

Insurance and Reinsurance on i-law.com

Content update: August 2024

Highlights:

- ▶ **Product focus: *Insurance Law Monthly***
- ▶ **Introduction to our experts**
- ▶ **Looseleaf service issue update**

Insurance and Reinsurance on i-law.com

Written by experts in insurance, professional negligence and liability, Insurance and Reinsurance on i-law.com contains an unrivalled collection of news, analysis and English and international law case reports – a must-read for legal practitioners, brokers and compliance officers.

Insurance and Reinsurance on i-law.com features our industry-leading titles, including *Lloyd's Law Reports: Insurance & Reinsurance*, *The Law of Insurance Contracts* and *Insurance Law Monthly*. It also includes fully searchable access to key texts including *Practical Guide to the Insurance Act 2015* and *Good Faith and Insurance Contracts*.

Recently published

Lloyd's Insurance Law Reporter

Capral Ltd v Insurance Australia Ltd Trading as CGU Insurance [2024] FCA 775

Insurance (product liability) – Meaning of liability “for property damage” – Principles applicable to incorporation of defective product into other property – Effect of exclusion for product recall.

www.i-law.com/ilaw/doc/view.htm?id=439943

Princess Theatre Pty Ltd and Others v Ansvar Insurance Ltd [2024] VSC 363

Insurance (business interruption) – Covid-19 – Non-damage extension – Causation – Rectification – Measure of indemnity.

www.i-law.com/ilaw/doc/view.htm?id=439701

Lloyd's Law Reports: Insurance & Reinsurance Plus

Bellini (N/E) Ltd V Brit UW Ltd [2024] Lloyd's Rep IR Plus 23

Insurance (business interruption) – Coverage for losses arising from disease – Whether physical damage to the assured's premises was required.

www.i-law.com/ilaw/doc/view.htm?id=439358

Royal & Sun Alliance Insurance plc and Others v Textainer Group Holdings Ltd and Others [2024] Lloyd's Rep IR Plus 24

Insurance (marine) – Subrogation – Allocation of recoveries – Indemnity – Average – Insurance arranged in layers – Loss exceeding amount of insurance – Whether recoveries from third party went to reducing uninsured loss or were to be shared proportionately between insurer and assured – Marine Insurance Act 1906, section 81.

www.i-law.com/ilaw/doc/view.htm?id=439507

Lloyd's Law Reports: Insurance & Reinsurance

Technip Saudi Arabia Ltd v Mediterranean and Gulf Insurance and Reinsurance Co [2024] Lloyd's Rep IR 428

Insurance (liability) – Maritime construction project – WELCAR 2001 policy – Co-insurance – Meaning of “Existing Property” exclusion.

www.i-law.com/ilaw/doc/view.htm?id=439808



Project Angel Bidco Ltd v Axis Managing Agency Ltd and Others [2024] Lloyd's Rep IR 411

Insurance (warranty and indemnity) – Exclusion for loss arising from breach of anti-bribery and anti-corruption laws – Principles of construction.

www.i-law.com/ilaw/doc/view.htm?id=439803

Scotbeef Ltd V D&S Storage Ltd and Another [2024] Lloyd's Rep IR 303

Insurance (liability) – Pre-contractual statement – Conversion into warranty – Transparency of terms – Insurance Act 2015, sections 9, 16 and 17 – Third Parties (Rights Against Insurers) Act 2010.

www.i-law.com/ilaw/doc/view.htm?id=439554

Liability, Risk and Insurance

Employee burnout due to crisis fatigue “a critical issue” (2024) 406 LRI 1

The majority of risk management experts believe stress and burnout and mental health issues will likely have a significant impact on their business and employees this year, International SOS has revealed. Its “Risk Outlook 2024” found employee burnout due to crisis fatigue mounting as a critical issue. According to the survey, 80 per cent of respondent risk management experts believe stress and burnout will likely have a significant impact on their business and employees this year, while 72 per cent believe mental health issues will have a significant impact on their business and employees.

www.i-law.com/ilaw/doc/view.htm?id=439469



Still available

Insurance law in 2023: a review of developments in case law

By Aybüke Naz Durmuş

This review covers the most important court decisions in the field of insurance and reinsurance in 2023. It addresses what it considers to be the most significant judgments of the year, including major appellate decisions in the area, and first instance decisions dealing with important points of principle.

www.i-law.com/ilaw/doc/view.htm?id=437859



Product focus: Insurance Law Monthly

In each content update we focus on articles available in our news service case law resource, *Insurance Law Monthly*.

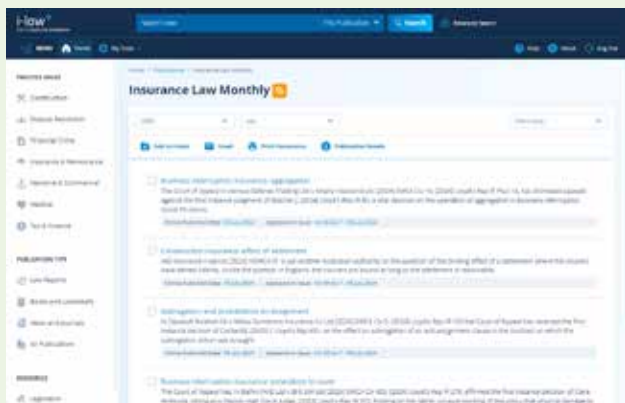


Edited by Professor Robert Merkin KC, *Insurance Law Monthly* brings you the crucial facts from key judgments and legislative activity. The clear presentation and layout guides you through complex cases and legislation, allowing you to go straight to the main issues.

