

Notice to Policyholders

Darwinsure Optima Trade Plus Policy

This notice forms part of your policy and must be read in conjunction with your policy wording and the schedule; it provides details of key changes that affect your policy.

If this is a new policy the changes apply to your policy wording effective from the start date of your policy.

If you are renewing your existing policy the changes apply from the renewal date of your policy.

Insurance Act 2015

The Insurance Act 2015 (the Act) came into effect on 12th August 2016. The Act continues the reform of insurance law started by the Consumer Insurance (Disclosure and Representations) Act 2013. Your policy wording will be reissued in the future to reflect the changes made by the new Act, but prior to that the benefits of the Act will be available to you from inception or renewal of your policy on or after 12th August 2016. Mid-term adjustments (variations) to your policy effective on or after the 12th August 2016 are also subject to the Act.

This notice contains information on the Act and details of changes to your policy wording to reflect the provisions of the Act.

The following are the key changes that will affect your policy.

Fair Presentation

The duty on you to declare all material facts to your insurers has been replaced by a duty to make a fair presentation of your risk to your insurers. Before the Act, if you did not declare all material facts, your insurers had the right to declare a policy void and not pay any claims.

You now have to make a fair presentation to your insurers of all material facts and circumstances that you know or could have discovered after a reasonable search.

Providing us with inaccurate information may still invalidate a policy if we would not have accepted the risk had we known the correct facts and circumstances or if you have recklessly or deliberately misrepresented facts and circumstances.

If we would have accepted the risk but required a higher premium had the correct detail been known, the policy will remain in force, but we will now have the right to proportionately reduce the amount of the claim we pay. For example, if the premium would have been double based on the correct facts, we will be entitled to reduce the claim by half instead of having to pay nothing.

If cover would have been provided on different terms (other than those relating to premium) had the correct facts been declared, the policy will remain in force and we can deal with a claim as though those different terms applied at the time of the claim. For example, if an increased excess (the first amount of a claim that you have to pay) would have been applied had the correct facts been known, that increased excess can be deducted from a claim instead of nothing being paid at all.

Warranties and Other Terms

Any term stating that the proposal form or statement of fact or other information provided by you forms the basis of the contract is of now of no effect.

The effect of other warranties has been made less severe. Prior to the Act, a breach of a warranty invalidated a policy completely. Under the Act, claims that occur at a time when a warranty is breached will not be paid if compliance with the warranty would have prevented or reduced the risk of the claim. If you can show that compliance with the warranty would not have prevented or decreased the risk of the loss claimed for, we must pay the claim. Once the breach is remedied, full cover applies again.

For example, before the Act, if there was a warranty that an intruder alarm is operative at your premises, we would not have to pay claims for any type of loss if the alarm system was out of order. After the Act, while the alarm is out of order we will not have to pay claims for theft, but would now have to pay claims the alarm would not have prevented, for example for storm damage.

Statement of Fact

If a Statement of Fact is enclosed with your documentation, please read it carefully to ensure it is correct. Please note, if you are renewing your existing policy, some of the detail and statements may have changed from your previous documentation.

Please contact your agent immediately if the Statement of Fact is not correct.

Notices and General Conditions

A number of Notices and General Conditions are deleted, added or amended by this notice. These are detailed below and in the following pages.

Notices

The Preamble

Key change

The preamble on page 3 of your policy is amended to read as follows:

This Policy is a contract of insurance between the **Insured** and the **Company** by which the **Company** agrees to cover the **Insured** in respect of the risks set out in the Sections of this Policy shown as insured on the Schedule, subject to the terms, conditions and exclusions of this Policy and in consideration of the **Insured** paying or agreeing to pay the premium.

This Policy is made up of a number of documents which must be read together. The **Insured** should read carefully all documents that the **Company** has provided and contact the **Insured's** agent immediately if this Policy does not meet the **Insured's** needs.

