

Getting ahead of the Insurance Act



The Insurance Act 2015 that comes into force this August provides a welcome opportunity for insureds to match their actual risks to

their insurance cover. To achieve this, it also imposes a much more stringent requirement to disclose risks and improve company information flows. Failure to meet this requirement could lead to your coverage being reduced or denied.

Businesses are now under an obligation to be more proactive when disclosing risk-related information to their brokers and insurers and to present the information in an appropriate manner.

In order to take advantage of, and avoid the penalties imposed by the Act, businesses now need to review all information flows pertaining to risk assessment. This includes their data and IT management risk profile, and a comprehensive strategy on how they communicate this information to their insurers and brokers.

Fieldfisher Can Help. Our top-ranked team is able to help businesses identify risks arising from their technology and data security infrastructure which may cause problems when placing, varying or renewing their insurance programme.

We work alongside businesses and their insurance brokers to put their best foot forward on Act compliance by offering the following services:

- Advise on the impact of the new Insurance Act's duty of 'fair presentation' and the obligation to make a 'reasonable search' as it applies to their specific business
- Identify individuals who hold material information for the purpose of the Act, namely 'senior management' and relevant individuals responsible for insurance procurement
- Identify sources of information that need to be considered to satisfy 'fair presentation' duty and map information flows necessary to ensure compliance with 'reasonable search' obligation.
- Work with businesses to ensure data is disclosed in a manner and format sufficient to comply with the Act.
- Work with brokers to ensure insurers are made aware of pro-active steps an Insured intends to take to satisfy its duty and to obtain Insurers' agreement that the search obligation will be satisfied
- run pre-loss policy reviews to identify potential gaps in cover to be addressed with insurers by the broker, as well as claims strategy management and recovery

Fieldfisher is the leading technology and litigation practice in Europe, and has deep knowledge and experience in handling insurance matters and technology-related disputes for many different industries and type of clients. We can therefore offer clients cutting-edge advice on how IT and data security infrastructure should be implemented, provide insight into the risks that are inherent in any infrastructure as well as those that arise when corners are cut, and present a client's risk profile, regardless of its industry, to its brokers and insurers in a constructive, practical way.



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