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THE DOCTRINE OF UTMOST GOOD FAITH
THE PAST, THE PRESENT & THE FUTURE

- PRESENTED BY
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Outline

- ❑Introduction
- ❑The origin of modern insurance in brief
- ❑The Doctrine of Utmost Good Faith
- ❑The duty of disclosure under MIA 1906
- ❑Landmark legal cases
- ❑The problems with the old law
- ❑What was the approach to rectify the situation?
- ❑Conclusions.

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Introduction

- The UK insurance market- Significance and development
- The relationship between the Egyptian insurance market and the London market
  - Similar Policy Wordings
  - Most cases in court are decided based on custom (derived from English Laws)
  - Technical training and CII
- Impact of any reform to the UK insurance-regulating laws on the insurance/reinsurance marker in Egypt
- English law described as archaic, unclear and unfair
- Reform Initiatives

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SECTION 1: The origin of modern insurance in brief

- The forebears of modern Insurance:
  - **BOTTOMRY**,
  - **RESPONDENTIA** and
  - **GENERAL AVERAGE**
- Mr. Edward Lloyd Coffee house and the emergence of modern insurance.

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SECTION 2:The Utmost God Faith Principle

❑ Definition of Utmost good faith:

- **"A principle used in insurance contracts, legally obliging all parties to reveal to the others any information that might influence the others' decision to enter into the contract".**

- This definition implies a standard of honesty greater than that usually required in most ordinary commercial contracts.

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SECTION 3:The Origin of “Utmost Good Faith”

- Origin of The Utmost Good Faith Principle
  - First enunciated by Lord Mansfield in 1766 in Carter v. Boehm
  - More than 200 years of English legal history have not solved all the problems that arise from the lack of good faith of insureds and sometimes of insurers and the ingenuity of their legal advisers.
  - Carter v. Boehm concerned the pre-contractual duty of disclosure.
  - Most of the 19th century cases concern breaches of the duty of good faith by reason of non-disclosure or misrepresentation at the time of the making of the contract.

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SECTION 3:The Origin of “Utmost Good Faith”
CONTINUED

- The Marine Insurance Act 1906 (MIA), as its name suggests, is generally confined to marine insurance. However, the House of Lords has held that Sections 17 to 20 of the MIA codify the common law and apply to all forms of insurance and reinsurance.

- A contract of marine insurance is a contract based upon the utmost good faith, and if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

- Continuing Duty

- The "Litsion Pride"

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SECTION 3:The Origin of “Utmost Good Faith”
CONTINUED

- In the context of insurance contracts, the doctrine of utmost good faith requires the full and accurate disclosure of relevant information.

- **Representations**, requires that both parties to an insurance contract must honestly disclose all relevant information.
  - A representation is considered "material" if the insurer relies on it in making decisions about the applicant in question.
  - A material statement that is false or untrue is known in the law as a "misrepresentation."

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SECTION 3:The Origin of “Utmost Good Faith”
CONTINUED

- **Concealment**
  - concealment refers to the intentional omission of material information.
  - An insurer can void an insurance contract, or deny payment on a claim due to concealment if:-
    - The insured knew that there was a fact that was important in regard to that insurance policy, and
    - The insured intentionally withheld that fact with the intent to defraud the insurer.
- **Warranties**
  - Warranties are promises by an insurance applicant to do certain things or satisfy certain requirements.
  - Warranties ultimately become part of the insurance contract. If an insured breaches a warranty, an insurer may have grounds to void an insurance contract.

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SECTION 4: The Duty of Disclosure under MIA 1906, Disclosure and Representations

❑ Article 18 (Disclosure by assured)

- ❖ The Assured must disclose , before the contract is concluded, every material circumstances known to him,
- ❖ Every circumstances is material which would Influence the Judgement of a prudent underwriter.
- ❖ Circumstances need not be disclosed.
- ❖ Whether a particular circumstances is material or not is in each case a question of fact.
- ❖ Circumstance includes any communication made to or information received by the assured.

SECTION 4: The Duty of Disclosure under MIA 1906, Disclosure and Representations
CONTINUED

- **Article 19, disclosure by agent effecting insurance**
  - Where an insurance is effected by an agent, the agent must disclose to the insurer:
    - Every material circumstances known to him, Same materiality test
    - Every material circumstances which the assured is bound to disclose unless it comes to his knowledge too late.

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SECTION 4: The Duty of Disclosure under MIA 1906, Disclosure and Representations
CONTINUED

- **Article 20, Representations pending negotiation of contract:-**
  - Every material Representation made by the Assured or his agent during the negotiations and before the contract is concluded must be true.
  - A representation is material which would influence the judgment of a prudent insurer
  - A representation may be as to a matter of fact or as to a matter of expectation or belief.
  - A representation as to a matter of fact is true if it is substantially correct, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

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SECTION 4: The Duty of Disclosure under MIA 1906, Disclosure and Representations

CONTINUED

- **Article 20, Representations pending negotiation of contract:-**
  - A representation as to a matter of expectation or belief is true if it is made in good faith.
  - A representation may be withdrawn or corrected before the contract is concluded.
  - Whether a particular representation is material or not is in each case a question of fact.
- **Article 21, When a contract is deemed to be concluded?**
  - When The proposal of the assured is accepted by the insurer, assured is bound to disclose unless it comes to his knowledge too late.

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SECTION 5: Landmark Legal Cases

1. • Carter v. Boehm
2. • Pan Atlantic V. Pine top

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SECTION 5: Landmark Legal Cases
Carter V. Boehm
CONTINUED

- English East India company and pepper trading.
- Fort Marlborough was fortified and garrisoned by a small private army.
- The Role of the staff.
- Roger Carter, born in 1723, one of the civil servants was chosen in 1756 as the deputy governor .
- Spreading the Anglo/ French conflict to India in 1758.
- Mid August 1759 reliable intelligence reached Carter that the French had had definite plans to send substantial force to surprise Fort Marlborough, within 6 months these rumors became reality.
- 20th of Feb 1760, Carter received a letter reporting the arrival of two French ships on 6th of Feb.
- Carter's instructions to his brother on 22nd of September 1759.
- Policy was affected on 9th of May 1760 and that was the trigger to Carter V Boehm case.

