

COMPARISON TABLE

This table examines the differences between the exposure draft Insurance Contracts Bill released by MBIE in February 2022 and the Member's Bill now before Parliament. The table does not include changes to updated section references in the Member's Bill where these amendments are simply a result of new sections being included or similar amendments. Minor amendments of a typographical nature are not shown either. Yellow highlighting denotes new wording. In some instances, the corresponding clause in the draft exposure Bill is shown for comparison.

Section	Exposure Draft Bill (released by MBIE)	Section	Member's Bill
3		3(c)	Added: protect the interests of consumers under insurance contracts when they are entered into, throughout their duration, and in the claim management and settlement process.
6		6(1)(a)	Added: means a contract involving the transference of risk and under which a person (the insurer) agrees, in return for a premium, to pay to or for the account of another person (the policyholder) a sum of money or confer a benefit, whether by way of indemnity or otherwise, on the happening of 1 or more uncertain events; and
10		10(1)(b)(ii)	Added: any class of contract of insurance that are declared by regulations to be non-consumer insurance contracts for the purpose of this Act.
10		10(2)(b)(ii)	Added: any class or classes of contract of insurance that are declared by regulations to be non-consumer insurance contracts for the purpose of this Act.
12	<p>Prior text:</p> <p>Effect of certificate</p> <p>(1) An insurance contract is not a consumer insurance contract if—</p> <p>(a) the policyholder (P) has given a certificate for the contract under section 446V of the FMCA; and</p> <p>(b) P's confirmation under section 446V(4)(b) of that Act includes a confirmation that P</p>	12	<p>Amended and now also refers to a declaration:</p> <p>Effect of declaration or certificate</p> <p>A declaration or certificate by the policyholder stating that they are entering into the insurance contract for predominantly or wholly business purposes may be used as evidence of that fact but is not conclusive of it.</p>

	<p>understands that P must make to the insurer a fair presentation of the risk before the contract is entered into or varied.</p> <p>(2) Section 446V(1A), (3), and (4) of that Act apply for the purposes of this section.</p>		
15		15(1)(g)	<p>Added:</p> <p>any other matter that the court considers relevant.</p>
16	<p>Prior text:</p> <p>Particular characteristics or circumstances of policyholder</p> <p>Any particular characteristics or circumstances of the policyholder of which the insurer was aware, or ought reasonably to have been aware, must be had regard to in determining whether a policyholder has taken reasonable care not to make a misrepresentation.</p>	16	<p>Amended:</p> <p>Particular characteristics or circumstances of policyholder</p> <p>The following matters must be taken into account in determining whether the policyholder has taken reasonable care not to make a misrepresentation:</p> <p>(a) any particular characteristics or circumstance of the policyholder; and</p> <p>(b) whether the insurer was aware or ought reasonably to have been aware of any particular characteristics or circumstance of the policyholder.</p>
		18	<p>New clause added:</p> <p>No misrepresentation where fact not material</p> <p>The policyholder must not be taken to have made a misrepresentation where—</p> <p>(a) the insurer was not misled by the consumer; or</p> <p>(b) the misrepresentation did not affect the underwriting decision of the insurer</p>
18	<p>Prior text:</p> <p>Fraudulent misrepresentation is breach of duty</p> <p>A misrepresentation made fraudulently is made in breach of the duty under this subpart.</p>	19	<p>Amended:</p> <p>Fraudulent misrepresentation is breach of duty</p> <p>A misrepresentation made knowing that it is false is in breach of the duty under this subpart.</p>
32(2)	<p>Prior text:</p> <p>A fair presentation need not be contained in only 1 document or oral presentation.</p>	33(2)	<p>Amended:</p> <p>A fair presentation may be contained within a number of communications whether orally or in writing.</p>

