

**English Marine Insurance Act 1906 - An  
Act to codify the Law relating to  
Marine Insurance [21st December 1906]**

England

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## Contents

## **English Marine Insurance Act 1906**

### **An Act to codify the Law relating to Marine Insurance [21st December 1906]**

#### **Marine Insurance**

##### **1. Marine insurance defined**

A contract of marine insurance is a contract whereby the insurer undertakes to indemnify the assured, in manner and to the extent thereby agreed, against marine losses, that is to say, the losses incident to marine adventure.

##### **2. Mixed sea and land risks**

(1) A contract of marine insurance may, by its express terms, or by usage of trade, be extended so as to protect the assured against losses on inland waters or on any land risk which may be incidental to any sea voyage.

(2) Where a ship in course of building, or the launch of a ship, or any adventure analogous to a marine adventure, is covered by a policy in the form of a marine policy, the provisions of this Act, in so far as applicable, shall apply thereto, but, except as by this section provided, nothing in this Act shall alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance as by this Act defined.

##### **3. Marine adventure and maritime perils defined**

(1) Subject to the provisions of this Act, every lawful marine adventure may be the subject of a contract of marine insurance.

(2) In particular there is a marine adventure where -

(a) Any ship goods or other moveables are exposed to maritime perils. Such property is in this Act referred to as "insurable property";

(b) The earning or acquisition of any freight, passage money, commission, profit, or other pecuniary benefit, or the security for any advances, loan, or disbursements, is endangered by the exposure of insurable property to maritime perils;

(c) Any liability to a third party may be incurred by the owner of, or other person interested in or responsible for, insurable property, by reason of maritime perils.

"Maritime perils" means the perils consequent on, or incidental to, the navigation of the sea, that is to say, perils of the seas, fire, war, perils, pirates, rovers, thieves, captures, seizures, restraints, and detainment's of princes and peoples, jettisons, barratry, and any other perils, either of the like kind or which may be designated by the policy.

## **Insurable Interest**

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### **4. Avoidance of wagering or gaming contracts**

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(1) Every contract of marine insurance by way of gaming or wagering is void.

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(2) A contract of marine insurance is deemed to be a gaming or wagering contract-

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(a) Where the assured has not an insurable interest as defined by this Act, and the contract is entered into with no expectation of acquiring such an interest; or

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(b) Where the policy is made 'interest or no interest,' or 'without further proof of interest than the policy itself.' or 'without benefit of salvage to the insurer,' or subject to any other like term:

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Provided that, where there is no possibility of salvage, a policy may be effected without benefit of salvage to the insurer.

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### **5. Insurable interest defined**

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(1) Subject to the provisions of this Act, every person has an insurable interest who is interested in a marine adventure.

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(2) In particular a person is interested in a marine adventure where he stands in any legal or equitable relation to the adventure or to any insurable property at risk therein, in consequence of which he may benefit by the safety or due arrival of insurable property, or may be prejudiced by its loss, or by damage thereto, or by the detention thereof, or may incur liability in respect thereof.

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### **6. When interest must attach**

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(1) The assured must be interested in the subject-matter insured at the time of the loss though he need not be interested when the insurance is effected: Provided that where the subject-matter is insured 'lost or not lost,' the assured may recover although he may not have acquired his interest until after the loss, unless at the time of effecting the contract of insurance the assured was aware of the loss, and the insurer was not.

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(2) Where the assured has no interest at the time of the loss, he cannot acquire interest by any act or election after he is aware of the loss.

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### **7. Defeasible or contingent interest**

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(1) A defeasible interest is insurable, as also is a contingent interest.

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(2) In particular, where the buyer of goods has insured them, he has an insurable interest, notwithstanding that he might, at his election, have rejected the goods, or have treated them as at the seller's risk, by reason of the latter's delay in making delivery or otherwise.

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**8. Partial interest** 31

A partial interest of any nature is insurable. 32

**9. Re-insurance** 33

(1) The insurer under a contract of marine insurance has an insurable interest in his risk, and may re-insure in respect of it. 34

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of such re-insurance. 35

**10. Bottomry** 36

The lender of money on bottomry or respondentia has an insurable interest in respect of the loan. 37

**11. Master's and seamen's wages** 38

The master or any member of the crew of a ship has an insurable interest in respect of his wages. 39

**12. Advance freight** 40

In the case of advance freight, the person advancing the freight has an insurable interest, in so far as such freight is not repayable in case of loss. 41

**13. Charges of insurance** 42

The assured has an insurable interest in the charges of any insurance which he may effect. 43

**14. Quantum of interest** 44

(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in the full value thereof, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage. 45

(2) A mortgagee, consignee, or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of other persons interested as well as for his own benefit. 46

(3) The owner of insurable property has an insurable interest in respect of the full value thereof, notwithstanding that some third person may have agreed, or be liable, to indemnify him in case of loss. 47

## 15. Assignment of interest

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Where the assured assigns or otherwise parts with his interest in the subject-matter insured, he does not thereby transfer to the assignee his rights under the contract of insurance, unless there be an express or implied agreement with the assignee to that effect. But the provisions of this section do not affect a transmission of interest by operation of law.

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## 16. Measure of insurable value

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Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured must be ascertained as follows:

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(1) In insurance on ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements (if any) incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole: The insurable value, in the case of a steamship, includes also the machinery, boilers, and coals and engine stores if owned by the assured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade:

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(2) In insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the assured, plus the charges of insurance:

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(3) In insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole:

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(4) In insurance on any other subject-matter, the insurable value is the amount at the risk of the assured when the policy attaches, plus the charges of insurance.

