

Alert

Risk Management & Insurance

Insurers to be Barred from Using Unfair Contracts

By Debra Lane

As widely reported in the press, the Morrison Government is set to scrap exemptions to the rules against unfair contract terms for insurance companies acting on one of the 76 recommendations to come out of the Hayne Royal Commission. A new draft Bill has been produced relating to recommendation 4.7 which is to apply to Unfair Contract Terms (UCT) to insurance contracts, as well as to contracts in other sectors.

The UCT laws were introduced in 2010 and applied to sectors of the economy and business which used standard contracts; however, they have never been applied to insurers. The Royal Commissioner concluded that they should be.

Examples of “unfair” insurance contract terms which were considered included:

- Home building insurance contracts that allowed the insurer to decide not to repair a building but rather pay a cash amount equivalent to the costs to the insurer of rebuilding or repairing the building as opposed to the actual costs of the repair which may well be higher if the insured had the work done independently of the insurer.
- Home building insurance contract provisions that permit an insurer to require the insured to pay an excess before paying the claim.
- Provisions in car insurance policies which require the insured, when making a claim, to provide the name, registration number and contact details of an uninsured at-fault driver.

It is anticipated that Treasurer Josh Frydenberg will boost public scrutiny of financial service providers by expanding the scope of chief executives who must appear at least once a year before the Parliament’s Standing Committee on Economics. As well as executives of the big four banks, executives of insurance and superannuation companies will be required to update the Committee on how they are going about implementation of the changes recommended by Commissioner Hayne.

We encourage businesses to review their current insurance contracts and contact us if you have any queries.



MORE INFO

Debra Lane Director

p: +61 8 **8124 1806**

debra.lane@dwfoxtucker.com.au

DW Fox Tucker Lawyers

L14, 100 King William Street, Adelaide, SA 5000

p: +61 8 **8124 1811** e: info@dwfoxtucker.com.au **dwfoxtucker.com.au**

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