33		34(2)(f)	Added: (f) the policyholder did not know the circumstance was material to the insurer, and a reasonable policyholder in the circumstances of the policy- holder would not know that the circumstance was material.
34		35(3)	Added: The following are examples of things that may be immaterial: (a) matters which are commonplace or common knowledge: (b) risks which a reasonable insurer would expect to exist in similar circumstances: (c) information which is available on a public record.
55		56(2)	Added: For the avoidance of doubt, the insurer is responsible for ensuring that the duty 25 in subsection (1) is complied with whether or not an intermediary is used.
56	Prior text: Despite section 55, that section applies to a variation only if—	57	Amended: The obligation in section 56 applies to a variation only if—
59	Prior text: Duty of utmost good faith A contract of insurance is a contract based on the utmost good faith.	60	Added: Duty of utmost good faith 1) A contract of insurance is based on a duty of utmost good faith owed by both insurer and policyholder to each other throughout the insurance relationship. (2) The duty of utmost good faith includes a duty on an insurer to accept (or reject), assess, and settle a claim within a reasonable period of time.
60		61(3)	Added: (3) To avoid doubt, section 60 applies to Toka Tū Ake – Natural Hazards Commission in respect of the discharge of its duties under sections 52 to 77 of the Natural Hazards Insurance Act 2023.

		64	<p>Added:</p> <p>Interest on claims</p> <p>(1) If an insurer is liable to pay to a person (A) an amount under a contract of insurance or under this Act in relation to a contract of insurance the insurer must pay interest on the amount to which A is entitled in accordance with this section.</p> <p>(2) Interest is payable in respect of the period—</p> <p>(a) commencing on the day on which it becomes unreasonable for the insurer to withhold payment; and</p> <p>(b) ending on the day on which the payment is made.</p> <p>(3) For the purposes of subsection (2)(a), it becomes unreasonable for the insurer to withhold payment on the day that is 12 months after the date on which the claim was made; unless, in the circumstances, it is reasonable for the insurer to withhold payment until a later date.</p> <p>(4) Interest must be calculated in accordance with Schedule 2 of the Interest on Money Claims Act 2016.</p> <p>(5) This section has effect despite any provision to the contrary in any legislation, rule of law, contract of insurance, deed, or other instrument.</p>
69		71(1)(c)	<p>Added:</p> <p>(c) there has been an unequivocal written communication to the policy- holder which a reasonable policyholder in similar circumstances would conclude was a claim for loss or damage; and</p>

69		71(2)	Error requiring correction: (2) The insurer must give the information under subsection (1) (e) (d) no later than 14 days after the end of the relevant period.
69(3)	Prior wording: (3) In this section, claims-made policy means a contract of insurance in which the period (the relevant period) during which liability for claims against the policyholder is within the risk accepted by the insurer is defined by reference to the time when— (a) those claims are made; or (b) claims or circumstances that may give rise to a claim are notified to the insurer.	71(3)	Amended: (3) In this section, claims-made policy means a contract of insurance that defines the period during which liability for claims against the policyholder is within the risk accepted by the insurer (the relevant period) by reference to the time when— (a) those claims are made; or (b) claims or circumstances that may give rise to a claim are notified to the insurer.
70		72(2)	Error requiring correction: (2) The greater cost is not prejudice to the insurer for the purposes of section 6970(3) .
71(3)(a) and (b)	Removed: (a) defines the age, identity, qualifications, or experience of a driver of a vehicle, a pilot of an aircraft, an operator of goods, or a master or pilot of a ship; or (b) defines the geographical area in which the loss must occur; or	73(4)	Added: (4) For the avoidance of doubt, this section applies to provisions of a policy that have the effect of an increased risk exclusion, even if they take a different form (such as purporting to define the risk).
77		79	Added: 79 Interpretation in this subpart In this subpart,— contract of sale means a contract for the sale or exchange of land and all or any fixtures on the land

