July 2022

New insurance legislation signed into Law

The Insurance (Miscellaneous Provisions) Bill 2022 ("the Bill") was signed into law by President Michael D. Higgins on 27 June 2022 as the Insurance (Miscellaneous Provisions) Act 2022 ("the Act").

The majority of the Act, with the exception of Sections 7 and 8, took effect from 8 July 2022.

Below is an overview of the main changes introduced by the Act. For a more detailed overview of the Act, please see our previous briefing here which discussed the Bill. (The Act mirrors the Bill, with the exception of Section 8 of the Act, which contains a slightly amended definition of "claim" than was set out in the Bill).

Overview of the Act

The Act provides for amendments to the Central Bank (National Claims Information Database) Act 2018 ("the NCID Act"), the European Union (Insurance and Reinsurance) Regulations 2015 ("the Solvency II Regulations") and the Consumer Insurance Contracts Act 2019 ("CICA"). It also contains provisions seeking to target the practice of 'price walking', which is the term used to refer to a practice of insurance providers charging consumers higher premiums after the first renewal despite no increase in risk, while new customers are offered reduced premiums.

Main changes

The main changes introduced by the Act, and which are now in effect, can be summarised as follows:-

- The amendments to the NCID Act allow the Central Bank of Ireland to collect data on insurers deducting state supports from settlement amounts.
- The amendments to the Solvency II Regulations relate to the Temporary Runoff Regime which was introduced as a consequence of Brexit.
- Section 18(4) of CICA has been amended to ensure that the section addresses the specific circumstances it was intended

For further information on any of the issues discussed in this article please contact:



Peter Bredin
DD: + 353 1 674 1013
Peter.Bredin@dilloneustace.ie



Rachel Turner
DD: + 353 1 673 1845
Rachel.Turner@dilloneustace.ie

- There is also a new addition to Section 18(4)(b) of CICA whereby it clarifies that standard exclusions for loss or damage to property caused by war, an act of terrorism, a nuclear attack or a cyberattack, are not affected by Section 18(4)(a).
- The Central Bank is obliged to provide a report to the Minister for Finance, within 18 months, setting out the measures taken by it to regulate both the practice of 'price walking' in motor and home insurance policies, and automatic renewals for non-life insurance contracts, as well as whether further measures in the area are required.

CICA amendments not yet commenced

Sections 7 and 8 of the Act are yet to be commenced.

These sections relate to the mutual disclosure requirements on consumers and insurers during claims handling. Section 16(10) of CICA, it was considered, had the unintended consequence of encroaching too far on legal professional privilege. The Act, by deleting section 16(10) and inserting a new Section 16A into CICA reduces the scope for the mutual duty of disclosure applying to material covered by legal professional privilege.

The insertion of a new Section 16B into CICA obliges insurers to inform consumers of deductions from claim settlement amounts (with the exception of deductions related to the Recovery of Benefits and Assistance Scheme). This applies to non-life insurance contracts only.

Section 7 and Section 8 (as it relates to Section 16A of CICA) will commence on 1 October 2022, while Section 8 as it relates to Section 16B of CICA will commence on 1 January 2023.

Comment

The Act has provided greater clarity to the existing legislation, which is welcomed. In particular, the amendments to CICA clarify the position for both consumers and insurers. Insurers should be aware that from 1 January 2023, they must notify consumers of deductions made from claim settlements. Further, insurers should be cognisant of the obligations of the Central Bank of Ireland in relation to claims data and 'price walking' and it is likely that there will be increased engagement is these areas.

If you require further information or advice in relation to the Act, please contact a member of our Commercial Litigation Team.

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DILLON

EUSTACE

Dublin

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

Cayman Islands

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

New York

Tower 49, 12 East 49th Street, New York, NY10017, U.S.A. Tel: +1 646 770 6080

Tokvo

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

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