

“Policy” means any contract of insurance subject to this subchapter and includes, but is not limited to, all policies, contracts, certificates, riders and endorsements that provide insurance coverage to individuals. “Policy” also includes applications to be signed by the applicant and all other writings required to complete the insurance transaction.

“Text” means all printed matter in a policy, except the name and address of the insurer; the name, number and title of the policy; the table of contents or index, captions or subcaptions; applications; specification or declarations pages; and schedules or tables. “Text” does not include the Coverage Selection Form or specific language required, permitted or approved by a law, regulation, rule or published interpretation of a State or Federal agency.

Amended by R.1991 d.4, effective January 7, 1991.
See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Added definitions for “Buyer’s Guide” and “coverage selection form”; modified “text”.

11:2-18.4 Minimum readability standards

(a) The Plain Language Law provides, at N.J.S.A. 56:12-10, certain “examples of guidelines” that the Commissioner may consider in determining whether a contract complies with the Act. The readability standards in this section are in addition to the standards enumerated in the Act.

(b) A policy, Buyer’s Guide and Coverage Selection Form shall be printed in legible type style with adequate contract between paper and ink. Captions, headings and spacing shall be used to increase overall readability.

(c) A policy and Buyer’s Guide shall be printed in not less than 10 point type, one point leading. This rule shall not apply to schedules and tables; specification or declaration pages; or applications.

(d) Applications to be signed by the applicant shall be printed in not less than 8 point type, one point leading. Provided, however, that conditions or exceptions to the main promise of the agreement contained in an application shall be printed in at least 10 point type. (See N.J.S.A. 56:12b.(1).)

1. The 8 point type, one point leading standard set forth in (d) above shall become operative on July 1, 1983.

(e) Policies and Buyer’s Guides with 3,000 or more words, or with four or more pages, shall contain a table of contents or alphabetical index.

(f) The style, arrangement and overall appearance of the policy shall give no undue prominence to any portion of the text or to any endorsements or riders.

(g) Each section of a policy, Buyer’s Guide and Coverage Selection Form shall be self-contained and independent.

However, general provisions applicable to more than one section may be included in a common section.

(h) Policies shall contain only essential provisions.

(i) Policies, the Buyer’s Guide and the Coverage Selection Form shall be written in everyday, conversational language with a personal style, and technical terms or words with a special meaning shall be avoided wherever possible.

(j) The text of a policy and Buyer’s Guide shall achieve a score of at least 40 on the Flesch reading ease test or an equivalent score on a comparable test authorized for use by the Commissioner.

1. For the purpose of this subsection, a Flesch reading ease test score shall be measured by the following method:

i. For policy forms and Buyer’s Guides containing 10,000 words or less of text, the entire form shall be analyzed. For policy forms and Buyer’s Guides containing more than 10,000 words, the readability of two 200 word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.

ii. The number of words and sentences in the text or sample shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

iii. The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

iv. The sum of the figures computed under ii and iii above subtracted from 206.835 equals the Flesch reading ease score for the policy form or Buyer’s Guide.

v. In measuring the Flesch test score, the following special rules shall be observed when counting syllables, words and sentences:

(1) A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows two or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables shall be used;

(2) A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word; and

(3) A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence.

2. At the option of the insurer, riders, endorsements, and other forms made a part of the policy may be scored as separate forms or as part of the policy.

3. A score lower than 40 on a Flesch reading ease test may be permitted whenever the Commissioner finds a lower score is warranted by the nature of a particular policy form or type or class of policy forms.

As amended, R.1982 d.410, effective November 15, 1982.

See: 14 N.J.R. 967(a), 14 N.J.R. 1307(c), 14 N.J.R. 1398(b).

(c) deleted "not required . . . the applicant."

(d) added. Old (d) through (i) changed to (e) through (j).

Amended by R.1991 d.4, effective January 7, 1991.

See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Added references throughout to Buyer's Guide and Coverage Selection Form.