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SECTION 5: Landmark Legal Cases
Carter V. Boehm
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a. CARTER's INSURANCE POLICY

- ❑ The purpose of Carter's policy
- ❑ The form of Carter's Policy. It was not an ordinary policy
- ❑ Lord Manfield's Judgement
- ❑ The Law of Non Disclosure

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SECTION 5: Landmark Legal Cases
Carter V. Boehm
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- The substance of Lord Mansfield's Exposition:

1. "Insurance policy might be avoided where the insurer was induced to underwrite the policy for the insured's failure to disclose material facts, even where the insured had no fraudulent intentions".

2. The governing principle applicable to all contracts and dealings, " Good faith forbids either party by concealing what he privately know, to draw the other into a bargain , from his ignorance of the fact, and his believing the contrary" an insured's obligation were the product of a mutual requirements of pre- contractual good faith.

3. The Circumstances in which an insurer cannot avoid liability/ could not complain of non-disclosure.

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SECTION 5: Landmark Legal Cases
Carter V. Boehm
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- In the decades that immediately followed, Lord Mansfield's statements in CARTER V BOEHM were to have remarkably enduring status.
- The Case received more critical treatment in Marshal's treaties which appeared in 1802, however Marshal forced to admit that the principles stated in Lord Mansfield " were in general abstract propositions of indisputable truth and were laid down with admirable clearance and precision.
- Even clearer evidence of the enduring status of Lord Mansfield's statements came 140 years further on, with the codification of the Common law governing marine insurance in the Marine Insurance act 1906
- The context and Construction of the policy. Lord Mansfield placed important obstacles in the way of Boehm's success.

SECTION 5: Landmark Legal Cases
Carter V. Boehm
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b. Context and Construction of the policy

i. The circumstances in which Carter's policy was effected

- ❖ Lord Mansfield's reply to Boehm's allegation of MATEIAL NON-DISCLOSURE with the following account of the circumstances in which Carter's insurance policy was effected:-

  - The policy was signed in May 1760, against the contingency of " Whether Fort Marlborough was or would be taken by a European enemy between October 1759 and October 1760.

  - The underwriter in London in May 1760 could judge better than Governor Carter in September 1759 at Fort Marlborough.

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SECTION 5: Landmark Legal Cases
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- **The construction of the policy, The insured-against contingency**
  - The Insured against contingency, "Carter was guilty of material non disclosure in failing to disclose fort Marlborough's weak defensive state". Lord Mansfield replied:-
  - The Contingency was the attack on Fort Marlborough by a European enemy not the loss of the fort.

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SECTION 5: Landmark Legal Cases
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c. Boehm's defense to Liability

- In the absence of any fraudulent intentions on Carter's part, Boehm was left to allege non disclosure on other three matters to which Lord Mansfield added a fourth, they are:-

- ***Allegation 1***, Carter was guilty of material non-disclosure in failing to disclose Marlborough's weak defensive state in September 1759

- ***The Court rejection of the allegation:***

1. **Waiver of disclosure,**
2. **Immateriality of the poor state of the fortifications since:-**

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SECTION 5: Landmark Legal Cases
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❖ ***Allegation 2*** "

- Carter had not disclosed the existence and contents of the letter that he had received from Alexander Wynch dated 4 February 1759, at the Cape of Good hope.

- This was the letter which reported French Plans of 1758 to send a ship and 400 men to surprise the Company's West Coast settlements.

❖ ***The Court rejection of the judgement*** "

- It was said- if a man insured a ship knowing that two privateers were lying in her way, without mentioning that circumstance, it would be a fraud, but if he knew that two privateers had been there the year before, it would be no fraud not to mention that circumstance because it does not follow that they will cruise this year at the same time, in the same place, or that they are in a condition to do it.

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SECTION 5: Landmark Legal Cases
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❖ ***Allegation 3***

- "Carter had failed to disclose his anticipation of a French attack. Its evidential basis was the letter sent by Carter to his brother of 22 September 1759, in which he gave his brother his instructions to insure."
- It was this **speculation** about as possible French attack which according to Boehm should have been disclosed.

❖ ***The court's rejection to the allegation***

- 'This was a mere speculation of the governor, and not a matter of fact'. Lord Mansfield stated,
- An insured is not obliged to disclose his own speculations; an insurer is expected to exercise an independent judgment.
- The insured is not obliged to disclose matters of 'political speculation' or 'general intelligence', about which an insurer is expected to inform himself.

SECTION 5: Landmark Legal Cases
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- ***Allegation 4,***
  - In his letter on 22nd of September 1759 to his brother, by which the request for insurance was made, Carter reportedly commented that " in case of a Dutch War , I would have it (insurance) done at any rate. Carter was then ' principally apprehensive of a Dutch war , yet he had neither disclosed that apprehension , nor the grounds on which it rested, to the insurer

- ***The court rejection of the allegation***
  - Same as allegation number 3

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SECTION 5: Landmark Legal Cases
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❖ ***Fraudulent avoidance by the insurer***

- Having rejected the four allegation, lord Mansfield raised one final overriding ***objection*** to Boehm's attempt to resist liability,

- Lord Mansfield stated " if the insurer could avoid liability for Carter's material non-disclosure , a rule designed to encourage good faith and prevent fraud would become an instrument of fraud.

- Lord Mansfield reasoning.

SECTION 5: Landmark Legal Cases
Carter V. Boehm
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❖ ***The public policy objection***

- This objection was raised by Lord Mansfield himself, "an objection occurred to me at the trial, whether a policy against the loss of Fort Marlborough, for the benefit of the governor, was good"

- Lord Mansfield resisted his analogy based on the following:-
  1. First, it was unlikely the safety of Fort Marlborough would be significantly affected by Carter's acts or omissions.
  2. Secondly, the law did not consistently reflect the policy that dictated that insurance policies insuring sailor's wages should be invalid.
  3. Thirdly, as a policy of this type was extremely rare, it was unlikely that any mischief would follow by example as a result of its being allowed to stand.
  4. Finally, it would not be just to allow the insurer, who took the premium knowing of the insured's status, subsequently to overturn the policy on the basis that status precluded him from insuring.