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## Disclosure and Representations

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### 17. Insurance is uberrimae fidei

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A contract of marine insurance is a contract based upon the utmost good faith, and, if the utmost good faith be not observed by either party, the contract may be avoided by the other party.

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### 18. Disclosure by assured

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(1) Subject to the provisions of this section, the assured must disclose to the insurer, before the contract is concluded, every material circumstance which is known to the

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assured, and the assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known by him. If the assured fails to make such disclosure, the insurer may avoid the contract.

(2) Every circumstance is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk. 61

(3) In the absence of inquiry the following circumstances need not be disclosed, namely: 62

(a) Any circumstance which diminishes the risk: 63

(b) Any circumstance which is known or presumed to be known to the insurer. The insurer is presumed to know matters of common notoriety or knowledge, and matters which an insurer in the ordinary course of his business, as such, ought to know; 64

(c) Any circumstances as to which information is waived by the insurer; 65

(d) Any circumstance which it is superfluous to disclose by reason of any express or implied warranty. 66

(4) Whether any particular circumstance, which is not disclosed, be material or not is, in each case, a question of fact. 67

(5) The term 'circumstance' includes any communication made to, or information received by, the assured. 68

## **19. Disclosure by agent effecting insurance** 69

Subject to the provisions of the preceding section as to circumstances which need not be disclosed, where an insurance is effected for the assured by an agent, the agent must disclose to the insurer-- 70

(a) Every material circumstance which is known to himself, and an agent to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, him; and 71

(b) Every material circumstance which the assured is bound to disclose, unless it come to his knowledge too late to communicate it to the agent. 72

## **20. Representations pending negotiation of contract** 73

(1) Every material representation made by the assured or his agent to the insurer during the negotiations for the contract, and before the contract is concluded, must be true. If it be untrue the insurer may avoid the contract. 74

(2) A representation is material which would influence the judgment of a prudent insurer in fixing the premium, or determining whether he will take the risk. 75

(3) A representation may be either a representation as to a matter of fact, or as to a matter of expectation or belief. 76

(4) A representation as to a matter of fact is true, if it be substantially correct, that is to say, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer. 77

(5) A representation as to a matter of expectation or belief is true if it be made in good faith. 78

(6) A representation may be withdrawn or corrected before the contract is concluded. 79

(7) Whether a particular representation be material or not is, in each case, a question of fact. 80

## **21. When contract is deemed to be concluded** 81

A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer, whether the policy be then issued or not; and, for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract. 82

## **The Policy** 83

### **22. Contract must be embodied in policy** 84

Subject to the provisions of any statute, a contract of marine insurance is inadmissible in evidence unless it is embodied in a marine policy in accordance with this Act. The policy may be executed and issued either at the time when the contract is concluded, or afterwards. 85

### **23. What policy must specify** 86

A marine policy must specify - 87

(1) The name of the assured, or of some person who effects the insurance on his behalf: 88

(2)-(5) [Repealed]. 89

### **24. Signature of insurer** 90

(1) A marine policy must be signed by or on behalf of the insurer, provided that in the case of a corporation the corporate seal may be sufficient, but nothing in this section shall be construed as requiring the subscription of a corporation to be under seal. 91

(2) Where a policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary be expressed, constitutes a distinct contract with the assured. 92

## **25. Voyage and time policies** 93

(1) Where the contract is to insure the subject-matter 'at and from,' or from one place to another or other, the policy is called a 'voyage policy,' and where the contract is to insure the subject-matter for a definite period of time the policy is called a 'time policy.' A contract for both voyage and time may be included in the same policy. 94

(2) [Repealed]. 95

## **26. Designation of subject-matter** 96

(1) The subject-matter insured must be designated in a marine policy with reasonable certainty. 97

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy. 98

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered. 99

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured. 100

## **27. Valued policy** 101

(1) A policy may be either valued or unvalued. 102

(2) A valued policy is a policy which specifies the agreed value of the subject-matter insured. 103

(3) Subject to the provisions of this Act, and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject intended to be insured, whether the loss be total or partial. 104

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss. 105

## **28. Unvalued policy** 106

An unvalued policy is a policy which does not specify the value of the subject-matter insured, but subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained, in the manner herein-before specified. 107

## **29. Floating policy by ship or ships** 108

(1) A floating policy is a policy which describes the insurance in general terms, and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration. 109

(2) The subsequent declaration or declarations may be made by indorsement on the policy, or in other customary manner. 110

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment. They must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated, but an omission or erroneous declaration may be rectified even after loss or arrival, provided the omission or declaration was made in good faith. 111

(4) Unless the policy otherwise provides, where a declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration. 112

### **30. Construction of terms in policy** 113

(1) A policy may be in the form in the First Schedule to this Act. 114

(2) Subject to the provisions of this Act, and unless the context of the policy otherwise requires, the terms and expressions mentioned in the First Schedule to this Act shall be construed as having the scope and meaning in that schedule assigned to them. 115

### **31. Premium to be arranged** 116

(1) Where an insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable. 117

(2) Where an insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable. 118

## **Double Insurance** 119

### **32. Double insurance** 120

(1) Where two or more policies are effected by or on behalf of the assured on the same adventure and interest or any part thereof, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance. 121

(2) Where the assured is over-insured by double insurance-- 122

(a) The assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he may think fit, provided that he is not entitled to receive any sum in excess of the indemnity allowed by this Act; 123

(b) Where the policy under which the assured claims is a valued policy, the assured must give credit as against the valuation for any sum received by him under any other policy without regard to the actual value of the subject-matter insured; 124