

### FEATURE ARTICLE

## The Insurance Act 2015 – Breach of Warranty

This new Insurance Act comes into force on the 12 August, 2016, and its impact on policy terms and conditions is increasingly a focus for Underwriters.

Lloyd's Market Association recently published a set of model clauses (click [here](#)) to assist with updating policy wordings in relation to the new Act, which materially changes the current law in certain areas. Significantly it refines the existing rule of law that any breach of warranty discharges the Insurer's liability. How will this affect underwriters in casualty situations?

Under the new regime, an Insurer has no liability following a breach of warranty provided the loss occurs or is attributable to something happening after a warranty has been breached and before the breach has been remedied. Causation is the key. If the breach has been remedied or was not directly related to the casualty underwriters would remain liable. For example if a containership runs aground whilst on a voyage between several discharge ports and was found not to have had up to date charts for the

first leg of the voyage, but was using the correct chart on the second leg when she ran aground, there would be no breach of warranty affecting the Insured's right to indemnity under the cover.

An example offered by the LMA is where a vessel is torpedoed whilst sailing in a war zone (in breach of warranty) after which she sails out of the war zone and sinks or requires salvage assistance. On the face of it, the insurer will not be liable because the loss was 'attributable to something happening' after the warranty was breached (the torpedo attack) and before it was remedied.

The changes are designed to exclude situations where Underwriters could decline a claim for breach of warranty even when that breach had no connection with the damage sustained and therefore provide a fairer playing field for the Insured.

Jane Martineau, our policy expert at Roose+Partners, has been actively providing advice to underwriters on the implications of the act and has been requested to assist with policy revision.

### NEW CASUALTIES

#### Star of Abu Dhabi

Bulk carrier, IMO 9375927, Built 2009, 81,426 dwt

**Date of Casualty** 25 March 2016 – Late Notification

**Voyage** Las Palmas, Canary Islands to New Orleans, USA

**Cargo** No details

**Type of Casualty** Drifted into a dock owned by Louisiana Sugar Refining in Gramercy, Louisiana. The vessel was arrested for damage claims of USD20 million. One man is thought to have been killed and the 1,200 metre dock was destroyed. There was reported to be some loss of oil.

**Type of Claim** Allision damage claim  
P&I Japan Shipowners

#### Silver Point/Sea Maple

*Silver Point* - Combined chemical and oil tanker, IMO 9510462, Built 2011, 51,063 dwt

*Sea Maple* – Bulk carrier , IMO 9176670, Built 2000, 45,710 dwt

**Date of Casualty** 29 March 2016 – Late Notification

**Voyage** No details / at San Lorenzo, Argentina

**Cargo** Both vessels in ballast

**Type of Casualty** During anchoring manoeuvres at San Lorenzo port, the *Silver Point* collided with the anchored bulk carrier *Sea Maple*.

**Type of Claim** Collision damage claim  
P&I Gard / Britannia

#### Talagoa

Yacht, No other details

**Date of Casualty** 29 March 2016 – Late Notification

**Type of Casualty** Capsized with the loss



of her crew off the Colombian island San Andrés.

**Type of Claim** Total loss and loss of life claims

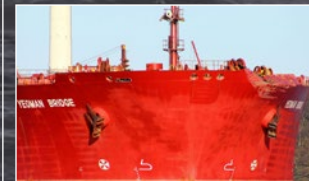
#### Pelagia

Research vessel, IMO 9001461, Built 1991, 525 dwt

**Date of Casualty** 30 March 2016

**Type of Casualty** Suffered an engine room fire whilst in dry-dock in Oudeschild

**Type of Claim** Fire damage claim  
P&I Shipowners Club



#### Yeoman Bridge / Peary Spirit

*Yeoman Bridge* – Bulk carrier, IMO 8912302, Built 1991, 96,772 dwt

*Peary Spirit* – Crude oil tanker, IMO 9466130, Built 2011, 109,325 dwt

**Date of Casualty** 30 March 2016

**Voyage** Glensanda, UK to Brunsbuttel, Germany / Teasport, UK to Brunsbuttel, Germany

**Cargo** Stone and aggregate / Crude oil

**Type of Casualty** The *Yeoman Bridge* struck the berthed tanker whilst manoeuvring. The *Peary Spirit* suffered a breach of 25 to 30 metres above the water line. The *Yeoman Bridge* proceeded to Hamburg for repairs. The *Peary Spirit* headed for Odense for repairs.

**Type of Claim** Collision damage claim  
P&I Both entered with North of England

#### Julius Ruetgers

Self-propelled tank barge, 2,415 dwt

**Date of Casualty** 31 March 2016

**Voyage** Millingen to Duisburg, Germany

**Cargo** In ballast

**Type of Casualty** Suffered an explosion whilst at the Meiderich shipyard in the port of Duisburg. The fire was extinguished within one hour. Three workers were killed and others injured by flying debris.

