

# APPLICABLE LAWS GOVERNING THE DISTRIBUTION OF

## *Insurance*

**Read time:** 9 mins



# Hello,

By selling General Insurance, you are required to have the 'minimum necessary knowledge of applicable laws governing the distribution of insurance products, such as consumer protection law, relevant tax law and relevant social and labour law.

This guide will explore the core pieces of legislation that help govern the distribution of insurance products in the UK. It will provide a background to the different types of law on which insurance contracts are based, and provide an overview of the main consumer protection and employment laws.

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# What is the Law?

## Background

Law is the system of rules that a particular country, community or society recognises, which regulates its citizens' actions. If individuals break any rules, then the country, community or society may enforce the laws by imposing penalties.

English law has its origins in Anglo-Saxon times. The legal reforms of King Henry II in the 12th century incorporated customs and precedent into a system known as common law – the law that is common to the whole country.

The law of England and Wales has evolved through statutes and case law. Therefore, the primary sources of English & Welsh law are Statutory Law & Common Law.



# What is the Law?

## Criminal Law

Criminal law essentially covers offences and breaches that negatively affect society as a whole rather than just one person. Examples of these offences are theft, assault, murder and rape. If a person breaches criminal law, they're subject to criminal prosecution by the state.

Prosecutions are usually brought by the Crown Prosecution Service (CPS) in the name of the Crown. If found guilty, an individual will receive the penalty laid out in the relevant legislation and sentencing guidelines, usually in the form of fines, community orders, or in severe cases, imprisonment.



# What is the Law?

## Civil Law

Civil Law focuses on individual people or organisations' rights and property, which criminal laws may not always protect. Civil Law includes issues such as breach of contract, libel, fraud, house purchase, divorce and negligence.

Civil Law emphasises the implementation, maintenance and protection of legal rights and responsibilities. It settles disputes between individuals and organisations and often involves compensation being awarded.

Civil Law cases can be lengthy and costly, so disputes are often resolved outside the court system. Therefore, only disputed issues of Civil Law go to court.



# What is the Law?

## Statutory Law

Statutory law is created through Acts of Parliament. There are generally four types of statutory law that will affect your role as a broker:

- » Statutes that regulate the financial services and insurance sectors
- » Statutes that stipulate how firms should behave
- » Statutes that outline how you should behave towards your clients
- » Statutes that apply to employment and health and safety

### **Statutes regulating the financial services and insurance sectors**

- » The Financial Services and Markets Act 2000
- » Financial Services Act 2012
- » Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA)
- » The Insurance Act 2015
- » The Consumer Credit Acts 1974 & 2006

### **Statutes stipulating how firms should behave**

- » The Data Protection Act 2018
- » The Proceeds of Crime Act 2002
- » Bribery Act 2010
- » Limitation Act 1980
- » Terrorist Asset Freezing etc. Act 2010

# What is the Law?

## Statutory Law

### Statutes that outline behaviour towards your clients

- » The Financial Services and Markets Act 2000
- » Financial Services Act 2012
- » Consumer Insurance (Disclosure and Representations) Act 2012 (CIDRA)
- » The Insurance Act 2015
- » The Consumer Credit Acts 1974 & 2006

### Statutes that apply to employment and health and safety

- » The Employment Rights Act 1996
- » The Pensions Acts 1995 and 2008
- » The Working Time Regulations 1998
- » The National Minimum Wage Act 1998
- » The Equality Act 2010
- » The Health and Safety at Work Act 1974

# Common Law, Tort, Law of Agency & Case Law



## Common Law

Common law is based on judges' decisions and customs rather than on written laws, as Acts of Parliament do not cover everything.

Judges have, over time, developed the law by ruling on a range of individual cases brought before the courts. The principles of Common Law apply to criminal and civil law.



## Tort

'Tort' is a civil wrong (other than a breach of contract) that occurs where someone unfairly causes another person to suffer loss or harm.

Tort law allows individuals to claim against any losses they suffer as a result of another's action. Examples of tort are:

- » Negligence
- » Trespass
- » Nuisance
- » Defamation





## Law of Agency

Agency is a legal relationship under which the law recognises a person as having the power to create or alter legal rights, duties or relationships of another person, the principal.

An agent usually benefits from the relationship by receiving a commission from the supplier. This law applies to the relationship between a broker and their client.



## Case Law

Case law is law that is established by precedent. When a court makes a judgement, any future cases must follow that judgement unless a higher court or act of parliament changes the precedent.

