Again I received no communication, not even an acknowledgement that my email was received. This has been going for MONTHS and I keep having to follow up! Most recently I was told that my claim was approved for loss of rent (landlords insurance) and the email went on to state a rent amount that wasn't actually current – showing that they still hadn't even read the information that was sent through (other things have made this obvious too e.g. asking for information that was already provided). Each time I've called I've spent at least 5-10 minutes on hold before even getting someone to speak to me – extremely bad look to do this while at work, but if you work full time there's no other choice. How is it that the insured can be penalised for not disclosing something but the insurer can't even be expected to read the information that has been disclosed??*

Have you ever been sold an insurance product that was inappropriate for your circumstances? Or are you aware of this happening to others?

*Yes was paying for 2 separate insurances for my car (commercial and private use) and when I went to cancel one I was told that they could have been merged and it was unnecessary to have 2.*

Have you ever felt undue pressure from an insurer or insurance intermediary (such as an insurance broker or salesperson) to buy or renew an insurance policy?

*No more than a normal sales team*

Regarding difficulties comparing and changing providers and policies

When considering the purchase of insurance, what sources of information do you draw upon to make your decision? (e.g. comparison websites, talking directly to different insurance providers, talking to an insurance broker or financial adviser)

*Read through the different policies. Comparison websites for travel insurance.*

How long do you think you typically spend reading an insurance policy before you purchase it?

*10-15 minutes*

Do you think you have a good understanding of the insurance policies you currently hold?

*I have a basic understanding*

If not, what is the main barrier to you understanding your insurance policy?

*I think they keep things vague and deliberately use a lot of jargon*

Have you ever been in a situation where you thought you had a certain level of cover under your policy, but when you went to make a claim found you were not covered? If so, please provide us with a description of the situation.

*Not yet*

Would you like to switch insurance providers? If so, what is your main barrier to switching?

*Yes absolutely! I'm waiting on my claim to be closed off.*

What, if anything, should the government do to make it easier for consumers to compare and change insurance providers and policies?

*Don't know how much can be done. Just requiring a more transparent complaints and set time frames for dealing with claims would help. Also being able to keep the claim going but still switch insurers if the time frame has been exceeded by an unreasonable amount.*

## Regarding exceptions from the Fair Trading Act's unfair contract terms provisions

Are you aware of instances where the current exceptions for insurance contracts from the unfair contract terms provisions under the Fair Trading Act are causing problems for consumers? If so, please give examples.

*Unfamiliar with the fair trading act*

More generally, are there terms in insurance contracts that you consider to be unfair? If so, why do you consider them to be unfair?

## Other comments

We welcome any other comments that you may have.

*Insurance companies have a very poor reputation in NZ, change is needed to improve this as there is clear proof that they cannot self-regulate*

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