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CONCLUSION

- The stated reanalysis enables us to see why after more than 250 years, later, it still deserve to be remembered. It was not a pro-insurer judgment.
- Any contemporary law reformer concerned with the modern law's shape and balance, might usefully reflect on three particular aspects of the judgment: -

  - The overriding necessity for an inequality of accessible information,
  - It underpins Lord Mansfield's unprecedented account of the circumstances in which an insurer cannot complain of non-disclosure, most of which can be derived from those normative underpinning
  - It underpins Lord Mansfield's general account of the context in which carter's policy was effected, the clear purpose of which was to emphasis that there was no significant inequality of accessible information in the case at hand.
  - Finally, and perhaps most importantly, it was the absence of any significant inequality of accessible information that ultimately lay at the heart of the failure of Boehm's particular allegations of material non-disclosure.

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SECTION 5: Landmark Legal Cases
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- Thus, we can now see that one reason why Boehm's allegations failed was that, in light of what the insurer knew or ought to have known when the policy we effected: -
  - The facts allegedly concealed would not have adversely affected a reasonable insurer's risk assessment.
  - The insurer had failed to take advantage of means of information available to him, in the form of inquiry of the insured or of some other source,
  - Both parties to an insurance contract, owed his counter party a corresponding obligation to disclose material facts. Even more significantly in practice, the law regulating the insured's obligation and its consequences would not be allowed to become a cover or excuse for fraud, nor even for negligence.
  - Courts must be sensitive to the law's impact on honest insured's.
  - Insurer could not be permitted to avoid liability vis-à-vis an insured who had honestly failed to disclose, where the insurer could not reasonably assume that he had been fully informed, and where his failure to inquire had deprived the insured of all opportunity of correcting the omission.

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SECTION 5: Landmark Legal Cases
Pan Atlantic V Pine Top

- The parties Plaintiff Pan Atlantic – The Defendant Pine Top- The Broker Butcher Robinson and Staples
- The disputes arise under 1982 contract of reinsurance, made between Pan Atlantic and Pine Top which became the reinsurer in 1980, 1981 and 1982 contract years
- Disputes subsequently arose in relation to all three years. Judgment was given in favor of Pan Atlantic in an action brought under 1980 and 1981 years
- An appeal by Pine Top was dismissed as regards 1980 and 1981. The present appeal is concerned only with the claim under 1982 treaty year

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SECTION 5: Landmark Legal Cases
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- The broking history of this treaty was summarized by Steyn L.J., in one of the judgments now under appeal, as follows:-
  - "The broker who acted on behalf of Pan Atlantic was Mr. Robinson of Butcher Robinson and Staples. The underwriter was Mr. O'Keefe. On 22 or 23 December 1981 Mr. O'Keefe gave a quotation. On 13 January 1982 Mr. O'Keefe signed the slip on behalf of Pine Top which wrote 50% line"
  - For the 1981 year the rate of premium was 10 per cent. When it came to the renewal for 1982 Pan Atlantic wanted the rate reduced to 7½ per cent. That could only be done by introducing an aggregate deductible of U.S.$225,000. That was the way in which the slip was then written and signed." "
  - The basis of Pine Top's purported avoidance of the reinsurance contract for 1982 was the presentation made by Mr. Robinson to Mr. O'Keefe. The undisputed evidence was that Mr. Robinson was an experienced and respected broker.

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- Mr. O'Keefe was an underwriter with some four years' experience. They knew one another. The discussions covered the reduced premium and the introduction of the aggregate deductible. There was some discussion of the loss record, and on 13 January 1982 Mr. Robinson said to Mr. O'Keefe that he had done 'a quick update' and there was:-
  - The short record contained only the record for the years 1980 and 1981.
  - The long record contained the record for the 1977 to 1979 period when Pine Top was not on risk as well as the record for the 1980 and 1981 years. The record for the 1977 to 1979 period was so bad that it was eventually common ground at the trial that no prudent underwriter would have signed the slip for 1982 on the terms which Mr. O'Keefe accepted.

- A major issue at the trial was whether there was a fair presentation in respect of the loss record for the 1977/78 and 1979 underwriting years.

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- The loss record for 1980 and 1981 was undoubtedly disclosed. But the disclosed record was incomplete.
- Within a few years it became plain that the treaty thus broker was incurring disastrous losses. Pine Top repudiated liability. Pan Atlantic commenced proceedings. Pine Top sought to avoid the treaty on the ground of non-disclosure of the 1977 to 1979 loss record and related misrepresentations.
- In January 1991, less than four weeks before the start of the trial, Pine Top amended to add a defense that the 1980 to 1981 loss record as disclosed was incomplete and that this constituted a further material misrepresentation or non-disclosure.
- At the conclusion of the trial Waller J. [1992] gave judgment in favor of Pine Top. He rejected the ground of defense originally relied on, holding that a prudent underwriter would have wanted to check the record for 1977 to 1979; but that the broker had a summary of the 1977-79 years available, which itself was perfectly fair, and which the underwriter, if he was doing his job, knowing it was the most material information, decided not to examine
- The judge did however uphold the defense based on the understatement of the losses for the year 1981. The Court Appeal dismissed an appeal by Pan Atlantic, expressing regret at being compelled to take that course.

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SECTION 5: Landmark Legal Cases
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- On these facts two questions of law arise for decision:-

  - Where sections 18(2) and 20(2) of the Act relate the test of materiality to a circumstance "which would influence the judgment of a prudent underwriter in fixing the premium, or determining whether he will take the risk"
    - **or is a lesser standard of impact on the mind of the prudent underwriter sufficient; and, if so, what is that lesser standard?**

  - Is the establishment of a material misrepresentation or non-disclosure sufficient to enable the underwriter to avoid the policy?
    - **or is it also necessary that the misrepresentation or non-disclosure has induced the making of the policy, either at all or on the terms on which it was made? If the latter, where lies the burden of proof?**

SECTION 5: Landmark Legal Cases
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- At the trial the judge (Lloyd J.) expressed his opinion on the law as follows:-

  - "In general I would say that underwriters ought only to succeed on a defense of non-disclosure if they can satisfy the court by evidence or otherwise that a prudent insurer, if he had known the fact in question, would have declined the risk altogether or charged a higher premium.

