

Insurance/
Reinsurance

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INSURANCE BULLETIN



Welcome to HFW's Insurance Bulletin, which is a summary of the key insurance and reinsurance regulatory announcements, market developments, court cases and legislative changes of the week.

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England & Wales: HFW seminar on the Insurance Act 2015.

Should you require any further information or assistance on any of the issues dealt with here, please do not hesitate to contact any of the contributors to this bulletin, or your usual contact at HFW.

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hfw 1. Regulation and legislation

UK: Scottish Government consults on major change to driving offences

The Scottish Government continues to conduct an analysis of the consultation on a change to its Rehabilitation of Offenders Act 1974 (the Act), which could increase costs for motorists in Scotland. The Act provides the legal framework relating to the requirements falling on people with previous criminal convictions to disclose this information in certain situations. New rules proposed by the SNP, which would reduce the period of time over which driving offences must be disclosed to insurers from the last 5 years to the last 12 months, could raise premiums across the board for Scottish motorists and may force some insurers to leave Scotland.

In responses to the consultation, various stakeholders such as the Direct Line Group (DLG) and Aviva, have warned that such a change will restrict the accuracy of their risk assessment for drivers, and could increase insurance costs for offenders and non-offenders alike. DLG has also said that greater legal complexity between Scotland and the rest of the UK, where driving offences must be disclosed for the last 5 years, will add to costs for insurers and *“could lead to some insurers choosing not to operate in Scotland at all”*.

While the present law seeks to rehabilitate offenders and seems to successfully deter them from re-offending, with only 10% of drink driving offenders re-offending, the SNP argue that a reduced length of time before an offence is ‘spent’ would be a further incentive against re-offending



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and encourage the employment of past offenders. However, the Forum of Scottish Claims Managers warn of *“a damaging and negative impact on road safety”* as a result of the change and a corresponding increase in insurance premiums.

If the Scottish Government implements the proposal, insurers will have to deal with greater legal complexity in Scotland. Although the change is already likely to increase premiums in Scotland if applied, it is unclear precisely how it would affect the rest of the UK. Under the proposal, spent offences in Scotland may not be disclosable in England and Wales, potentially threatening higher costs for Scottish drivers on a national level. Insurers should therefore be prepared to make drastic changes to their Scottish premium calculations.

For more information, please contact **Andrew Spyrou**, Associate, on +44 20 7264 8789, or andrew.spyrou@hfw.com, or your usual contact at HFW.

hfw 2. Market developments

UK: SFO vs Barclays: The fight for disclosure

An article by Partner James Clibbon on legal professional privilege and an application by the Serious Fraud Office (the SFO) for disclosure of legal documents possessed by Barclays was published in *Economia* on 29 October 2015.

James’s article explains the concept of legal professional privilege, analyses the approach taken by the courts where it is alleged that legal documents were created for criminal, fraudulent or iniquitous purposes, and considers the SFO’s intention to target companies which obstruct investigations by making ill-founded assertions of legal professional privilege. His article also sets out some implications for professional advisors who possess privileged or arguably privileged documents, and whether professional advisors should change the way they respond to a fraud/iniquity application.

A copy of James’s article can be found here: <http://economia.icaew.com/opinion/october-2015/sfo-v-barclays-the-fight-for-disclosure>.

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hfw 3. HFW news, publications and events

England & Wales: Insurance Act 2015, the Galatea, and the Enterprise Bill

On 2 November 2015, Partners [Andrew Bandurka](#) and [Costas Frangeskides](#) and Associate [Edward Rushton](#) spoke in London about the Insurance Act 2015, the Galatea, and the Enterprise Bill.

England & Wales: HFW seminar on the Insurance Act 2015

On 28 October 2015, Consultant [Peter Schwartz](#) and Associate [Will Reddie](#) hosted a seminar in Harrogate on the changes that the Insurance Act 2015 will make to the law and the Act's practical implications for the industry.

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