87		89(1)(2)	Error requiring correction: (2) Despite subsection (1) and section 8788 , the insurer is not entitled to rely on a defence arising from an act or omission by the specified policyholder that occurred after the event that gave rise to the liability (for example, a defence based on the specified policyholder failing to comply with a condition to provide information or assistance to the insurer).
120	Referred to 90 and 91 st days.	122(1)(b)	Amended: (b) the money is not paid, within 30 days after the date of death, to the person entitled to the money.
		122 (2)	(2) The life insurer must pay to the person, at the same time as the money is paid, interest on the money for the period beginning on the 31st day after the date of death and ending with the close of the day on which the money is paid.
128	Removed: Life insurer may require reasonable evidence of matters affecting validity A life insurer may, before it registers a instrument under this Part, require any reasonable evidence that it thinks fit as to any matter that might, in its opinion, affect the validity of the instrument.	130	Words deleted: 130 Life insurer may require reasonable evidence of matters affecting validity A life insurer may, before it registers an instrument under this Part, require any reasonable evidence as to any matter that might, in its opinion, affect the validity of the instrument
156(1)(b)	Prior wording: (b) the life policy is expressed to be for the benefit of— (i) A's spouse or partner; or (ii) A's children; or (iii) A's spouse or partner and A's children; or (iv) any 1 or more of those persons.	158(1)(b)	Amended: (b) the life policy is expressed to be for the benefit of a person who is entitled to claim under section 3 of the Family Protection Act 1955.

157(3)	Removed: If a trustee is not appointed under subsection (1) [sic], the life policy, when it is entered into, vests in the policyholder or their legal personal representatives in trust for the purposes referred to in section 156.	159(3)	Amended (but reference is an error and requires correction): (3) If a trustee is not appointed under subsection (2) , the life policy, when it is entered into, vests in the policyholder or their legal personal representatives in trust
161		163 (1)(c) and (e)	Added: (c) declaring any class or classes of contracts of insurance to be consumer insurance contracts or not consumer insurance contracts for the purposes of section 10 ... (e) providing forms of wording that may be used to provide any information or notification required under this Act:
161		163 (3)	Error requiring correction: (3) The Minister must, before recommending that regulations amend the amount in section 447148(1)(b) , be satisfied that the amendment is necessary or desirable to take into account any increase in the Consumers Price Index (All Groups) published by Statistics New Zealand.
167		169	<i>(Amendment to Marine Insurance Act 1908)</i> 169 Cross-heading above section 18 replaced Replace the cross-heading above section 18 with: <i>When contract is deemed to be concluded</i>
171 & 172	Refer to clause 171 for Option B alternative.	173	Option A from draft exposure Bill selected: New section 46KA inserted (Other matters relating to insurance contracts) After section 46K, insert: 46KA Other matters relating to insurance contracts (1) This section applies to contracts of insurance within the meaning of section 6 of the Insurance Contracts Act 2024. (2) For the purposes of section 46K(1)(a), a term of a contract of insurance defines the main subject matter of

			<p>the contract only to the extent that the term describes what is being insured.</p> <p>(3) A court may not declare a term in a standard form consumer contract or standard form small trade contract to be an unfair contract term to the extent 30 that the term is a transparent term that—</p> <p>(a) is disclosed at or before the time the contract is entered into; and</p> <p>(b) specifies—</p>
179		180	<p>Amended:</p> <p>New subpart 6B of Part 6 inserted</p> <p>After section 446W, insert: ...</p>
		186	<p>Correction required:</p> <p>186 Principal Act</p> <p>Sections 187 and 188 amends the Personal Property Securities Act 1999.</p>
Schedule 2 Clause 2(2)(b)	Previously referred to MBIE's consultation paper for a comment on the remedy	Schedule 2 Clause 2(2)(b)	<p>Amended:</p> <p>(b) if subclause (1) does not apply, the insurer must provide the cover that a reasonable insurer would have provided for the premiums paid if—</p> <p>(i) the misrepresentation had not been made; or</p> <p>(ii) the circumstances that were not disclosed were known to the insurer at the time the cover was provided</p>

<p>Schedule 2 <i>Clause</i> 4(2)(b)</p>	<p>Previously referred to MBIE’s consultation paper for a comment on the remedy</p>	<p>Schedule 2 <i>Clause</i> 4(2)(b)</p>	<p>Amended: (b) if subclause (1) does not apply, the insurer must provide the cover that a reasonable insurer would have provided for the premiums paid if— (i) the misrepresentation had not been made; or (ii) the circumstances that were not disclosed were known to the insurer at the time the cover was provided.</p>
---	---	---	---