



Marine and Aviation Insurance (War Risks) Act 1952

1952 CHAPTER 57

An Act to make provision for authorising the Minister of Transport to undertake the insurance of ships, aircraft and certain other goods against war risks and, in certain circumstances, other risks; for the payment by him of compensation in respect of certain goods lost or damaged in transit in consequence of war risks; and for purposes connected with the matters aforesaid. [30th October 1952.]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Agreements for re-insurance by Minister of Transport of war risks in respect of ships, aircraft and cargoes

- (1) The Minister of Transport (hereafter in this Act referred to as " the Minister ") may, with the approval of the Treasury, enter into agreements with any authorities or persons—
- (a) whereby he undertakes the liability of re-insuring any war risks against which a ship or aircraft is for the time being insured; and
 - (b) whereby he undertakes the liability of re-insuring any war risks against which the cargo carried in a ship or aircraft is for the time being insured:

Provided that the Minister shall not enter into an agreement whereby he undertakes the liability of re-insuring any war risks against which a ship or aircraft not being a British ship or British aircraft is for the time being insured, except in so far as they arise during the continuance of any war or other hostilities in which Her Majesty is engaged or arise after any such war or hostilities in consequence of things done or omitted during the continuance thereof.

- (2) A copy of every agreement made in pursuance of this section shall, as soon as may be after the agreement is made, be laid before each House of Parliament; and if

either House, within the period of fourteen days beginning with the day on which a copy of such an agreement is laid before it, resolves that the agreement be annulled, the agreement shall thereupon become void except in so far as it confers rights or imposes obligations in respect of things previously done or omitted to be done, without prejudice, however, to the making of a new agreement.

In reckoning for the purposes of this subsection any such period of fourteen days as aforesaid, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (3) The reference in paragraph (a) of subsection (1) of this section to a ship or aircraft shall be construed as including a reference to any machinery, tackle, furniture or equipment of a ship or aircraft, and to any goods on board of a ship or aircraft, not being cargo carried therein, and the first reference in the proviso to that subsection to a ship or aircraft shall accordingly be similarly construed.

2 Insurance by Minister of Transport of ships, aircraft and cargoes

- (1) The Minister may, with the approval of the Treasury, carry on business under and in accordance with all or any of the following provisions of this subsection, that is to say:—
- (a) at any time when it appears to him that reasonable and adequate facilities for the insurance of British ships or British aircraft against war risks, or any description of such risks, are not available, for the insurance by him of such ships, or as the case may be, such aircraft, against such risks or, as the case may be, that description thereof;
 - (b) during the continuance of any war or other hostilities in which Her Majesty is engaged, for the insurance by him of ships and aircraft (whether British or not);
 - (c) at any time when it appears to him that reasonable and adequate facilities for the insurance of cargoes carried in ships or aircraft against war risks, or any description of such risks, are not available, for the insurance by him of such cargoes against such risks or, as the case may be, that description thereof;
 - (d) during the continuance of any war or other hostilities in which Her Majesty is engaged, for the insurance by him of cargoes carried in ships or aircraft;
 - (e) during the continuance of any such war or hostilities, for the insurance by him of goods consigned for carriage by sea or by air, while the goods are in transit between the premises from which they are consigned and the ship or aircraft or between the ship or aircraft and their destination:

Provided that the Minister shall not, by virtue of paragraph (b), (d) or (e) of this subsection, undertake the insurance of a ship, aircraft or cargo against risks other than war risks unless he is satisfied that, in the interests of the defence of the realm or the efficient prosecution of any such war or hostilities as aforesaid, it is necessary or expedient so to do.

- (2) References in paragraphs (a) and (b) of the foregoing subsection to ships of any description and to aircraft of any description shall be construed as including references to any machinery, tackle, furniture or equipment of ships of that description and aircraft of that description respectively and to any goods on board of ships of that description and aircraft of that description respectively, not being cargo carried therein, and the reference in the proviso to that subsection to a ship or aircraft shall accordingly be similarly construed.

- (3) In paragraph (e) of subsection (1) of this section the expression " the ship or aircraft", in relation to goods consigned for carriage by sea or by air, does not include a vessel from which the goods are discharged for the purpose of being carried by sea or by air or into which they are discharged for the purpose of being landed.

