

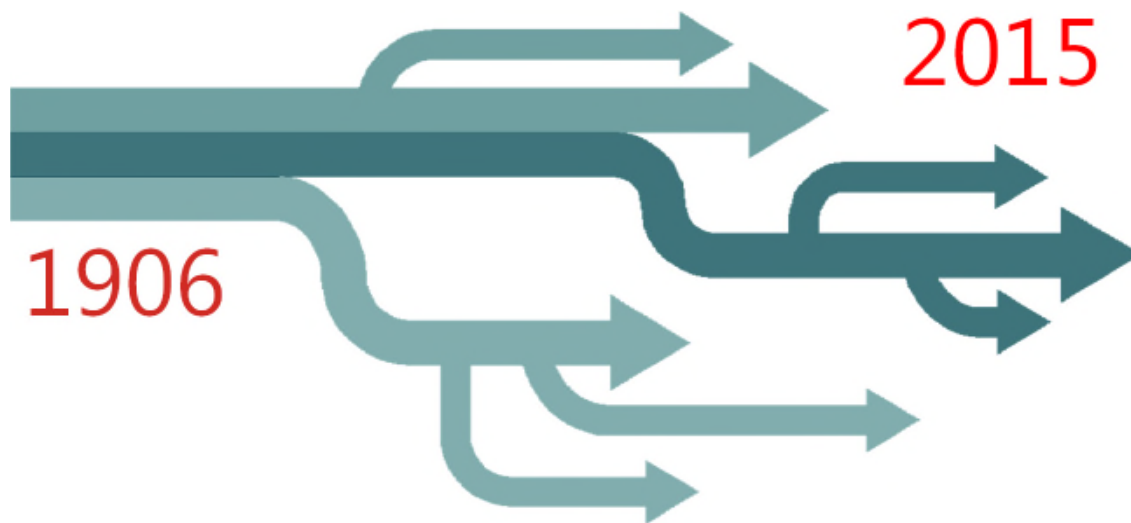
# THE INSURANCE ACT 9 MONTHS ON

Mid-Kent Insurance Institute, 25 May 2017

Alistair Kinley

Director of Policy & Government Affairs, BLM

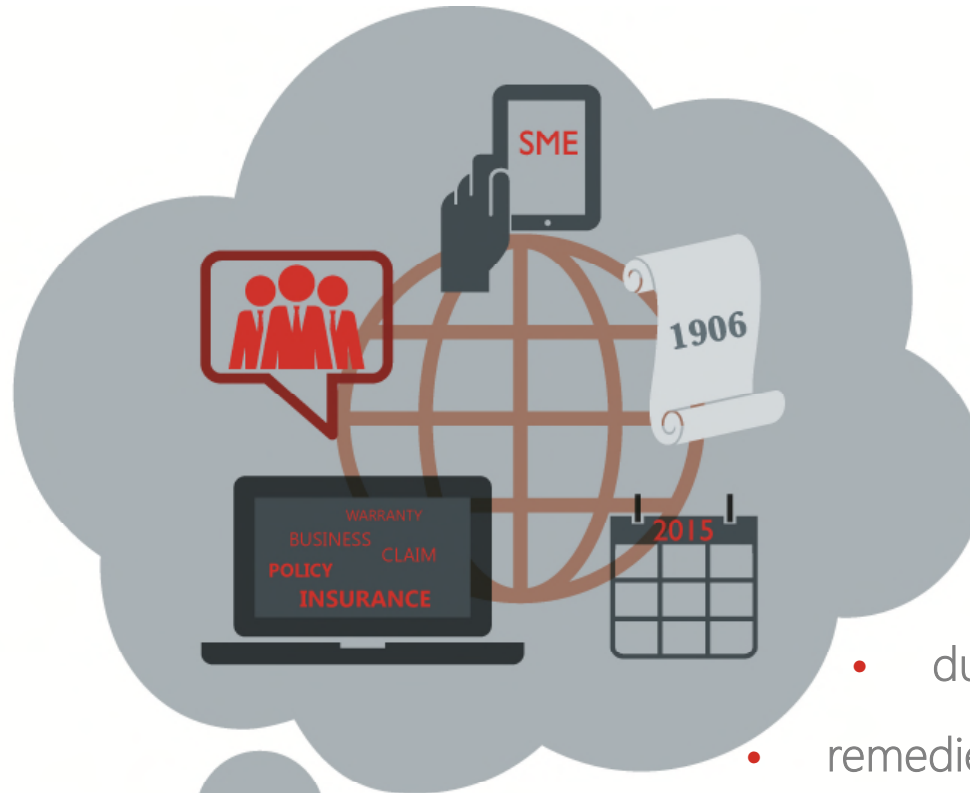
[alistair.kinley@blmlaw.com](mailto:alistair.kinley@blmlaw.com)