  - Suppose that the prudent insurer, if he had known the fact, would have accepted the risk, but charged a small additional premium; suppose further that there is a substantial claim under the policy. Why, if the insurer would have accepted the risk in any event, albeit at an increased premium, should he be able to avoid the claim altogether. **But the language of section 18 goes wider than that. It is the *judgment* of the prudent insurer which has to be influenced, not the rate**; and I can imagine cases where the prudent insurer could say: 'Yes, this would have affected my judgment; but I would nevertheless have charged the same rate because of counterbalancing factors.'

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- In the present case both the trial judge and the Court of Appeal were bound by the *C.T.I. case* and therefore had no reason to explore the principles at length. The trial judge [1992] 1 Lloyd's Rep. 101, 103 directed himself that the law laid down in the *C.T.I. case* was as follows:

> "any circumstance is material, i.e. is one which would influence the judgment of a prudent insurer in fixing the premium or determining whether he will take the risk, if it is a circumstance which: 'would have had an impact on the formation of his opinion and on his decision making process.' That is to say 'judgment' was equal to 'formation of opinion' rather than the 'final decision.' The case also made clear that the test in relation to non-disclosure or misrepresentation was influence on the judgment of a 'prudent insurer' and that thus the right to avoid did not depend on whether the particular insurer was influenced as a fact in relation to determining the premium he charged or in his decision whether or not to take the risk."

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SECTION 5: Landmark Legal Cases
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- Criticizing the decision taken in C.T.I, Judge Stern L.J said "it seems to me that there were at least two feasible alternative solutions to be considered in [the *C.T.I. case*]

  - **The first solution** was that a fact is material if a prudent insurer would have to be aware of it in reaching his decision.

  - **The second solution** involves taking account of the fact that avoidance for non-disclosure is the remedy provided by law because the risk presented is different from the true risk. But for the non-disclosure the prudent underwriter would have appreciated that it was a different and increased risk. Approaching the matter in this way it is possible to say that the test is whether a prudent underwriter, if he had known the undisclosed facts, would have regarded the risk as increased beyond what was disclosed on the actual presentation... .

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SECTION 5: Landmark Legal Cases
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- Judge Stern then Concluded" After all, there may be many commercial reasons for still writing the risk on the same terms. But if the concept of 'influence' is interpreted in accordance with the second solution, it seems to me that it is easier to fit the *C.T.I*. ... decision within the framework of our insurance law and it results in a somewhat fairer and more balanced principle of materiality as between insured and insurer. And the difficulties which this decision has caused in practice will be considerably ameliorated."

  - **In a brief concurring judgment, with whose sentiments Steyn L.J. agreed, Sir Donald Nicholls V.-C. expressed his unease at the consequence to which inadvertent non-disclosure had led in this case, for the result was that the reinsurer had avoided all liability for his own bad bargain and, moreover, had done so even though full disclosure would have resulted, not in his declining to take the risk, but only in an increased premium. Justice and fairness would suggest that when the inadvertent non-disclosure came to light what was required was an adjustment in the premium or, perhaps, in the amount of cover. But those were not options available under English law. The remedy was all or nothing. In the opinion of the Vice-Chancellor the present case was an unhappy example of a case where, in the absence of a discretion, the law did not produce a satisfactory result. Farquharson L.J. agreed with both judgments.**

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SECTION 5: Landmark Legal Cases
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- Facts In Pan Atlantic V Pine top
  - It was a common ground that the long tail statistics' figures were material,
  - The difficulty was that the Judge found as a fact that the figures were available for Mr. O'Keefe to look at and there perfectly fair presentation,
  - It was not part of the Broker's role to compel the underwriter to look at the figures if he did not wish to do so.
  - Pine top relied on the comment that Mr. Robinson had broked the risk in a way which was designed to concentrate Mr O'Keefe mind on the later years. In so doing he had successfully taken Mr. O'Keefe " eyes off the ball.

- In taking his decision the judge assumed:-
  - The two claims happened in the fourth quarter and what happened was only an acceleration of the losses,
  - An importance was given to tables which was prepared by the judge himself.

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SECTION 5: Landmark Legal Cases
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- **In his reply to the assumptions of the Judge, Mr. Beloff stated that:-**
  - The Two losses occurred as a matter of fact during the second and third quarters.
  - The losses disclosed for the years 1977 to 1979 were so bad that they eclipsed the two undisclosed 1981 claims. No prudent insurer would have accepted the risk on any terms, so the undisclosed claims would have made no difference.
  - The judge seems to have made some assumptions as to the premium figures for the years in question which may not be accurate. Mr. Beloff's criticism is that in attempting to draw any conclusion from the tables of loss ratios the judge was engaged on a frolic of his own.