3 Transitional provisions for compensation in respect of goods lost or damaged in transit after discharge or before shipment

- (1) Where a person satisfies the Minister with respect to any goods—
- (a) that the goods, having been consigned for carriage by sea or by air from a place outside any one of the countries to which this paragraph applies to a place in that country,—
 - (i) were discharged in that country from the ship or aircraft before the expiration of the period of seven days beginning with such day as the Minister may declare to be the day as from which he will carry on business for the purpose mentioned in paragraph (e) of subsection (1) of the last foregoing section ;
 - (ii) were, after the beginning of that day and before the expiration of the appropriate period, lost or damaged in consequence of a war risk, being one which the Minister was, on that day, prepared to insure under the said paragraph (e); and
 - (iii) were lost or damaged while in transit between the ship or aircraft and their destination ;or, having been consigned for carriage by sea or by air from a place in any one of the countries to which this paragraph applies to a place outside that country before the expiration of the said period of seven days, were, after the beginning of the said day, lost or damaged in consequence of such a war risk as aforesaid while in transit between the premises from which they were consigned and the ship or aircraft; and
 - (b) that the goods were not insured against the risk in consequence of which they were lost or damaged ; and
 - (c) that he and his agents exercised all due diligence for securing that no delay occurred while the goods were in such transit as aforesaid ; and
 - (d) that at the time when the loss or damage occurred the property in the goods was vested in him;

the Minister shall pay to him, by way of compensation for that loss or damage, an amount ascertained in accordance with the next following subsection.

- (2) The amount of compensation payable under the foregoing subsection shall be—
- (a) in the case of lost goods, an amount equal to the insurable value of the goods;
 - (b) in the case of damaged goods—
 - (i) where the goods have been delivered at their destination, an amount equal to such proportion of the insurable value of the goods as the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value ;
 - (ii) where the goods have not been so delivered, an amount equal to such proportion of the insurable value of the goods as the difference between the gross sound and damaged values at the premises from which they were consigned bears to the gross sound value.

- (3) Where, at a time when the loss or damage for which compensation in respect of any goods has become payable under this section occurred, the goods were subject to a mortgage, charge or other similar obligation, the amount of the compensation shall be deemed to be comprised in that mortgage, charge or other obligation.
- (4) The countries to which paragraph (a) of subsection (1) of this section applies are the United Kingdom, the Isle of Man and any of the Channel Islands.
- (5) In this section—
- (a) the expression " the ship or aircraft", in relation to goods consigned for carriage by sea or by air to or from a country to which paragraph (a) of subsection (1) of this section applies, does not include a vessel into which the goods are discharged at a port or place in that country for the purpose of being landed at that port or place, or from which the goods are discharged for the purpose of being carried by sea or by air from that country, as the case may be ;
 - (b) the expression " the appropriate period " means—
 - (i) in a case where the destination of the goods is within the port or place at which they were discharged from the ship or aircraft, the period of fifteen days beginning with the day on which they were so discharged; or
 - (ii) in a case where the destination of the goods is outside the said port or place, the period of thirty days beginning with the day on which they were so discharged; and
 - (c) the expression " insurable value " means, in relation to goods consigned for carriage by sea or by air, the prime cost of the goods plus the expenses of and incidental to the carriage thereof as aforesaid and the charges of insurance upon the whole ;

and for the purposes of this section the gross value of goods shall be taken to be the wholesale price or, if there be no such price, the estimated value, with, in either case, the expenses of and incidental to the carriage of the goods.

4 Liabilities of re-insurer in the event of insurer's insolvency

Where a sum becomes payable to a person (hereafter in this section referred to as " the insurer ") in respect of any loss or damage arising from a risk against which the insurer has, either originally or by way of re-insurance, insured another person (hereafter in this section referred to as " the assured") and either—

- (a) the sum has become payable by the Minister by virtue of an agreement made under section one of this Act; or
- (b) the sum has become payable under a contract of insurance by some person other than the Minister (hereafter in this section referred to as " the intermediate insurer ") and the risk has been re-insured under such an agreement as aforesaid,

then, if before payment of that sum is made by the Minister or the intermediate insurer, the insurer becomes bankrupt or, in a case where the insurer is a company, the company commences to be wound up, or a receiver is appointed on behalf of the holders of any debentures of the company secured by a floating charge or possession is taken by or on behalf of the holders of such debentures of any property comprised in or subject to the charge, that sum shall cease to be payable to the insurer and the amount thereof shall be paid to the assured by the Minister or the intermediate insurer, as the case may be, and the right of the assured to receive payment in respect of the loss or damage from

the insurer shall, to the extent to which the risk has been re-insured by the Minister, be extinguished.