Case law occurs where a court (judge) makes a ruling:

- » To interpret or clarify an Act of Parliament
- » On a Test Case (a case where those circumstances that have not arisen before)
- » On old case law that is now judged to be inappropriate for the needs of modern society

Case Law has provided clarification in the following areas of insurance:

- » Insurable Interest
- » Proximate Cause
- » Contribution
- » Subrogation



**CONSUMER INSURANCE  
DISCLOSURE & REPRESENTATIONS  
ACT 2012**

**CIDRA**

# Consumer Insurance Act 2012

## Overview

On April 6 2013, the Consumer Insurance (Disclosure and Representations) Act 2012 came into force for Consumer Insurance.

Consumer Insurance contracts are defined as:

“

*A contract between an individual who enters into the contract wholly or mainly for purposes unrelated to the individual's trade, business or profession.*

”

The wording is intended to be broad enough to cover contracts which cover both private and business use, as long as main purpose of the contract is for private use. If it is not clear whether a customer is a consumer or a commercial customer, a firm must treat the customer as a consumer.

The act also stipulated that a consumer has to answer all questions honestly and reasonably. So therefore, it is up to the insurer to ask all the questions they want their customers to answer.

CIDRA does not define what a misrepresentation is, however, in common law it is a representation that is either inaccurate or misleadingly incomplete.

In some circumstances an omission can amount to a misrepresentation. However, if a misrepresentation was honest and reasonable the insurer must pay the claim.

# Consumer Insurance Act

## In Practice

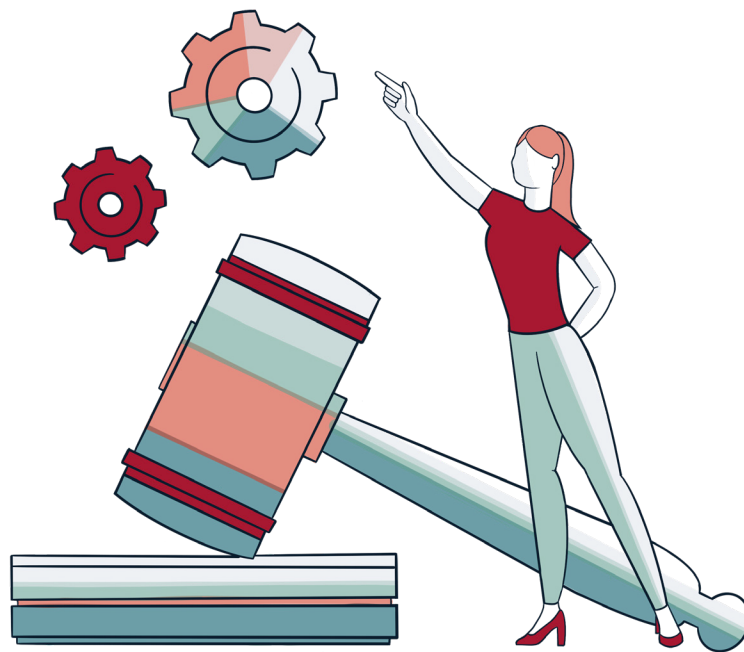
When you complete a quote using our quotation system, you are entering the details on behalf of your client.

Therefore, you need to ensure that:

- The client answers all the questions reasonably and honestly.
- You ask the exact questions that the insurer has stated on the quotation system before they proceed with the cover.
- You confirm with your client all the details that will be disclosed to the insurer.
- You do not speculate or estimate any response

If you are aware of a misrepresentation, then you should ask the client to amend their statement. You should also advise the client that if a misrepresentation is deliberate then the insurer may cancel the policy or refuse to pay a claim.

Remember you are acting on behalf of your client so if you fail to disclose or misrepresent your client then the insurer may cancel the policy or refuse to pay a claim.



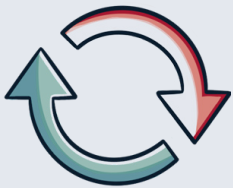
# CORE Legislation

# Core Legislation applicable to financial services



## Financial Services & Markets Act 2000

- » Regulation of financial services sector in the UK.
- » Created the Financial Services authority FSA to regulate banking, investment and insurance sectors.
- » Established the Financial Services Ombudsman (FOS) and the Financial services Compensation Scheme (FSCS).



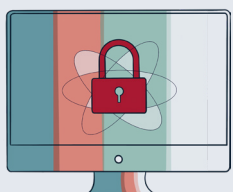
## Financial Services Act 2012

- » Amended FSMA 2000 to reform the regulatory framework.
- » Created the Financial Conduct Authority (FCA) and Prudential Regulation Authority (PRA) to replace the FSA. New bodies came into effect on 1st April 2013.