- **So the fact remains that the figures disclosed by Mr. Robinson was USD 235,768 whilst it should have been USD 469,168 and the judge was entitled to regard this difference as a material**

- **Final Decision "The overall result is that the appellants win on the law but lose on the facts. It follows that I would dismiss the appeal. I recognize that this result may be less than satisfying to the plaintiffs. But even if the case had gone back to the judge, and they had won on the facts, it might well have proved a Pyrrhic victory"**

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SECTION 6: The Problems with the Old Law

1. What the Insured must disclose is uncertain.

2. Ignorance being no excuse for breach of duty to disclose

3. Specific questions do not relieve the insured of the duty

4. Breach of duty may have disproportionately harsh results for an insured

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SECTION 6: The Problems with the Old Law
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5. **The Law is too harsh**
   - ❑ It deprives the assured of a recovery for a genuine loss even if the misrepresentation or non-disclosure had no bearing on the risk which brought about the loss

6. **The Law is too harsh**
   - ❑ It deprives the assured of the whole of his recovery even if full and accurate disclosure would have done no more than cause the actual underwriter, or the hypothetical prudent underwriter, to insist on one rate of premium rather than another.
   - ❑ The inflexibility of an "all-or-nothing" rule has been present to the minds of all the courts. Even worse the law makes it illegal to consider a solution which involves an element of "proportionality" indemnifying the insured

7. **The law fails to take account of whether a reasonable person seeking insurance would appreciate that a particular circumstance was material and ought to be disclosed.**

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SECTION 6: The Problems with the Old Law
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8. The doctrine demands more of the assured than is feasible in modern trading conditions

9. The effect of the *C.T.I. case* has been to deter overseas interests from placing risks in the London market

10. The Court of Appeal in the *C.T.I. case* set the standard of materiality too low.

11. The decision in the *C.T.I. case* that a defense of misrepresentation or non-disclosure can succeed even if the actual underwriter's mind was unaffected is contrary to common sense and justice. Moreover, the rule is not correct in principle, since:-

12. If the actual underwriter would not have been influenced by the information it cannot have been material, and hence the assured was under no duty to disclose it

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SECTION 7: What Was the Approach to Rectify the Situation?

1. *BACKGROUND*

- The need for reform

- A review of the law commenced in 2006.

- The Law Commission has provided its recommendations as to consumer insurance law in 2009 and as to non-consumer insurance law in 2014.

- The recommendations were accepted by Parliament in two stages and embodied in:
  - **The Consumer Insurance (Disclosure and Representations) Act 2012 ("CIDRA 2012") and**
  - **The Insurance Act 2015 ("IA 2015").**

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SECTION 7: What Was the Approach to Rectify the Situation?
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- As for consumer insurance, the Law Commission summarized the pre-2012 position as follows:
  - "Despite the many calls for reform, there has been no legislative change. The insurance industry did not seek to justify the principles set out in the Marine Insurance Act 1906.
  - Instead the Association of British Insurers (ABI) argued that problems with the law could be dealt with through "market-based solutions" rather than legislation.
  - The issue has been subject to overlapping and inconsistent layers of industry statements, FSA rules, ombudsman-discretion and codes of practice:

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SECTION 7: What Was the Approach to Rectify the Situation?

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1. Statements of Practice were issued in 1977 and strengthened in 1986. Insurers agreed not to rely on their strict legal rights in some circumstances.

2. FSA has incorporated some principles in the Statements of Practice into its rules.

3. FOS has a statutory power to determine complaints according to what is "fair and reasonable in all the circumstances".
   - **OMBUDSMAN** **a** government official, appointed to receive and investigate complaints made by individuals against abuses or capricious acts of public officials. The town's *ombudsman* said he would look into charges of corruption.
4. In January 2008, the ABI issued formal Guidance on non-disclosure in long-term protection insurance.

5. In 2006, concerns were expressed that over 10% of critical illness claims were refused for nondisclosure.

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SECTION 7: What Was the Approach to Rectify the Situation?

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- The problem is that only a minority of consumers who experience problems complain to the FOS. Where an insurer refuses a claim in contravention of FOS guidelines, the consumer may not realize that the FOS will uphold the claim.

- ***Furthermore, many insurers continue to state that answers on proposal forms "form the basis of the contract", even though, since 1986, insurers have agreed not to use such clauses."***

- We Can now conclude that, The landmark legal cases, the FSA, FOS and ABI have open the door wide to introduce the new law reforms.

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SECTION 7: What Was the Approach to Rectify the Situation?

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2. *THE RATIONAL OF THE ACTS*

- The current law in the UK is based on principles developed in the eighteenth and nineteenth centuries and codified in the Marine Insurance Act 1906.
- The changes in the insurance market have meant that a market which was initially based on face-to-face contact and social bonds has developed into one based on systems, procedures and sophisticated data analysis.
- Furthermore, the types of risks insured have widened and the volume of information available to market participants has grown exponentially.
- The law:-
  - has failed to keep pace with these changes.
  - does not reflect the diversity of the modern insurance market or the changes in the way people communicate, store and analyze information.
  - Nor does it reflect developments in other areas of commercial contract and consumer law.

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

- The Consumer Insurance Act targets the most problematic area for most people buying cover – what information they must give the insurer when applying for insurance and the insurer's remedies if they get it wrong

- The Act came into force in April 2013.

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

THE DUTY OF DISCLOSURE

- The act introduced the duty to take reasonable care not to make a misrepresentation and abolished the pre-contractual duty of disclosure for consumers.

- In the case of a **variation, the duty would apply only to information relating to the variation.**

- This modifies the consumer's duty of Utmost good Faith by removing the obligation to disclose material facts. The consumer would no longer be required to volunteer information but only to respond honestly and with reasonable care to questions asked.

- The Act does not define what constitutes a misrepresentation. Under the common law, it is a representation that is either inaccurate or misleadingly incomplete

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- If an applicant clearly refuses to answer a question and the insurer nevertheless accepts the proposal, the Law Commissions suggest that the omission would not be a misrepresentation

- The Act, however, makes it clear that a failure by the consumer to comply with a request to confirm or amend particulars previously provided is capable of being a misrepresentation.

- This often happens at renewal. A renewed contract is, of course, a new contract, so the consumer would be under a duty to take reasonable care not to make a misrepresentation. It would be a question of fact whether or not the failure to respond was reasonable.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- Change of Circumstances clause
- Reasonable care

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- ***QUALIFYING MISREPRESENTIONS***
- A misrepresentation for which the insurer has a remedy against the consumer
- For a breach to amount to a qualifying misrepresentation there must be:-
  - A breach of the consumer duty to take reasonable care not to make a misrepresentation
  - The insurer must show that in the absence of the misrepresentation, the insurer would not have entered into the contract or would have done so only on different terms.
- It is not sufficient for the insurer to show that the hypothetical prudent underwriter would have been influenced . The specific insurer must show that it relied on the misrepresentations and would have acted differently if the misrepresentation had not been made.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- Section 4 **retains the concept of inducement from current law**, so cases such as Pan Atlantic v Pine Top [1995] will still be applied. The insurer must be able to show that, without the misrepresentation, it would not have entered into the contract or would have done so only on different terms. The insurer's underwriting guidelines and/or evidence from an underwriter will be relevant here.