5 Establishment of fund for purposes of this Act

- (1) There shall be established under the control of the Minister a fund, to be called the "marine and aviation insurance (war risks) fund".—
 - (a) into which shall be paid—
 - (i) all sums received by the Minister by virtue of this Act;
 - (ii) any sum which, at the commencement of this Act, stands to the credit of the war risks (marine) insurance fund established for the purposes of Part I of the War Risks Insurance Act, 1939 ; and
 - (iii) any sum received by the Minister by virtue of the said Part I after the commencement of this Act; and
 - (b) out of which shall be paid—
 - (i) all sums required for the fulfilment by the Minister of any of his obligations under this Act; and
 - (ii) all sums required for the fulfilment by him of any of his obligations under the said Part I so far as they remain unfulfilled at the commencement of this Act.
- (2) If, at any time when a payment falls to be made out of the marine and aviation insurance (war risks) fund, the sum standing to the credit of that fund is less than the sum required for the making of that payment, an amount equal to the deficiency shall be paid into that fund out of moneys provided by Parliament, but if and so far as that amount is not paid out of such moneys, it shall be charged on and issued out of the Consolidated Fund of the United Kingdom or the growing produce thereof (hereafter in this Act referred to as " the Consolidated Fund ").
- (3) If, at any time, the amount standing to the credit of the marine and aviation insurance (war risks) fund exceeds the sum which, in the opinion, of the Minister and the Treasury, is likely to be required for the making of payments out of that fund, the excess shall be paid into the Exchequer; and the amount of any sum so paid into the Exchequer shall, at such times as the Treasury may direct, be issued out of the Consolidated Fund and shall be applied by the Treasury in redeeming or paying off debt of such description as the Treasury think fit.
- (4) The Minister shall prepare, in such form and manner as the Treasury may direct, an account of the sums received into and paid out of the marine and aviation insurance (war risks) fund in each financial year, and shall, on or before the thirtieth day of November in each year, transmit the account to the Comptroller and Auditor General, who shall examine and certify the account and lay copies thereof together with copies of his report thereon, before both Houses of Parliament:

Provided that if the Treasury certify that, in the interests of the defence of the realm or the efficient prosecution of any war or other hostilities in which Her Majesty is engaged, it is inexpedient that copies of the account for any year and of the report thereon should be laid before Parliament, a copy of the certificate shall be laid before both Houses of Parliament and, so long as the certificate remains in force, those copies of the account and of the report shall not be so laid.

6 Provisions as to raising of money to make good deficiencies in fund

For the purpose of providing sums (or any part of sums) to be issued out of the Consolidated Fund under subsection (2) of the last foregoing section, or of providing for the replacement of all or any part of sums so issued, the Treasury may, at any time, if they think fit, raise money in any manner in which they are authorised to raise money under the National Loans Act, 1939, and any securities created and issued to raise money under this section shall be deemed for all purposes to have been created and issued under that Act.

7 Exemption of certain instruments from provisions of Stamp Act, 1891, and Marine Insurance Act, 1906

- (1) None of the following instruments shall be invalid by reason only that it does not comply with the requirements of the Stamp Act, 1891, with respect to contracts for or policies of sea insurance, or be inadmissible in evidence by reason only that it is not embodied in a marine policy in accordance with the Marine Insurance Act, 1906, that is to say:—
 - (a) an agreement for re-insurance made in pursuance of section one of this Act between the Minister and any other authority or person, and a policy of re-insurance issued by the Minister in pursuance of such an agreement;
 - (b) an agreement entered into by a body to which this paragraph applies, being an agreement for the re-insurance of a risk insured by another person which may be again re-insured by the Minister, and a policy issued in pursuance of such an agreement, being a policy for the re-insurance only of such a risk as aforesaid ;
 - (c) a contract of insurance entered into by the Minister in exercise of the powers conferred on him by section two of this Act, and a policy of insurance and a certificate of insurance issued by the Minister in connection with any such contract.
- (2) Stamp duty shall not be chargeable in respect of any of the instruments mentioned in the foregoing subsection other than such a policy of insurance as is mentioned in paragraph (c) of that subsection.
- (3) No person shall be liable to a fine under section ninety-seven or one hundred of the Stamp Act, 1891, by reason of having, contrary to either of those sections, entered into or done or omitted to do anything in relation to, or for the purposes of, any such agreement or contract as is mentioned in subsection (1) of this section, or be liable under the said section ninety-seven to a disability in relation to any such agreement or contract.
- (4) Paragraph (b) of subsection (1) of this section applies to any body of persons for the time being approved for the purposes of this Act by the Minister, being a body the objects of which are or include the carrying on of business by way of the re-insurance of risks which may be re-insured under any agreement for the purpose mentioned in paragraph (b) of subsection (1) of section one of this Act.