This Policy has been signed for and on behalf of the **Company**.

What this means to you

This clarifies our existing position.

Important Notice

Key Change

The following 'Important Notice' is added to your policy:

The **Insured** has a duty to make a fair presentation of all material and relevant facts to the **Company**. Providing the **Company** with inaccurate information or failing to tell the **Company** of anything which may increase the risk may invalidate this Policy or lead to claims not being paid or being paid in part only.

To assist the **Insured's** understanding of which facts are material and relevant to the **Company**, here are some key examples:

- **Number of persons working in the business** – the premium charged for this Policy is based on the total number of persons working in the **Trade or Business**, as declared to the **Company** by the **Insured**. The maximum number of **Employees** permitted under this Policy is 10 in addition to 5 **Directors, Partners**, principals and proprietors. If the number of workers increases beyond the number shown on the Schedule during the Period of Insurance, the **Insured** must notify the **Company** within 30 days of such increase or by the renewal date whichever is the earlier. If the total number exceeds the maximum permitted under the Policy however the **Insured** must notify the **Company** immediately.

If part-time workers are used, it is the number of persons that must be declared to the **Company**, not their full-time equivalents.

Public and Products Liability Insurance Section - the number of persons shown on the Schedule must include all persons working in the **Trade or Business**, i.e. working proprietors, **Partners**, working **Directors**, direct **Employees**, labour only subcontractors or other self-employed persons for labour only, agency workers, trainees, apprentices, work experience persons or volunteers. If the **Insured** use bona-fide subcontractors, the **Insured's** annual payments to them must not exceed 25% of the **Insured's** annual turnover and the **Insured** must obtain documentary evidence of their public liability insurance before they commence work on any contract and a record of such evidence must be retained.

Employers' Liability Section - proprietors or **Partners** of unincorporated companies do not need to be included in the number shown on the Schedule but working **Directors** and all other **Employees** i.e. direct **Employees**, labour only subcontractors or other self-employed persons for labour only, agency workers, trainees, apprentices, work experience persons or volunteers must be included – please refer to the Policy definition of **Employee** for full details. If labour only subcontractors are engaged by the **Trade or Business**, they must be included regardless of whether or not they hold public liability insurance in their own name. Whenever **Employees** are engaged by the **Trade or Business**, the **Insured** must ensure that employers' liability insurance is in force.

- **Who the Insured is** – the legal entity that owns the **Trade or Business**
- **Business status** – sole proprietor, partnership, limited liability partnership or a limited company
- **Business Premises** – the type of construction, security protections and also rebuilding or replacement values
- **What the Insured does** – the description of the **Trade or Business** as shown on the Schedule
- **Personal and business history** – the previous history relating to proprietors, **Partners** or **Directors** or their business that is provided to the **Company**, e.g. previous bankruptcies, company liquidations, convictions, claims, etc.

Other material and relevant facts will be shown on the **Proposal**. If the **Insured** is in any doubt or requires clarification of what must be declared to the **Company**, the **Insured** should discuss this with their agent.

This Policy does not cover maintenance of the **Insured's** property. That means the **Company** will not cover the cost of wear and tear or routine maintenance. The **Company** expects the **Insured** to properly maintain their property, but the cost of this remains the **Insured's** responsibility. The **Insured** has a duty to keep their property safe, secure and in good repair, and take all practical steps to avoid loss or damage

The **Insured** should also take all reasonable care to prevent accidents, **Injury** or disease. In particular the **Insured** should:

- keep all work equipment and premises in good and safe condition
- exercise care in the selection and management of **Employees**
- comply with all statutory obligations and regulations.

What this means to you

This will aid your understanding of what must be declared to us.

General Conditions

These are conditions that apply to the whole policy. Additional conditions may apply to individual sections. Please refer to the section wordings for details.

Observance of Policy Terms

Key change

General Condition 1 Observance of Policy Terms on page 7 of your policy is deleted.