## Learning objectives:

- ▶ recap on the 2015 & 2016 Acts
- ▶ why do we need a remedy for late payment
- ▶ some developing issues to watch out for

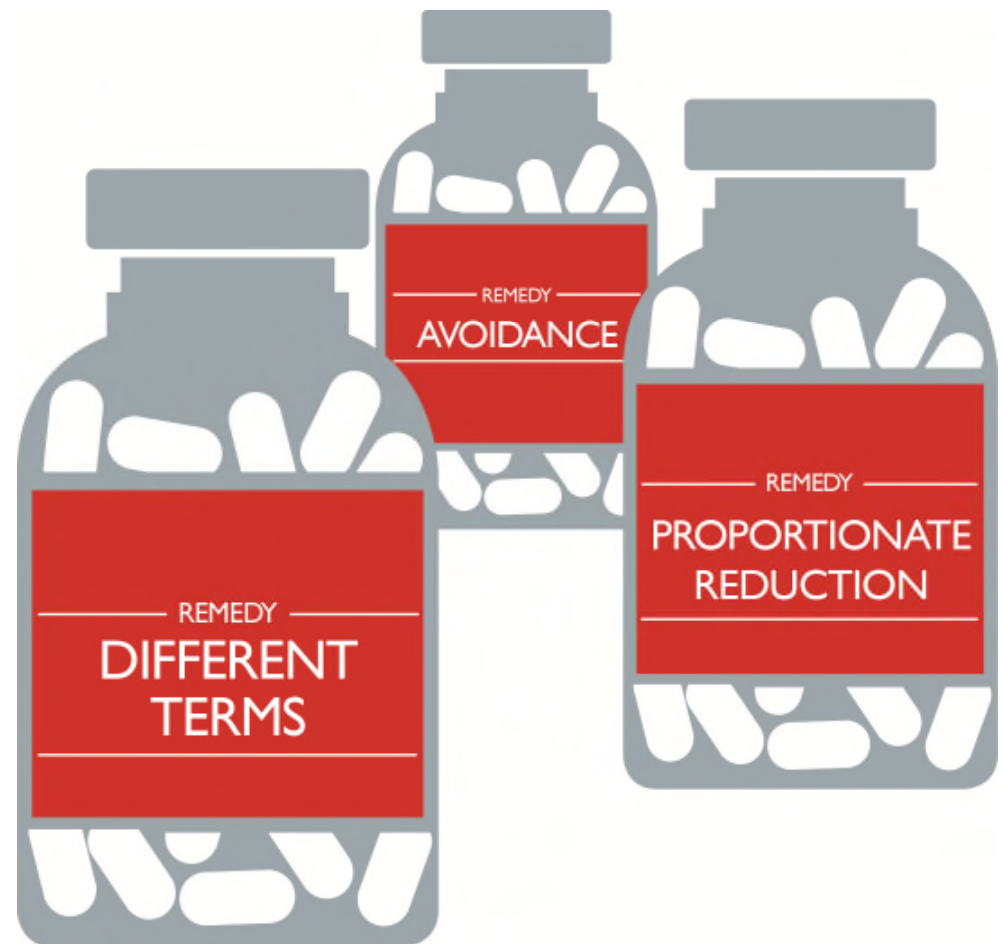
# RECAP ON 2015 & 2016 ACTS



- duty of fair presentation
- remedies for breach
  - warranties
  - contracting out
- late payment



- ▶ an insured ought to know what should reasonably have been revealed by a reasonable search of information available
- ▶ a breach for which the insurer has a remedy against the insured is referred to in this Act as a “qualifying breach”