8 Consequential amendment of 2 and 3 Geo. 6. c. 120

For paragraph (b) of subsection (2) of section one of the Restriction of Advertisement (War Risks Insurance) Act, 1939 (which, as amended by Order in Council under the Ministers of the Crown (Transfer of Functions) Act, 1946, excludes from the acts

rendered unlawful by subsection (1) of that section anything done with a view to inducing persons to enter into any contract of insurance, if the Minister of Transport could, under section one or section two of the War Risks Insurance Act, 1939, lawfully re-insure the person liable under that contract), there shall be substituted the following paragraph:—

“(b) anything done with a view to inducing persons to enter into any contract of insurance, if the Minister of Transport could, under section one of the Marine and Aviation Insurance (War Risks) Act, 1952, lawfully re-insure the person liable under that contract; or”.

9 Expenses of the Minister of Transport

The expenses incurred for the purposes of this Act by the Minister shall, except in so far as they are required to be defrayed out of the marine and aviation insurance (war risks) fund, be defrayed out of moneys provided by Parliament.

10 Interpretation and savings

(1) In this Act, unless the context otherwise requires, the following expressions have the meanings hereby respectively assigned to them, that is to say:

" British aircraft " means aircraft registered in Her Majesty's dominions;

" goods " includes currency and any securities payable to bearer, not being either bills of exchange or promissory notes;

" war risks " means risks arising from any of the following events, that is to say, hostilities, rebellion, revolution and civil war, from civil strife consequent on the happening of any of those events, or from action taken (whether before or after the outbreak of any hostilities, rebellion, revolution or civil war) for repelling an imagined attack or preventing or hindering the carrying out of any attack, and includes piracy.

(2) The provisions of this Act relating to British ships shall apply also to ships of India and ships of the Republic of Ireland, and references in this Act to British ships shall be construed accordingly.

(3) The provisions of this Act relating to British aircraft shall apply also to aircraft registered in India, the Republic of Ireland, the Federation of Malaya, a protectorate, a protected state, a trust territory or a mandated territory, and references in this Act to British aircraft shall be construed accordingly.

The references in this subsection to a protectorate, a protected state, a trust territory and a mandated territory shall be construed as if they were references contained in the British Nationality Act, 1948.

(4) Any agreement made under section one of the War Risks Insurance Act, 1939, shall, if in force at the commencement of this Act, continue in force and have effect as if made under section one of this Act, and any approval given, under subsection (4) of section eighteen of that Act, to a body of persons shall, if in force at the commencement of this Act, continue in force and have effect as if it were approval given under subsection (4) of section seven of this Act to that body of persons.

11 Short title, extent and repeal

(1) This Act may be cited as the Marine and Aviation Insurance (War Risks) Act, 1952.

Status: This is the original version (as it was originally enacted).

- (2) It is hereby declared that this Act extends to Northern Ireland.
- (3) The provisions of the War Risks Insurance Act, 1939, specified in the first column of the Schedule to this Act are hereby repealed to the extent specified in the second column of that Schedule, and Regulation five of the Defence (War Risks Insurance) Regulations, 1940, and so much of the Schedule to those Regulations as relates to section two of the said Act of 1939 are hereby revoked.

SCHEDULE

Section 11.

PROVISIONS OF THE WAR RISKS INSURANCE ACT, 1939, REPEALED

Provision	Extent of Repeal
Part I	The whole Part.
Section sixteen	Subsections (1) to (3), so far as regards the war risks (marine) insurance fund, and subsection (4) so far as regards accounts and reports relating to that fund, except in relation to financial years beginning before the commencement of this Act.
Section eighteen	The whole section save in so far as relating to policies of insurance issued in pursuance of the commodity insurance scheme operated by the Board of Trade under Part II of the Act.
Section eighteen A.	The whole section.

TABLE OF STATUTES REFERRED TO IN THIS ACT

Short Title	Session and Chapter
Stamp Act, 1891	54 & 55 Vict. c. 39.
Marine Insurance Act, 1906	6 Edw. 7. c. 41.
War Risks Insurance Act, 1939	2 & 3 Geo. 6. c. 57.
National Loans Act, 1939	2 & 3 Geo. 6. c. 117.
Restriction of Advertisement (War Risks Insurance) Act, 1939	2 & 3 Geo. 6. c. 120.
Ministers of the Crown (Transfer of Functions) Act, 1946	9 & 10 Geo. 6. c. 31.
British Nationality Act, 1948	11 & 12 Geo. 6. c. 56.