**Type of Claim** Hull damage and loss of life claims



#### Adventure Hornblower

Passenger cruise vessel, Built 1994, 94 gt

**Date of Casualty** 31 March 2016

**Type of Casualty** Allided with a pier at San Diego whilst docking. Seven people were injured and both the vessel and pier suffered damage. Click [here](#) for video of the allision.

**Type of Claim** Allision damage and passenger claims

#### Norwind

General cargo vessel with container capacity, IMO 9171371, Built 2000, 9,861 dwt

**Date of Casualty** 1 April 2016

**Voyage** Tekirdag, Turkey to Amsterdam, Netherlands

**Cargo** Loaded, no details

**Type of Casualty** Suffered engine failure whilst transiting the Dardanelles. A coastal safety tug towed the vessel to Kumkale anchorage where the vessel



[Further casualties overleaf](#)

anchored to effect repairs.  
**Type of Claim** Possible salvage type claim

P&I Hanseatic

#### Hua Lun 2788/ Wanlujianghou 0692

*Hua Lun 2788* – General cargo vessel, No other details

*Wanlujianghou 0692* - General cargo vessel, No other details

**Date of Casualty** 1 April 2016

**Voyage** No details

**Cargo** No details

**Type of Casualty** In collision near the Nanpu Bridge, Shanghai on the Huangpu River. The *Wanlujianghou 0692* partially sank but was refloated by a crane and grounded on the shore.

**Type of Claim** Collision damage claim

#### Makassar Highway/Xiang Wang Cai 17

*Makassar Highway* – Vehicle carrier, IMO 9235426, Built 2001, 6,890 dwt

*Xiang Wang Cai 17* – Dredger, No other details

**Date of Casualty** 1 April 2016

**Voyage** Sakai, Japan to Hong Kong

**Cargo** Vehicles / Gravel

**Type of Casualty** In collision off Zhangzhou, China in the Taiwan Strait. The dredger suffered water ingress and the crew abandoned her onto a lifeboat.

**Type of Claim** Collision damage claim  
P&I UK Club / Unknown

#### Massive 6

Tug, IMO 9265823 , Built 2002, 164 dwt

**Date of Casualty** 1 April 2016

**Type of Casualty** Four crew members were kidnapped near Pulau Ligitan, Malaysia. Investigation are continuing into the identity of the pirates.

**Type of Claim** Kidnap and ransom



## Fishing Vessels



### Reliance BF 80 ▣

No other details

**Date of Casualty** 30 March 2016

**Type of Casualty** Suffered gearbox failure off Colonsay, Inner Hebrides, Scotland. The vessel was assisted by the Islay and Oban lifeboats and towed into Oban.

**Type of Claim** Possible salvage type claim



### Good Fellowship ▣

No other details

**Date of Casualty** 30 March 2016

**Type of Casualty** Disabled 12 nm east of Whitley Bay. The vessel was towed to safety by the Tynemouth RNLI lifeboat.

**Type of Claim** Possible salvage claim

### Jordan No. 5

No other details

**Date of Casualty** 31 March 2016

**Type of Casualty** Suffered a fire whilst 260 miles from Port Louis, Mauritius.



Commercial vessels diverted to assist and saved the 16 crew members.

**Type of Claim** Fire damage/total loss



### Marja Netty ▣

IMO 8121343, Built 1981, 331 gt

**Date of Casualty** 1 April 2016

**Type of Casualty** Drifting towards the Helder A platform in the North sea. Lifeboat *Adriaan Hendrik* attached a line when the vessel was reportedly only 200 metres away from the platform. She was later towed to Den Helder by the fishing vessel *Jan van Den Berg*.

**Type of Claim** Possible salvage type claim

### Avô Melro ▣

No other details

**Date of Casualty** 4 April 2016

**Type of Casualty** Grounded in bad weather off Portugal. Six crew members were airlifted to safety. Click [here](#) for video.

**Type of Claim** Hull damage, possible salvage or total loss/wreck removal

### Zhong Shui 607

IMO 8628884, Built 1997, 33 dwt

**Date of Casualty** 6 April 2016

**Type of Casualty** Sank in the Pacific ocean, 130 nm northeast of Efate island. All crew were safely evacuated.

**Type of Claim** Total loss claim



### Arklow Willow/Agios Nektarios ▣

*Arklow Willow* – General cargo vessel, IMO 9314600, Built 2004, 14,001 dwt

*Agios Nektarios* – Fishing vessel, No other details

**Date of Casualty** 2 April 2016

**Voyage** Itea, Greece to Gibraltar / n/a

**Cargo** No details

**Type of Casualty** Collision in the Mediterranean Sea between Kefalonia and Zakynthos island.

**Type of Claim** Collision damage claim

**P&I** North of England

### Kapitan Mironov/Mila

*Kapitan Mironov* – General cargo vessel with container capacity, IMO 9077563, Built 1995, 4,615 dwt

*Mila* – General cargo vessel, IMO 9501681, Built 2013, 11,383 dwt

**Date of Casualty** 2 April 2016

**Voyage** Archangel, Russia to Nantes, France / Skaw, Denmark to Archangel, Russia

**Cargo** No details

**Type of Casualty** The *Kapitan Mironov* struck the berthed *Mila* whilst departing the port of Archangel. The *Kapitan Mironov* was undamaged.