What this means to you

This sets out our revised position.

Reasonable Precautions

Key change

General Condition 2 Reasonable Precautions on page 7 of your policy is replaced with the following:

Reasonable Precautions

The **Insured** shall take all reasonable care:

- a for the safety of the property insured
- b to prevent accidents or disease
- c to comply with all statutory obligations and regulations imposed by any authority
- d to prevent the sale or supply of goods which are defective in any way.

What this means to you

This clarifies your duties under the policy.

Voidance

Key change

General Condition 14 Voidance on page 8 of your policy is replaced with the following:

Misrepresentation

The **Insured** must make a fair presentation of the risk to the **Company**. This means the **Insured** must disclose at inception or variation to this Policy and prior to each renewal every material circumstance which the **Insured** knows or ought to know and not make misrepresentations to the **Company**. If the **Insured** does not make a fair presentation to the **Company** the **Company** can:

- a avoid this Policy from inception or renewal if the **Company** would not have issued it or continued it knowing the true situation
- b avoid a variation to this Policy if the **Company** would not have accepted it had the true situation been known
- c alter the terms of this Policy from the date the non-disclosure or misrepresentation was made to those the **Company** would have applied had the true situation been known
- d reduce the payment for a claim
- e cancel this Policy from the date the non-disclosure or misrepresentation was made.

This may result in claims not being paid or not being paid in full.

What this means to you

This clarifies the action we may take if you misrepresent the risk to us or fail to disclose material facts and circumstances.

Cancellation Rights

Key change

General Condition 17 Cancellation Rights on page 8 of your policy is replaced by The Insured's Cancellation Rights and The Company's Cancellation Rights as follows:

Insured's Cancellation Rights

During the first Period of Insurance, the **Insured** has the right to cancel this Policy within 14 days of:

- i receipt of the policy wording and Schedule or
- ii the inception date of this Policy

whichever is the later, by writing to the **Company** or alternatively by contacting the **Insured's** agent to confirm cancellation. Cancellation will take effect from the date that the **Company** or the **Insured's** agent receives the **Insured's** cancellation instructions. Provided no claim has been made and there has been no incident known to the **Insured** prior to cancellation which may give rise to a claim, the **Insured** will be entitled to a full refund of the premium paid. Should a claim be submitted after such refund has been provided, payment of the premium in full will be required before the **Company** can deal with the claim. The **Company** will only deal with claims occurring during the period commencing on or after inception up to the cancellation of this Policy.

The **Insured** may cancel this Policy at any other time by writing to the **Company** or alternatively by contacting the **Insured's** agent to confirm cancellation. The **Insured** will be entitled to the return of a proportionate part of the premium paid in respect of the unexpired Period of Insurance provided no claim has been made during the Period of Insurance in which the cancellation is to take effect. If a claim has been made, the **Company** will deduct the cost of the claim (or the estimated cost where the claim is outstanding) from the refund due. The **Insured** will not be entitled to any refund if:

- i there has been an incident known to the **Insured** which may give rise to a claim or
- ii the cost of the claim (or the estimated cost where the claim is outstanding) is equal to or exceeds the amount of the premium paid.

Company's Cancellation Rights

The cover provided by this Policy shall automatically cease from the date that:

- a a liquidator, administrator or insolvency practitioner is appointed to administer the **Trade or Business**
 - b the **Trade or Business** is permanently discontinued
 - c the **Insured's** interest ceases other than as a result of the **Insured's** death
- unless the **Company** agree otherwise in writing.

In addition to a, b and c of this condition and any right to cancel under more specific conditions, the **Company** also have the right to cancel this Policy at any other time by sending 14 days' notice in writing to the **Insured's** last known address.

Reasons for cancellation under this condition may include but are not limited to:

- a a change to the risk which makes it one the **Company** would not normally accept
- b the **Insured** failing to co-operate with or provide information to the **Company** which affects the **Company's** ability to underwrite the risk.