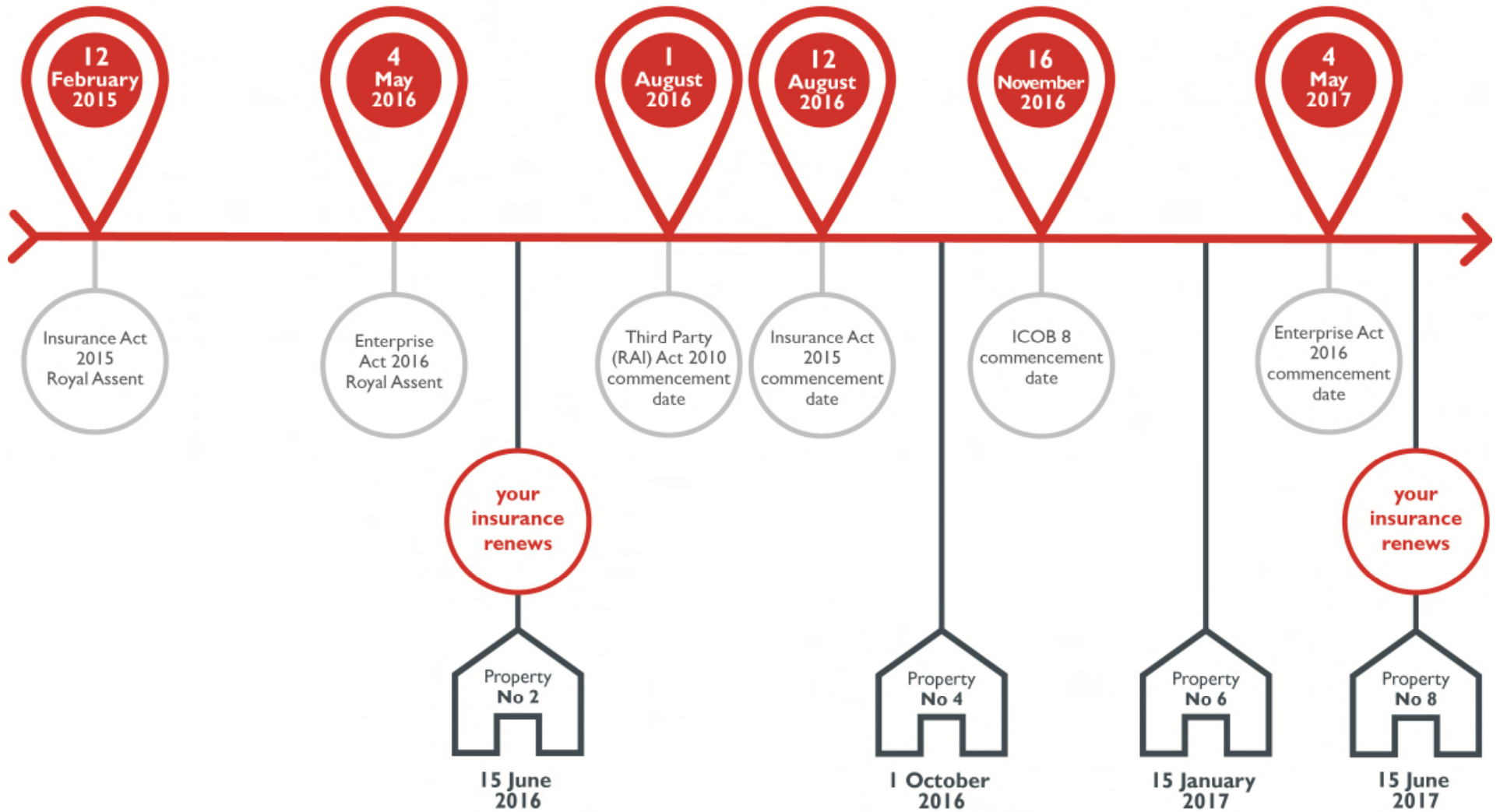




- ▶ suspensive
- ▶ connected
- ▶ clear and unambiguous



- ▶ Enterprise Act 2016 introduces an implied term to pay "any sums due in respect of the claim within a reasonable time"
- ▶ necessary because no damages on top of damages at common law
- ▶ applies from 4 May 2017