**Type of Claim** Collision damage claim

**P&I** UK Club / Swedish Club

### Huayi Huo 3003/Shi Li Zhi Ming 16

*Huayi Huo 3003* – General cargo vessel, No other details

*Shi Li Zhi Ming 16* – General cargo vessel, No other details

**Date of Casualty** 3 April 2016

**Voyage** No details

**Cargo** 2,000 m<sup>3</sup> of coal / Unknown

**Type of Casualty** Collision on the Huangpu river near the Huashan docks. The *Shi Li Zhi Ming 16* capsized and two of the crew are missing.

**Type of Claim** Collision damage and loss of life claims

### Avsa Adasi

Ro-ro passenger ferry, IMO 8604761, 1988, 376 dwt

**Date of Casualty** 3 April 2016

**Type of Casualty** Suffered engine failure and was drifting aground. Coastal safety tugs attended.

**Type of Claim** Possible salvage type claim

**P&I** RaetsMarine

### Nefertudvoz 29

Combined ore and oil carrier, IMO 7740570, Built 1978, 3,345 dwt

**Date of Casualty** 3 April 2016

**Voyage** Azov, Russia to Obukovka, Ukraine

**Cargo** No details

**Type of Casualty** Draggd at anchor and grounded on the river Don at Azov port. Tugs failed to refloat the vessel which remains aground.

**Type of Claim** Possible salvage claim



### Esperanza/Ezine ▣

*Esperanza* – General cargo vessel, IMO 8410354, Built 1984, 4,145 dwt

*Ezine* – Ro-ro passenger ferry, IMO 7709033, Built 1981, 433 dwt

**Date of Casualty** 3 April 2016

**Voyage** Tripoli, Libya to Constantza, Romania

**Cargo** In ballast / Trucks

**Type of Casualty** In collision whilst transiting the Dardanelles. Coastal Safety tugs attended.

**Type of Claim** Collision damage claim

**P&I** RaetsMarine / Unknown

### Zeina J

General cargo vessel, IMO 7333846, Built 1973, 7,385 dwt

**Date of Casualty** 4 April 2016

**Voyage** El-arish, Egypt to Gemlik, Turkey

**Cargo** 6,400 m<sup>3</sup> of silica sand

## CASUALTY FOLLOW-UP



**Saint Christophe 1** – edition 155 – Dutch salvage company Multraship have successfully raised the sunken trawler which capsized and sank at its berth at South Embankment, Dartmouth on 11 March 2016. The vessel is required to undergo repairs before she can be towed away from Dartmouth.

**TS Taipei** ▣ – editions 155, 156 & 157 - The removal of the deck containers is expected to be completed by this afternoon. Eight containers loaded with toxic materials have already been discharged along with 101 containers from the forward deck and 22 containers from the aft leaving 19 to come off. Authorities advise that the oil leaks have now largely been contained. The clean-up operation is expected to take two months. The vessel was carrying over 700 containers. Resolve Marine and Nippon Salvage have been contracted.

**Selvaagsund** – edition 156 – the vessel's cargo has been discharged at Florø Cargo and the *Selvaagsund* has proceeded to a

yard in Nordmøre for repairs.

**Sparna** – edition 156 & 157 – the investigation into grounding is expected to take at least a month. The vessel has a 25 x 5 foot breach to a void space in her hull and a boulder is lodged inside. She is undergoing repairs at Kalama.

**Lira** – edition 156 & 157 – reports from the crew of the vessel suggest the construction works of the Kerch Bridge lacked the required safety navigational warning signs and lights. The vessel is under arrest in respect of the damage estimated to be USD2million.

**Brahma 12** – edition 157 – the barge *Anad 12* which was being towed by the hijacked tug and was carrying 7,000 m<sup>3</sup> of coal from Kalimantan to the Philippines has been located and recovered some 8.4 nm northeast of the Tun Sharifah Rodziah Platform southeast of Tungku. Militants Abu Sayyaf have demanded a ransom for the release of the 10 crew members of the *Brahma 12*.

**Type of Casualty** Grounded in soft mud off the north coast of Kos, Greece. The vessel refloated by her own means and is undergoing survey.

**Type of Claim** Possible damage

### Ekaterina

General cargo vessel, IMO 8858025, Built 1980, 2,790 dwt

**Date of Casualty** 4 April 2016

**Voyage** Azov, Russia to Poti, Georgia

**Cargo** 2,000 m<sup>3</sup> of wheat

**Type of Casualty** Ran aground on Azov Roads. The vessel was refloated by two port tugs and the icebreaker *Kapitan Harchikov*.

**Type of Claim** Possible hull damage and salvage claim

**P&I** Lodestar

### Coral Island 1 ▣

Passenger ferry, No other details

**Date of Casualty** 5 April 2016

**Type of Casualty** Caught fire whilst under repair at Langkawi. Click [here](#) for video.

**Type of Claim** Fire damage claim