11:2-18.5 Procedures for requesting an opinion of compliance with the Plain Language Law

(a) An insurer may request an opinion from the Commissioner as to whether an insurance policy and related "writings required to complete the consumer transaction", a Buyer's Guide and a Coverage Selection Form are in compliance with the Plain Language Law. The Commissioner shall consider the Law's provisions and the implementing provisions of this subchapter in responding to such requests.

(b) For each policy form and related writings, Buyer's Guide and Coverage Selection Form for which an opinion is desired, an insurer shall prepare the Request for Opinion shown in Exhibit A of the Appendix to this subchapter. For related writings (including riders and endorsements) submitted separately from a basic contract to which they will apply, one Request for Opinion Form shall be prepared for each writing or group of writings applicable to one policy form. The insurer shall also provide two copies (where possible, "specimen" or "proof" copies) of the policy and related writings, Buyer's Guide and Coverage Selection Form to be reviewed.

(c) An officer of the insurer shall complete and submit the Affidavit of Compliance shown in Exhibit B of the Appendix to this subchapter for each policy and related writings, or for each separately submitted writing or group of writings applicable to one policy form. An officer of a rating organization which requests an opinion as to compliance may complete and sign the affidavit on behalf of the member companies of the rating organizations.

(d) An opinion as to compliance should not be requested for a policy form to be issued on a nationwide basis unless the policy form will be issued in New Jersey.

(e) Pursuant to N.J.S.A. 56:12-5, an insurer need not request an opinion as to compliance with the Plain Language Law for policy forms identical to those which have already been certified for some other insurer or rating organization.

(f) Any insurance policy, Buyer's Guide and Coverage Selection Form whose language is revised for any reason, including compliance with the Plain Language Law, must be approved by the Commissioner pursuant to insurance laws and regulations before it can be issued:

1. The Commissioner's opinion as to compliance with the Plain Language Law is distinct from his or her approval of a policy, Buyer's Guide and Coverage Selection Form pursuant to insurance laws and regulations.

2. Filings for review and approval of policies, Buyer's Guides and Coverage Selection Forms pursuant to insurance laws and regulations should be prepared in accordance with existing filing procedures.

3. Ordinarily, a request for an opinion as to a policy's, Buyer's Guide's or Coverage Selection Form's compliance with the Plain Language Law and a filing for approval pursuant to insurance laws and regulations should be submitted to the Commissioner at the same time and in the same package.

4. If an insurer has already received approval of a policy, Buyer's Guide and Coverage Selection Form pursuant to insurance laws and regulations, and believes that the policy, Buyer's Guide and Coverage Selection Form complies with the Plain Language Law without further revision, it may resubmit it for the sole purpose of requesting an opinion as to compliance with the Plain Language Law. In completing the Request for Opinion Form (Exhibit A), an insurer should provide information necessary to confirm the previous approval of the policy, Buyer's Guide and Coverage Selection Form pursuant to insurance laws and regulations.

Amended by R.1991 d.4, effective January 7, 1991.

See: 22 N.J.R. 1673(a), 23 N.J.R. 103(a).

Added references to Buyer's Guide and Coverage Selection Form.

11:2-18.6 Enforcement

The Commissioner may seek injunctive relief to enforce this subchapter. The court may authorize reasonable attorney's fees and costs in such a proceeding.

11:2-18.7 Separability

If any provision of this subchapter, or its application to any person or circumstances, is held invalid, the remainder of this subchapter and its application to other persons or circumstances shall be affected.

APPENDIX

EXHIBIT A

REQUEST FOR OPINION AS TO COMPLIANCE WITH PLAIN LANGUAGE LAW

(N.J.S.A. 56:12-1 et seq., as amended)

NAME OF INSURER: _____ FORM NUMBER: _____

ADDRESS: _____ DATE OF SUBMITTAL: _____

TELEPHONE: _____

I. PURPOSE OF SUBMISSION