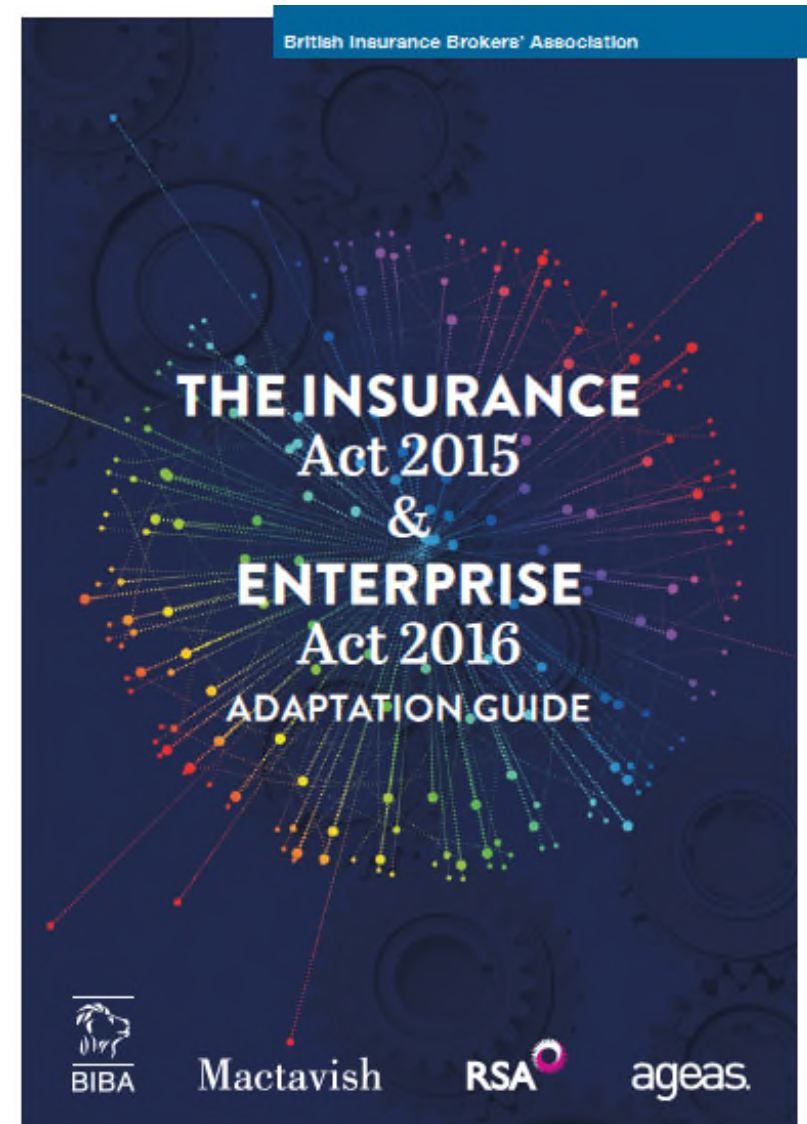
- ▶ who is the insured and what do they know?
- ▶ what's a reasonable search?
- ▶ what's a fair presentation?
- ▶ proportionate remedies or additional premium?
- ▶ what amounts to late payment?
- ▶ insight into broker concerns?