## CIDRA 2012

- » Reformed insurance law to create concepts of consumer and non-consumer insurance.
- » Removed the obligations of utmost good faith for consumers and placed a duty on the insured to take reasonable care not to misrepresent a risk to an insurer.



## Data Protection Act 2018

- » Incorporated the General Data Protection Regulation (GDPR) into UK Law, which provides individuals with additional rights and protections.

# Core Legislation

## applicable to financial services



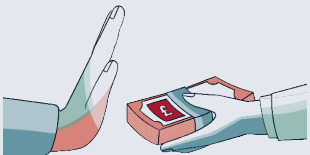
### Insurance Act 2015

- » Complements CIDRA and focusses on non-consumer insurance.
- » Proposers must make a fair presentation of the risk to the insurer.



### Proceeds of Crime Act 2002

- » Principal legislation that deals with money laundering.
- » Made provision for confiscation orders in relation to people who benefitted from criminal conduct.



### Bribery Act 2010

- » Covers general bribery offences, bribery of foreign public officials and failure of commercial organisations to prevent bribery.
- » Replaced previous common law and statutory laws relate to bribery.
- » Penalties introduced under this act are:
  - » Up to 10 years imprisonment
  - » Unlimited fines
  - » Confiscation of property
  - » Disqualification of directors



# EMPLOYMENT

# Laws



# Relevant Employment Laws

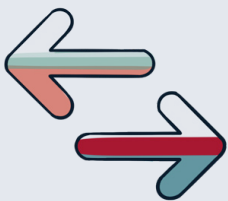
Workers involved in the distribution of insurance are required to have the minimum necessary knowledge of the relevant employment laws.

There are several laws to protect individuals at work, these include:



## **1963: Contracts of Employment Act**

The act introduced the requirement to give reasonable notice before dismissal and written particulars of a contract of employment. It is widely recognised as the first modern employment protection statute.



## **1970: Equality Pay Act**

This act gives an individual a right to the same contractual pay and benefits as a person of the opposite sex in the same employment.



## **1974: Trade Union and Labour Relations Act**

The Act contained rules on the functioning and legal status of trades union, the presumption that a collective agreement is not binding, and immunity of unions who take strike action in contemplation or furtherance of a trade dispute.



### **1974: Health and Safety at Work etc Act**

This is the primary piece of legislation covering occupational health and safety in Great Britain. It sets out the general duties which employers have towards employees and members of the public, employees have to themselves and to each other and certain self-employed have towards themselves and others.

An organisation employing at least five employees must have a written H&S policy.



### **1975: Employment Protection Act**

The act established machinery for promoting the improvement of industrial relations; amended the law relating to workers' rights, employers, trade unions and employers' associations.

The act also established the principles of a Maternity Pay Fund and extended the jurisdiction of employment tribunals.



### **1976: Race Relations Act**

The act was established to prevent discrimination on the grounds of race. The scope of the legislation included discrimination on the grounds of race, colour, nationality, ethnic and national origin in the fields of employment, the provision of goods and services, education and public functions.



### **1995: Disability Discrimination Act**

The act made it unlawful to discriminate against people in respect of their disabilities in relation to employment, the provision of goods and services, education and transport.



### **1996 & 2008: Pensions Acts**

Gave workers the right to be automatically enrolled on a protected workplace pension scheme.



### **1996: Industrial Tribunals Act**

The act established the Employment Tribunals and Employment Appeal Tribunal and sets their jurisdiction.



### **1998: Employment Rights Act**

Covering areas such as the right to request flexible working and leave for childcare.



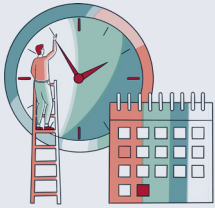
### **1998: National Minimum Wage Act**

Introducing a minimum wage to be paid by employees across the UK from 1st April 1999. It is paid at a different rate according to the age of the employee.



## **1998: Human Rights Act**

The act sets out the fundamental rights and freedoms that everyone in the UK is entitled to.



## **1998: Working Time Regulations Act**

Limiting the number of hours staff can work in a week, giving employees the right to breaks and ensures a minimum annual leave entitlement of 28 days' paid holiday a year for all workers.



## **2010: Equalities Act**

The Equality Act 2010 provides a single framework for dealing with various types of workplace discrimination.

Essentially, employers are prohibited from discriminating against people with the following protected characteristics:

- » Age
- » Disability
- » Gender reassignment
- » Marriage and civil partnership
- » Pregnancy and maternity
- » Race
- » Religion or belief
- » Sex
- » Sexual orientation.





# Source<sup>TM</sup>

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