



Public Consultation on Private Members' Bill – Consumer Insurance Contracts Bill 2017 Feedback Statement

June 2019

Overview

The Consumer Insurance Contracts Bill (“the Bill”), was introduced in the Dáil as a Private Members’ Bill by Deputy Pearse Doherty TD in January 2017. It passed Second Stage in February 2017 where the Government expressed its support in principle for the objectives of this Bill, which is aimed at reforming and modernising the law of consumer insurance contracts.

For context it should be noted that the Bill was drafted subsequent to an extensive consultation process undertaken by the Law Reform Commission on the substantive issues under consideration for reform. Furthermore, the Department of Finance has engaged with relevant stakeholders on the substance of the Bill as part of its policy and technical review of the Bill.

Detail of Consultation

In December 2018, the Joint Oireachtas Committee on Finance, Public Expenditure and Reform and Taoiseach published a Report on Scrutiny of the Bill wherein it was recommended that the Department of Finance undertake a cost-benefit analysis of the Bill in order to inform the legislative process.

The Department launched the consultation on the 12 April 2019, for six weeks until the 24th May, although submissions were received after this date and were accepted.

The objective of this consultation was to seek the views of stakeholders principally on the cost of implementing these measures and the benefits to be gained for consumers, as defined by the Bill. However, interested parties were welcome to also comment on the broad policy thrust of the Bill and to provide any additional perspectives on it.

In particular, the Department sought the views of any interested or relevant parties on the following matters:

1. The specific costs of implementing the measures proposed by the Bill
2. The specific benefits to be gained for consumers and businesses falling within the scope of the Bill if the measures proposed by the Bill are implemented, and
3. A view on whether the benefits outweigh the costs – i.e., a cost benefit perspective on the proposed legislation

On closing of the consultation, 10 submissions were received, with a mixture of responses from those involved in the insurance industry and representative groups. The submissions¹ are published on the Department’s website.

¹ Nine of the submissions are published on the Department’s website as one was classified as confidential.

Executive Summary of Responses

From submissions of those involved in the insurance industry the main findings can be generalised as follows:

- It believes that the enactment of the Bill would replace long-standing principles of insurance which would increase costs for insurers and ultimately increase premiums. For example, the changes to the proportionate remedies for misrepresentation, warranties, insurable interest and changing to the concept of 'good faith' could bring about uncertainty and extra costs.
- The Bill as drafted is lacking precise definitions in some instances and has many ambiguous provisions. It is therefore difficult for the industry to set out in full what the impact would be, but there would be operational and developments costs arising from the uncertainty. In addition, the fact that the Bill in parts duplicates existing regulations would result in increased compliance costs with such costs ultimately carried by the consumer.
- In Section 7 of the Bill, Proportionate Remedies for Misrepresentation, if the term 'fraudulent misrepresentation' was used it would imply that insurers would have to apply a criminal standard of proof of 'beyond reasonable doubt' and doing so would make the identification of fraud difficult and result in increased costs for insurers.

From submissions of those who submitted responses on behalf of representative groups, the main findings can be generalised as follows:

- Expressed their support for the Bill and took the view that the Bill should be enacted without any further delay. Indicated that this Bill is required to address the imbalance that exists between Insurers and their Insured. Made the point that Insurance companies should place consumers at the heart of their concerns and operations and that this Bill should help improve the insurance industry's contractual relations with customers.
- The legislative protection for consumers of insurance contracts is long-overdue. The Bill has correctly identified some of the main areas of concern: non-disclosure, misrepresentation, warranties, and claim payments.
- That the bill could go further by:
 - Applying the EU definition for small and medium Enterprises (SME).
 - Increasing the length of time for renewals.
 - Introducing an insurance watchdog.
 - Applying the IIF/IBEC communication guidelines for insurers and policyholders.



An Roinn Airgeadais
Department of Finance



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