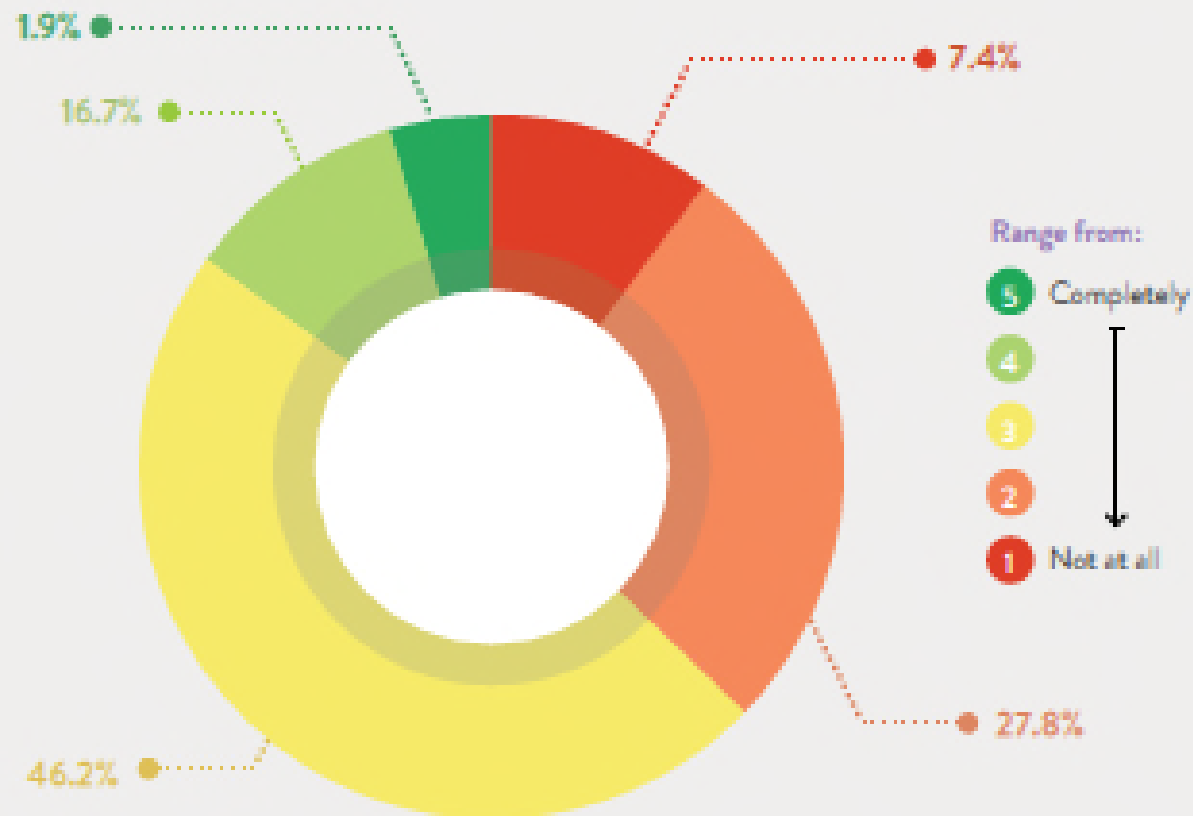


Findings of BIBA survey carried out in Feb 2017:

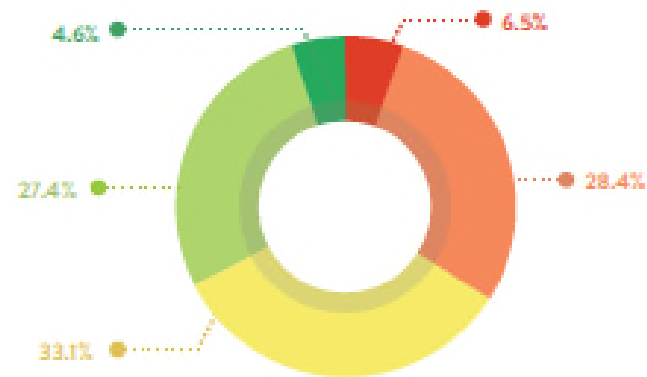
- ▶ Brokers and insurers have made **considerable headway educating customers** about the Acts, although there is still much **work to be done**.
- ▶ BIBA members perceive a potential increase in broker Errors and Omissions (E&O) risk as a result of the new legislation
- ▶ The most significant adaptation concerns reported by BIBA members are:
  - ▶ The **broker's duty to advise** customers - concerning legislative requirements in respect of the duty of Fair Presentation.
  - ▶ **'Contracting Out'** and **differences in insurer positions** and communication around the Acts.
- ▶ Importantly, despite all the reservations raised, BIBA members do see the Acts as improving professionalism.



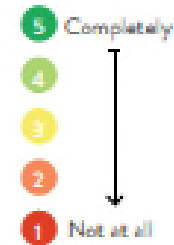
Q1. To what extent do you think your client base understand what they need to do to comply with the duty of 'Fair Presentation'?



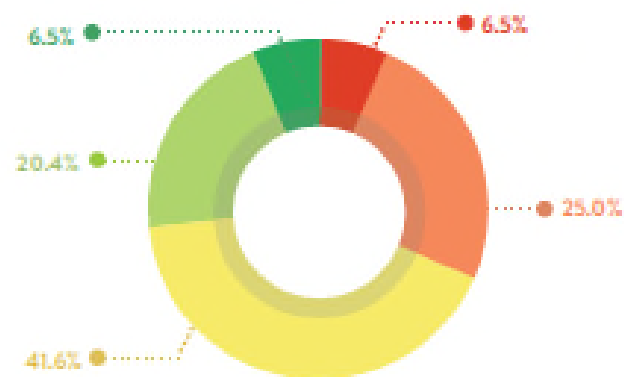
Q2. How clear have insurer communications on the Insurance Act been?



