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September 2015

2015-EC3-0020

## Consumer Rights Act 2015: Application to the Insurance Industry

Consumer law is changing in 2015, as the Consumer Rights Act (the Act) comes into force on 1st October 2015. The Act applies to consumer insurance contracts.

### Consumer Rights Act 2015

<http://www.legislation.gov.uk/ukpga/2015/15/contents/enacted>

There are several key concepts that are used in the 2015 Act that relate to the insurance industry. The concepts that are relevant to insurers are 'digital content', 'non-conforming services', 'unfair contract terms' and 'enhanced enforcement powers'.

**Digital Content:** under the 2015 Act, includes paid-for digital content along with digital content given out for free with any paid-for goods, digital content or services. All digital content should be 'fit' for purpose. Consumers will have a right to compensation for damages to a device or other digital content caused as a result of the digital content they have received from providers and in this case insurers.

Application: portals, apps, downloads, etc.

**Non-conforming Services:** "service" is not defined under the 2015 Act. However, the Act sets out that a contract under which goods are manufactured or produced and subsequently supplied to the consumer is a sales contract of goods rather than a contract to supply services. The 2015 Act does set out statutory remedies for non-conforming services. The remedies are the requirement by the provider to offer a reduction in price and/or to repeat performance. These remedies will depend on the nature of the non-conformity. Acts such as FSMA 2000 and ICOBs are more likely to apply to insurance services as they provide for more extensive consumer rights.

**Unfair Contract Terms:** the 2015 Act serves to consolidate preceding legislation both the Unfair Contract Terms Act 1977 and the Unfair Terms in Consumer Contracts Regulations 1999. Both Acts will be unenforceable if they fail the fairness test from 1 October 2015. The 2015 Act introduces 'consumer notice' which relates to rights and obligations under the contract. For insurers the 2015 Act makes it a requirement that written terms that relate to the subject matter of the contract or the terms by which the price is set are prominent, plain and in intelligible language.

Application: policy terms and wordings, renewals and product literature

**Enhanced enforcement powers:** the 2015 Act introduces more strenuous remedies than previously enforced by the Competition Market Authority or the FCA. Remedies resulting from unfair terms include; allowing customers to terminate the contract and claim compensatory payments. The class of private enforcers has been expanded by the 2015 Act to include enforcers specified as such by the Secretary of State. Private enforcers shall include consumer representative organisations. One could anticipate that this may bring about more class actions where mis-selling has occurred.

**The 2015 Act in Practice:** The enhanced remedies in favour of the consumer will mean that breaches made by the insurers could lead to increased business costs. Insurers will also have to take measures to review their practices and interactions with consumers and implement changes where necessary.

Generally the new regime is easier to use than past regimes; however, the 2015 Act could have gone even further to be more user-friendly for consumers and businesses alike.

If you require further information please contact Adam Johnson 0203 553 4875.

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Adam joined EC3\Legal in 2015 as a trainee solicitor. Adam works in the Corporate and Commercial Property departments. Through various work experience both in Bermuda and London, Adam has cultivated an interest in the legal and insurance industry. Adam graduated from the University of Exeter where he studied law. He recently completed the Legal Practice Course at BPP Law School in 2014.

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