- The **concept of materiality, however, has been dropped**. Instead of asking whether the misrepresentation would have influenced the judgment of a hypothetical "prudent insurer", the insurer must show:-
  - that it was induced by the misrepresentation and
  - that a reasonable consumer would not have made it.

- Section 5 also contains two presumptions: -
  - that the consumer had the knowledge of a reasonable consumer, and
  - that the consumer knew that a matter about which the insurer asked "a clear and specific question" was relevant to the insurer.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- It will be for the consumer to show that he had less knowledge than would normally be expected or that he did not realize the issue was relevant despite the clear question.

- The act distinguishes between mistakes which are " Reasonable, "careless, and " deliberate or reckless
  - For reasonable misrepresentation ,the insurer must pay the claim
  - For carless misrepresentations, the act provides a proportionate remedy, based on what the insurer would have done had it known the facts.
  - For deliberate or reckless misrepresentations , the insurer may refuse the claim

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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Insurer's Remedies For Qualifying Misrepresentations:

- Where an insurer have been induced by a misrepresentation to enter into an insurance contract, the insurer's remedy will depend upon the consumer's state of mind:-

  - Where the misrepresentation is honest and reasonable , the insurer must pay the claim
    - The applicant is expected to exercise the standard care of a reasonable consumer,

  - Where a misrepresentation is careless, the insurer has a compensatory remedy based on what the insurer would have done had that consumer taken care to answer the questions accurately and completely
    - If the insurer would not have entered the into the contract on any terms, the insurer may avoid the contract and return the premium
    - The Law Commissions chose the term "careless" rather than "negligent" to emphasize that this is a new standalone category that is not intended to draw on the existing law of negligence.
    - If he would have contracted but on different terms, then the contract is to be treated as if entered into on such different terms (imposing exclusion- additional premium - deductible;)

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- Where the misrepresentation is deliberate or reckless, ,the insurer may avoid the policy, in other words, it may treat the policy as if it does not exist. The insurer would also be entitled to retain the premium, unless it would be unfair to the consumer
  - This caveat was inserted because of two particular concerns:-
    - Investment type life insurance
    - Joint lives policies , where the non-return of premium might involve unfairness

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- **Termination**

- **In the schedule CIDRA includes a statutory termination rights for both insurers and consumers following a careless misrepresentation**

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- Banning the basis of the contract clauses (Warranties)

- Contracting out

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

CONTINUED

- **Group Insurance**

- **Special rules would apply where the insurance is a group scheme.** The policyholder is the employer but the employees, who are entitled to receive the benefits, are not party to the insurance contract

- Section 7, however, has been drafted widely to include any type of insurance that provides cover to a person who is not a party to the insurance contract.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- **Insurance on Life of another**
  - There are also special rules for life insurance taken out by a consumer on the life of another. It is common in such situations for the insurer to ask the person whose life is being insured about their health.
  - Under section 8, the information provided by that person will be treated as if provided by the person taking out the cover. So if the life insured makes a deliberate or careless qualifying misrepresentation, the insurer can apply the appropriate remedies, even if the actual policyholder was not at fault.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- **AGENTS**
- Schedule 2 sets out a code for determining whether an insurance broker or intermediary (referred to throughout as an "agent") acts for the insurer or the consumer for the purposes of passing on pre-contract information and entering into the contract.
- The code is based largely on the existing law, but the rules would not apply to other areas of agency, such as collecting premium, or to business insurance.
- Schedule 2 identifies three circumstances where an intermediary will be taken to be acting for the insurer.
- Express authority will usually be given in the terms of business agreement (TOBA) between the insurer and the intermediary.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- In all other cases, it will be presumed that the agent acts for the consumer unless, in light of all the relevant circumstances, it appears the agent is acting for the insurer.

- The code sets out a non-exhaustive list of circumstances that may be relevant factors tending to suggest the agent acts for the consumer.

- Circumstances suggesting the agent acts for the insurer include:-
  - where the agent is "tied" or "multi-tied" so that it can only offer the products of a single insurer or a limited number of insurers.
  - Branding and white labelling arrangements, where the insurer allows the agent to brand its services with the insurer's name, or
  - conversely where the insurance product is branded with the agent's name, also point to an agency relationship; or where the insurer asks the agent to solicit the consumer's custom.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- The explanatory notes, however, make it clear that these factors will not necessarily determine the issue and that other circumstances may be relevant. There is also a provision enabling the Treasury to amend the list of factors if it appears outdated.

- If an agent is found to have been acting for the consumer, the normal consequences of agency apply. So if the agent makes a deliberate or reckless misrepresentation, the consumer will be responsible and the insurer may avoid the policy, even if the consumer is not at fault.

- If the agent acts for the insurer, the insurer will be bound by its actions. If the agent exceeds its express authority, the insurer will have to abide by the contract unless the consumer had reason to suspect the agent was overstepping its authority.

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Consumer Insurance Act 2012

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- **Aggregators**

- Although not specifically mentioned in the Act, the Law Commissions' final report discussed the role of aggregator

- In many cases, aggregators do little more than put consumers in touch with insurers, after which the consumer will provide information directly to the insurer.

- But in other cases, the consumer completes a form on the website and this information is transferred electronically to the insurer.

- There is no case law on the agency role of aggregator websites.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- More difficult issues arise in connection with the collection of information.
- If the insurer gave the website express authority to collect information in this way, then under the code, there would be an agency relationship between them.
- But in the absence of express authority, the court would look at all the circumstances. Unless a close relationship is shown between the aggregator and the insurer, it would be presumed that the agent was acting for the consumer in collecting the information

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SECTION 7: What Was the Approach to Rectify the Situation?.