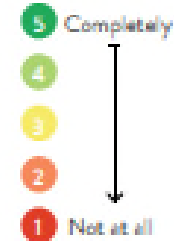
Range from:



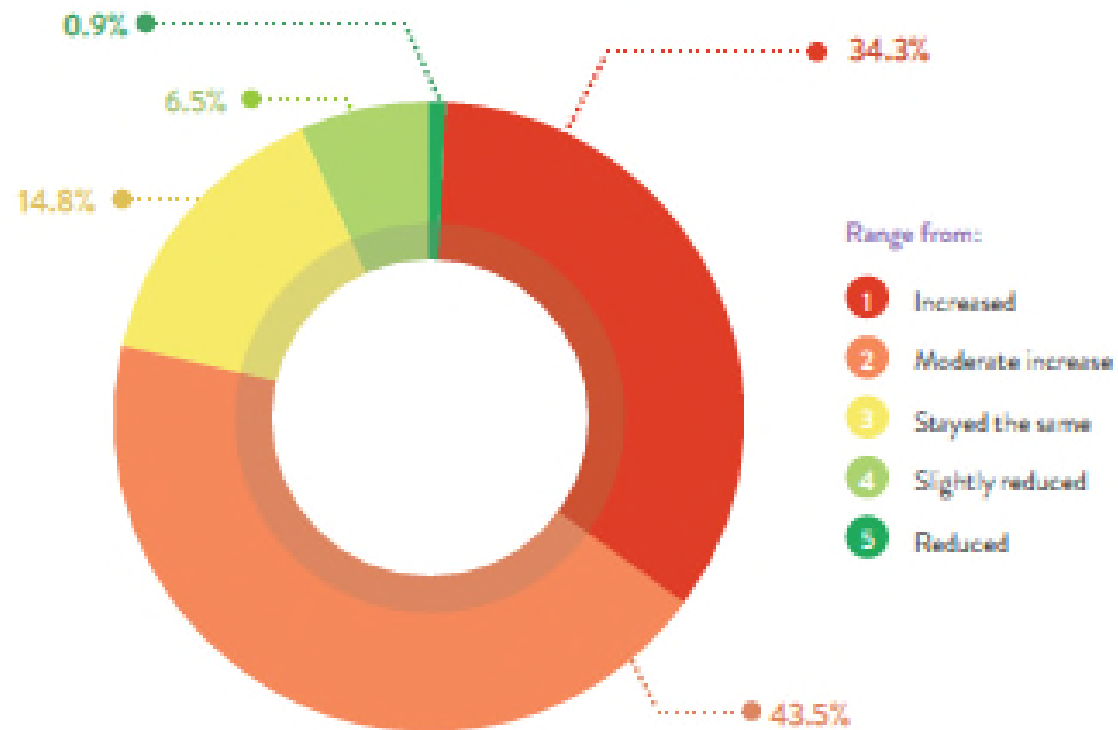
Q3. How useful have insurer communications on the Insurance Act been?



