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Incontestability Provisions in Insurance Law and Policies

Dr Zhen Jing and Dr Ming Zhong The incontestability clause, i.e. "this policy is incontestable after two years from date of issue ...", restricts the insurer to a definite time within which to discover any non-disclosure or misrepresentation made by the insured at the time of the contract, and precludes the insurer from contesting the validity of the contract after the specified period lapses. This article considers the incontestability provision in English and Chinese law, with a comparative analysis of the approaches in some other common law and civil law jurisdictions. It is suggested that an incontestability provision should be introduced to the Consumer Insurance (Disclosure and Representations) Act 2012 in its future amendment. This article also proposes solutions to the shortcomings in the incontestability provision in Chinese law.

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