Consumer Insurance Act 2012

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- **Contracting Out**
- Section 10 prevents insurers from imposing contractual terms in the policy (or in any other contract) that put the consumer in a worse position in respect of pre-contract disclosure and representations than under the Act. Such terms will have no effect.
- Under the Financial Services and Markets Act 2000 (Law Applicable to Contracts of Insurance) Regulations 2001, for instance, default rules apply to EEA risks if the parties to the insurance contract have not made a choice of law. These vary according to whether the policy is for general or long-term insurance.
- Section 10 would also have no effect on contract terms that do not relate to pre-contract disclosure and misrepresentation, such as claims notification clauses or clauses requiring the insured to notify changes in their health between agreement and the inception of cover.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

- The new non-consumer Insurance act 2015 came into force on 12 August 2016. The Act is seeking to create a new and fairer balance between insured and insurer.

- The Act applies to non- consumer insurance contracts only and to " variations" only and to variations of such contracts. It applies also to 'reinsurer' and 'reinsured' (Insurer) in the same context, where applicable.

1. **What will it apply to?**

SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

2. **Fair Presentation of the risk**
   - Non- consumer (i.e. commercial or business) insureds will have a duty to make fair presentation of the risk, the full requirements to satisfy the duty are set out in the Act
   - What is a fair presentation of the risk?
   - The disclosure required is as follows except as provided in subsection 5 “

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

3. **Circumstances**
   - The term circumstances or representation is material if it would influence the judgement of a prudent insurer in determining whether to take the risk and ,if so, on what terms.
   - A material representation is substantially correct if a prudent insurer would not consider the difference between what is presented and what is actually correct to be material.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

4. **The insured's knowledge, section 4 (6) provides**
   - An insured ought to know what should reasonably have been revealed by a reasonable search of ***information*** available to the insured, whether the search is concluded by making enquiries or by any other means
   - ***Information*** includes information held within the insured's organization or by any other person (such as the insured's agent or a person whom cover is provided by the contract of insurance)

❑ The Insurer's knowledge, s(1) provides that:-

- An insurer knows something only if it is known to one or more of the individuals who participate on behalf of the insurer in the decision whether to take the risk , and if so on what terms (whether te individual does so as the insurer's employee or agent

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SECTION 7: What Was the Approach to Rectify the Situation?.

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- An insurer ought to know something only if:_
  - An employee or agent of the insurer knows it, and ought reasonably to have passed on the relevant information to an individual mentioned in sub section(1), or
  - The relevant information is held by the insurer and is readily available to an individual mentioned in subsection (1)
  - An insurer is presumed to know:
    - Things which are common knowledge, and
    - Things which An insurer offering insurance of the class in question to the insureds in the field of activity in question would reasonably be expected to know in the ordinary course of business

- Knowledge, s 6 addresses both the insured and the insurer's knowledge. Includes not only actual knowledge, but also matters which the individual suspected, and of which the individual would have knowledge but for deliberately refraining from confirming them or enquiring about them

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

REMEDIES FOR BREACH

- The statutory regime seeks to ensure that party's remedy is proportionate and it puts the insurer back in the position it would have been in had it received a fair presentation of the risk.

- The nature of the remedy is dependent upon whether the breach of duty was (i) deliberate or reckless, or (ii) neither deliberate nor reckless

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

- A qualifying breach is deliberate or reckless if the insured:-
  - knew that it was in breach of the duty of fair representation, or
  - did not care whether or not it was in breach of that duty

- A deliberate breach of duty of fair representation could involve intentionally
  - Refraining from disclosing a circumstance which the insured knows to be material
  - Making a data dump or otherwise presenting risk in a particular way in order to conceal certain information as the case where a summary is very misleading), or
  - Intentionally lying about a material presentation, either in the initial presentation or by knowingly giving a false response to an insurer inquiry

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

- How would the insurer have reacted to an accurate statement.

- Evidence of how the insurer would have acted may be derived from a number of sources:-
  - ✓ Pricing manuals and models
  - ✓ Contemporaneous policies and oral evidence from the individual underwriter or expert witnesses
  - ✓ There may be commercial reasons for similar risks being written on different terms for different policyholders
  - ✓ The court will need to decide which offer the insurer would most likely have put to the insured (in case of the possibility of different options)
  - ✓ The law commission stated " we believe that the courts are best placed to decide what evidence is a admissible and sufficient to show how the insurer would have acted. The courts make similar decisions at present when deciding issues of materiality and in particular inducement

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

❑ *WARRANTIES*

- ❑ The law of insurance warranties has been subject to major criticisms over many years

- ❑ When considering the reform of the insurance law, the law commission identified four problems with it:
  - ❖ An insurer may refuse a claim for a trivial mistake which has no bearing on the risk,
  - ❖ The insured cannot use the defense that the breach has been remedied,
  - ❖ The breach warranty discharges the insurer from liability , not just liability for the type of loss in question (a failure to install burglar alarm would discharge the insurer from liability for a flood claim,
  - ❖ A statement may be converted into a warranty using obscure words that few policyholders understand such as the BASIS OF CONTACT STATEMENT.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

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- Sec 9/2 provides that a representation is not capable of being converted into a warranty by means of a provision of the contract such as the " basis of contact clause"
- Sec 10/1 abolishes any rule of law that a breach of warranty results in the discharge of the insurer's liability
- So there is no longer any term of an insurance contract which has the same effect as a present –day warranty (an automatic discharge of liability following breach)
- Warranty becomes suspensory condition

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

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- Remediation of the breach of warranty, sec 10.
  - If time warranty is breached , it would be remedied if the risk which the warranty relates later becomes essentially the same as that originally contemplated by the parties.
  - Where a loss occur before the breach of warranty or after the warranty has been remedied, the insurer should pay the claim.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

- Breaches which could not be remedied
- Terms not relevant to the actual loss
- The real mischief of the law commission intended to address is reliance by insurers on breaches of irrelevant warranties “we do not think it is fair that an insurer can refuse a claim on the policyholder’s breach of warranty or other conditions in circumstances where those terms are clearly irrelevant to the loss, that where the type of loss which occurred is not one which compliance with the warranty or condition could not have had any chance of preventing