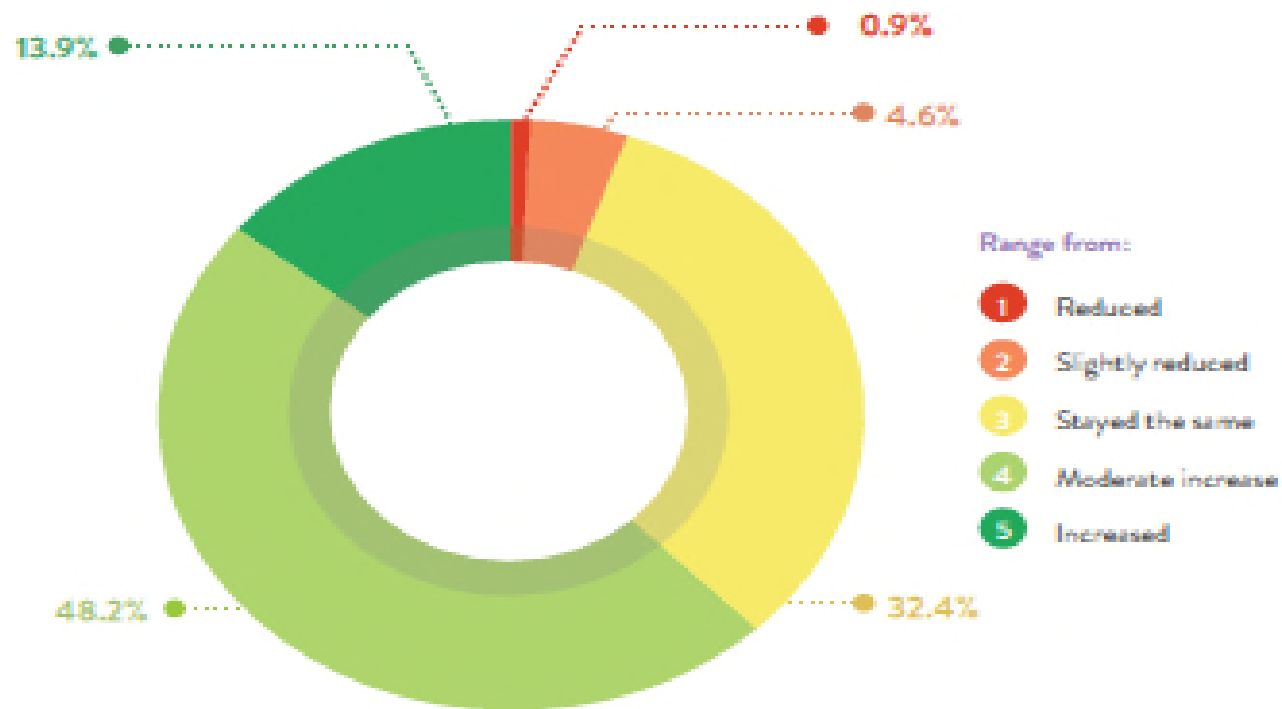
Range from:

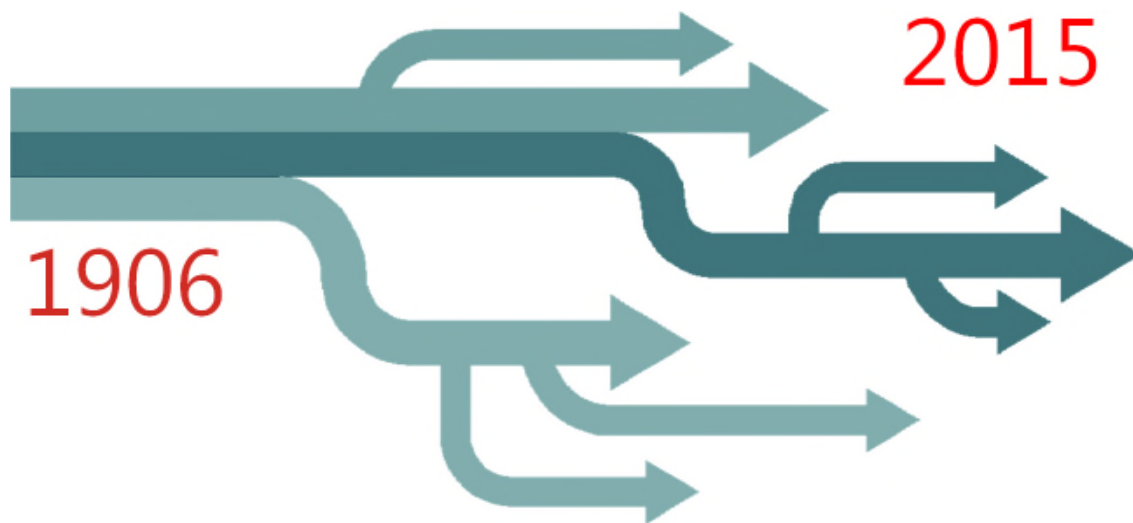


Q4. Do you think the IA15 and EA16 have increased the potential for broker 'errors and omissions' claims?



Q5 . In your opinion, what do you feel the impact of the IA 15 will be on professionalising placement?





## Learning objectives:

- ▶ recap on the 2015 & 2016 Acts
- ▶ why do we need a remedy for late payment
- ▶ some developing issues to watch out for



CLEAR ► CONCISE ► CONNECTED