The **Insured** will be entitled to the return of a proportionate part of the premium paid in respect of the unexpired Period of Insurance provided no claim has been made during the Period of Insurance in which the cancellation is to take effect. If a claim has been made, the **Company** will deduct the cost of the claim (or the estimated cost where the claim is outstanding) from the refund due. The **Insured** will not be entitled to any refund if:

- i there has been an incident known to the **Insured** which may give rise to a claim, or
- ii the cost of the claim (or the estimated cost where the claim is outstanding) is equal to or exceeds the amount of the premium paid.

What this means to you

This clarifies the rights you and we have to cancel the policy and sets out the position on refund of premium.

Dishonesty

Key change

General Condition 11 Dishonesty on page 8 of your policy is replaced by the following Fraud Condition:

Fraud

The **Company** will not pay for any claim that is deliberately exaggerated or where the **Insured** or anyone acting for the **Insured** uses, or attempts to use, fraudulent means to obtain benefits under this Policy. If the **Insured** or they do, or attempt to:

- a the **Company** will cancel this Policy from the date of the fraudulent act
- b the **Company** will not refund any premiums
- c all benefit under this Policy shall be forfeited.

The **Company** may inform the police and fraud prevention agencies of the circumstances.

What this means to you

This clarifies the action we may take if you deliberately exaggerate a claim or use fraudulent means to obtain a benefit under the policy.

The following changes are made by this notice with effect from 1st June 2017.

Legal Helpline

Key change

The helpline service on page 12 of your policy has changed.

As an Ageas policyholder with a current Policy, the **Insured** is automatically entitled to the following helpline services:

Business Legal Advice - 0345 122 8931

This helpline is available 24 hours per day, 365 days a year to provide confidential legal advice over the phone on legal problems, under the laws of the countries of Europe.

For the purposes of this Benefit, Europe is defined as the member countries of the European Union, the Channel Islands, the Isle of Man, Norway and Switzerland.

UK Tax Advice - 0345 122 8931

This helpline is available between 9.00am and 5.00pm from Monday to Friday to provide confidential advice over the phone on any tax matters under the laws of England, Scotland, Wales and Northern Ireland.

Redundancy Approval - 0345 322 0176

This service is available between 9.00am and 5.00pm from Monday to Friday (except bank holidays) to provide specialist advice if the **Insured** is planning redundancies. This will assist the **Insured** to implement a fair selection process and ensure that the redundancy notices are correctly served. The **Insured** will be liable for a charge if this service is used.

Confidential Counselling Helpline - 0345 122 8934

This helpline is available 24 hours per day, 365 days a year for an **Employee** (including family members permanently living with them) needing confidential help and advice. The **Company's** qualified counsellors are available to provide telephone support on any matter that is causing the **Insured's Employee** upset or anxiety, from personal problems to bereavement. Due to their sensitivity, counselling calls are not recorded.

Business Emergency Assistance - 0345 122 8935

This helpline is available 24 hours per day 365 days a year to arrange help straight away if an unforeseen emergency causes **Damage** to the **Premises** or creates a health and safety hazard. The **Company** will contact a suitable repairer or contractor and arrange assistance on the **Insured's** behalf. All costs of assistance provided are the **Insured's** responsibility, although if the **Damage** is insured the **Insured** will be able to make a claim for repair of the **Damage**.

Please do not phone the helpline service numbers to report an insurance claim.

What this means to you

If you opt to use the redundancy approval service a small charge will be payable. All other helplines are free of charge. Calls are recorded to help us check and improve our service standards.

Tax and Property Protection Insurance and Employment and Prosecution Protection Insurance Sections

The Tax and Property Protection Insurance and Employment and Prosecution Protection Insurance Sections of your policy wording have been removed.

What this means to you

These covers will no longer be provided under this policy.

Underwritten by

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