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The Non consumer Insurance Act 2015

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- Interaction between clauses 120 and 10
  - The law commission gave the following guidance " our recommendations as set out in clauses 10 and 11 operate in different ways.
    - ✓ Clause 10 sets out the consequences of breach on warranty, and applies only to warranties
    - ✓ Clause 11 has the potential to apply to warranties but also other terms which seek to exclude or limit an insurer's liability
  - Since not all warranties are aimed at reducing risks all will be caught by clause 10, but only some by clause 11
    - ✓ Some address the moral hazard, (the policyholder's criminal record),
    - ✓ Some define the scope of contract as a whole (restricting the cover for personal use)
    - ✓ Some have no bearing on risk of loss at all (Premium payment warranties)
  - Nevertheless, in some cases both clauses masy apply together.
  - However the law commission believe that the new remedy regime for warranties together with "type of loss" recommendation act together to put the policyholder in a stronger legal position

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

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- **Vest v Butcher,** Vesta provided cover for a fish farm which contained a warranty that the insured should keep 24 hours watch at the farm which was not complied with.

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The Non consumer Insurance Act 2015

CONTINUED

- **Vest v Butcher,**
  - Vesta provided cover for a fish farm which contained a warranty that the insured should keep 24 hours watch at the farm which was not complied with

- **The Bamcell II**
  - In this case the owner of a converted barge warranted that a watchman would be employed at night.

SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

❑Printpak V AGF

- The insurer refused a claim for fire loss because the policyholder was in breach of a warranty to install and maintain a burglar alarm.

- The court decided, that a burglar alarm warranty would not suspend the insurer's liability in relation to a fire loss.

SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

CONTRACTING OUT

- Reiterates basis of contract clauses or similar, are of no effect
- Any other contractual term which would put the insured in a worse position than he would be under the default provisions of the act, unless the insurer satisfies s. 17, and the " transparency requirements"
- The act allows the parties to agree warranties subject to the transparency terms.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

FRAUDULENT CLAIMS

- At common law it was allowed for the insurer to avoid a fraudulent claim, however under sec 17 of MIA 1906, the policy is void

- There is an inconsistency as to the remedies available

- sec 12 provides that if the insured makes a fraudulent claim:-
  - The insurer is not liable to pay the claim,
  - The insurer may recover from the insured any sums paid in respect of the claim, and
  - The insurer may by notice to the insured treat the contract as having been terminated with effect from the date of the fraudulent act.

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SECTION 7: What Was the Approach to Rectify the Situation?.

The Non consumer Insurance Act 2015

CONTINUED

- Treating a contract as having been terminated does not effect the rights and obligations of the parties to the contract with respect to a relevant event occurring before the time of the fraudulent act

- Relevant act refers to whatever gives rise to the insurer's liability under the contract (for example, the occurrence of a loss, the making of a claim, or the notification of a potential claim)

- In group insurances, the insurer's remedies for fraud as set out in the act should apply in group schemes except that they should only against the fraudulent beneficiary rather the policyholder

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Should Micro Business Be Treated Like Consumers?

CONTINUED

- Definitions for Micro business:
  - OPTION 1 – TURNOVER DEFINITION
    - ✓ It would be possible to identify a micro-business by using turnover assessed at the point at which the contract is made.
    - ✓ Advantages of this definition.
    - ✓ It can be a crude measure for a number of reasons.

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SECTION 7: What Was the Approach to Rectify the Situation?.

Should Micro Business Be Treated Like Consumers?

CONTINUED

❖ OPTION 2 – EMPLOYEE DEFINITION

- ✓ The second option is to define a micro-business by the number of employees it has, assessed at the time the contract was entered into.
- ✓ Most of the British reports describe micro-businesses as businesses that have fewer than 10 employees.
- ✓ Such an option was considered by the Law Commission.
- ✓ It should include:-
  - employees as defined by national legislation,
  - as well as owner managers and partners,
  - Only full time equivalent" so part time staff, seasonal workers and those who did not work the full year should be treated as fractions of the annual unit.

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Should Micro Business Be Treated Like Consumers?

CONTINUED

- OPTION 3- FINANCIAL OMBUDSMAN SERVICE JURISDICTION LIMIT
  - ✓ The final option is to tie the definition of micro-business to the Financial Ombudsman Service jurisdiction limit.
  - ✓ Currently a business is entitled to have a case against an insurer heard by the FOS when that business has a turnover of less than £1 million at the time of the claim.

- EXCLUDED OPTION: THE BERR AND EUROPEAN COMMISSION DEFINITION
  - ✓ A final option for defining a micro-business is to take the definition of a microbusiness used by BERR and the European Commission. They described microbusinesses as businesses that have:
    - between zero and nine employees; and
    - either
      - annual turnover of less than €2 million; or
      - assets of less than €2 million.

SECTION 7: What Was the Approach to Rectify the Situation?.

Should Micro Business Be Treated Like Consumers?

CONTINUED

- PLACING THE MICRO BUSINESS IN THE CONSIMER REGIME
  - Based on consultation papers and studies it was concluded that the best way is to place microbusinesses in the consumer regime for the purposes of pre-contractual information.
  - WHY??
  - What are the advantages of placing micro-businesses within the consumer regime for pre contractual information?

TRUST

SECTION 7: What Was the Approach to Rectify the Situation?.

Should Micro Business Be Treated Like Consumers?

CONTINUED

- THE EFFECT OF TREATING MICRO-BUSINESSES AS CONSUMERS
- SMALL BUSINESSES

TRUST

CONCLUSIONS

- Open discussion about
  - **Has the doctrine of Utmost good Faith been abolished???**
  - Evaluation to the position in Egypt
    - ✓ Are we fair with our client
  - What are the main problems
  - What is required and who is doing what
    - ✓ The law
    - ✓ The Educational institutes
    - ✓ The insurance companies
    - ✓ The brokers