



Mactavish

THE INSURANCE ACT 2015 IMPLEMENTATION BROKER MINI GUIDE

What is the Insurance Act 2015?

A new legal framework affecting every business insurance policy placed, renewed or amended after **12th August 2016**.

- It modernises insurance law and aims to make seeking payment from insurers simpler and fairer in the event of claim.
- However, in aiming to encourage professionalism on all sides of the insurance transaction, the Act also includes a number of requirements of both customers and insurers that directly impact on the broker role.
- Insurers may also 'contract out' elements of the Act, subject to meeting transparency requirements.

What do we need to do differently?

The Insurance Act is a significant event for the industry and customers will need advice on its implications. Broker education on its key points is important and will help reduce the broker's errors and omissions risk.

The broker's own operational procedures, and their terms of business with customers, are also likely to be affected. It would be wise to review and amend these before August 2016 to avoid unnecessary risk.

What are the key issues for the broker?

- Brokers would be prudent to familiarise themselves with all the new provisions, in particular the new requirements of the duty of **fair presentation**, the effect of the Act on policy terms and the remedies available to insurers as well as the possibilities for insurers contracting out of the Act.
- This duty includes a new obligation of **'reasonable search'**, requiring that adequate risk enquiries are made within a customer's organisation, but which will vary based on business circumstances. See the main guide for details.
- A key concern for the broker is managing the uncertainty inherent in new 'first principles' based legislation. It is important that both insurers and customers take their share of responsibility.



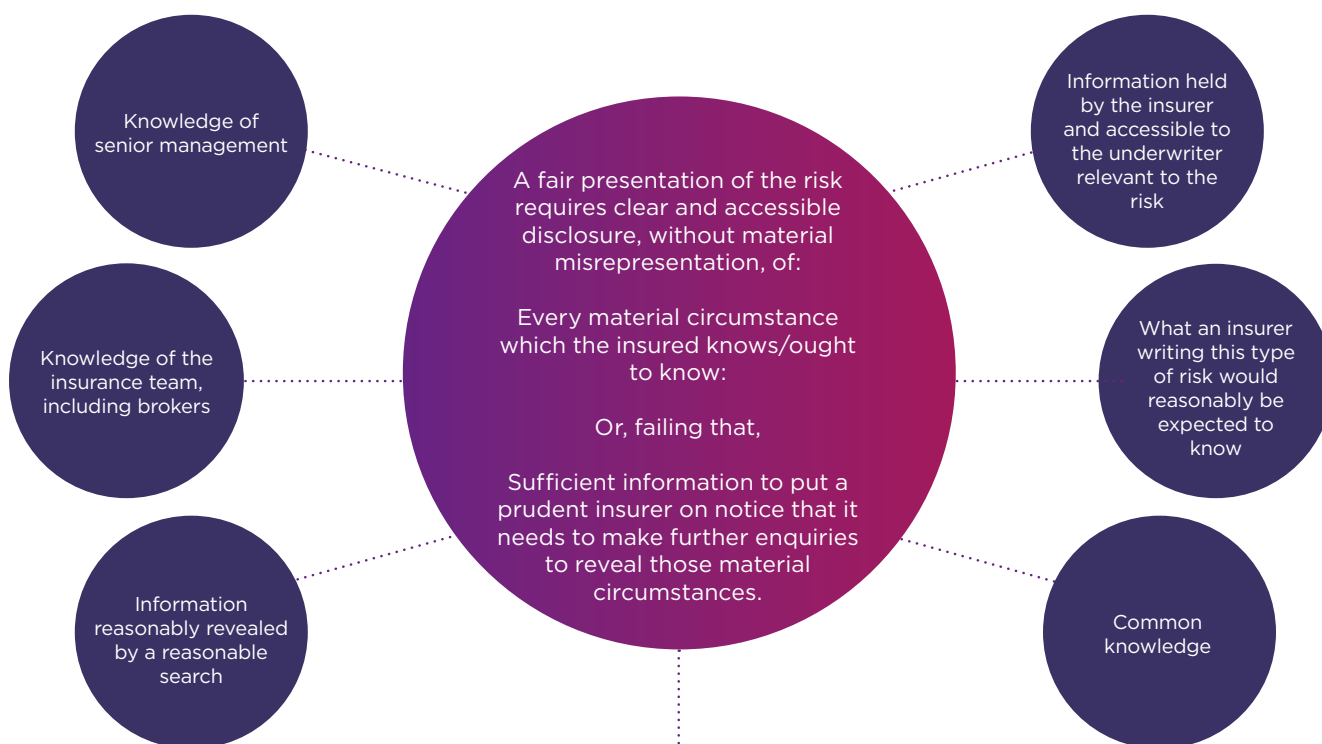
The duty of fair presentation

Customer Knowledge

What **MUST** be actively disclosed

Customer Knowledge

NOT required to be disclosed



Some areas where brokers may need to consider their role:

Customer Advice

- How much advice can brokers safely provide to customers concerning their own duties under the Act? Considerations include:
 - What is a **'reasonable search'**?
 - What is the right balance to ensure all risk information is presented in a 'clear and accessible' manner?
 - Whether the whole submission constitutes a **'fair presentation'** of risk?
- How do brokers ensure that every potentially disadvantageous term is flagged to the customer, as required under the new rules for **'contracting out'**?

Information Handling

- As the agent of the customer, relevant broker knowledge is generally disclosable under the Act so must be consolidated and managed carefully.
- The new framework increases the importance of properly handling all insurer risk queries.
- Record keeping and allowing adequate time for review and sign-off will both become more important.

How to find out more

Heavily summarised here, the new requirements contain a lot of detail and practical challenges to achieve compliance. Please contact BIBA or Mactavish for more details or to obtain copies of The Insurance Act 2015: Introductory Guide and Implementation Guide.



The British Insurance Brokers' Association (BIBA) is the UK's leading general insurance intermediary organisation – see www.biba.org.uk or use the Find-A-Broker Service on **0370 950 1790** or via the BIBA website.

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Mactavish is the UK's leading expert on insurance governance and Insurance Act compliance – see www.mactavishgroup.com or write to mail@mactavishgroup.com