Including commentary on key cases plus updates regarding, new regulations as well as current legislation, *Insurance Law Monthly* keeps you up to date with the developing law and legal issues. It enables you to ensure your business is aware of current case law and developments, as well as the latest litigation hazards.

This one reference source includes all relevant information, reducing time spent on legal research and the need for using law firms in some instances.

- ▶ Analysis of key judgments from courts worldwide, including England and Wales, New Zealand, Australia, Scotland and Canada
- ▶ Developments in legislation and regulations considered
- ▶ Important facts summarised in one easy-to-navigate news service
- ▶ Spot trends and developments in your industry
- ▶ Archive accessible online, also in PDF form
- ▶ Regular updates: 10 PDF issues per year



Topics regularly covered include:

- ▶ Marine insurance
- ▶ Regulation
- ▶ Business interruption
- ▶ Reinsurance
- ▶ Brokers and agents
- ▶ Non-disclosure
- ▶ Conflict of laws
- ▶ EU and government policy
- ▶ Law reform and consultations
- ▶ Fraudulent claims
- ▶ Subrogation
- ▶ Warranties

Recent articles in *Insurance Law Monthly*

Business interruption insurance: aggregation (2024) 36 ILM 7 3
The Court of Appeal in *Various Eateries Trading Ltd v Allianz Insurance plc* [2024] Lloyd's Rep IR Plus 13, has dismissed appeals against the first instance judgment of Butcher J, [2024] Lloyd's Rep IR 60, a vital decision on the operation of aggregation in business interruption Covid-19 claims. Most of the points decided at first instance were not subject to appeal. The only reasoned judgment was that of Males LJ, with Sir Julian Flaux (Chancellor) and Newey LJ agreeing on all points. www.i-law.com/ilaw/doc/view.htm?id=439743

Construction insurance: effect of settlement (2024) 36 ILM 7 2
AIG Insurance v Hanna [2024] NSWCA 91 is yet another Australian authority on the question of the binding effect of a settlement where the insurers have denied liability. Unlike the position in England, the insurers are bound as long as the settlement is reasonable. www.i-law.com/ilaw/doc/view.htm?id=439742

Subrogation and prohibitions on assignment (2024) 36 ILM 7 6
In *Dassault Aviation SA v Mitsui Sumitomo Insurance Co Ltd* [2024] Lloyd's Rep IR 153 the Court of Appeal has reversed the first instance decision of Cockerill J, [2023] 1 Lloyd's Rep 431, on the effect on subrogation of an anti-assignment clause in the contract on which the subrogation action was brought. The case ultimately turned on the proper construction of the clause itself, and the Court of Appeal – unlike the judge – found it unnecessary to consider the wider issues potentially raised by this type of clause. www.i-law.com/ilaw/doc/view.htm?id=439741

Business interruption insurance: extensions to cover (2024) 36 ILM 7 1
The Court of Appeal has, in *Bellini (N/E) Ltd v Brit UW Ltd* [2024] Lloyd's Rep IR 379, affirmed the first instance decision of Clare Ambrose, sitting as a Deputy High Court Judge, [2023] Lloyd's Rep IR 573, holding on the rather unusual working of the policy that physical damage to property remained the trigger for coverage even though the loss was caused by disease. The usual wording states that an extension constitutes “deemed” damage. The present policy did not include the deeming clause www.i-law.com/ilaw/doc/view.htm?id=439744

Brokers: allegation of lack of cover (2024) 36 ILM 6 6
In *Norman Hay plc v Marsh Ltd* [2024] EWHC 1039 (Comm) the question before Picken J was what had to be proved by a client against a broker where the allegation was that the broker had failed to secure a type of cover that ought to have been within the policy and the client had entered into a settlement in respect of an uninsured third-party claim. www.i-law.com/ilaw/doc/view.htm?id=439601

Warranty and indemnity insurance: construction of bribery and corruption exclusion (2024) 36 ILM 6 1
Warranty and indemnity insurance has rarely featured in the English courts. It is designed to protect the purchaser of a company who has obtained warranties from the seller as to the nature of the company's business and any actual and potential threats faced by the company. www.i-law.com/ilaw/doc/view.htm?id=439599

Visit *Insurance Law Monthly* at www.i-law.com and www.insurancelawmonthly.com

Introduction to our experts

Our articles, summaries and reports are written and compiled by experts in insurance, broking, negligence and liability law. Their industry knowledge and familiarity with key issues and current trends ensures Insurance and Reinsurance on i-law.com is an essential source of insight and information.

Professor Robert Merkin KC (General Editor of Lloyd's Law Reports: Insurance & Reinsurance, Lloyd's Insurance Law Reporter and Insurance Law Monthly)

Rob is Professor of Commercial Law at the University of Reading in England, Honorary Professor of Law at the University of Auckland and Distinguished Professor in the School of Comparative Law at the China University of Politics and Law. In addition, he is a visiting Professor at the University of Sydney, teaching an intensive insurance law module to Masters' students.

John Lockey KC (General Editor, Lloyd's Law Reports: Insurance & Reinsurance)

John Lockey KC acts as an advocate in complex commercial disputes before the English courts at all levels and in arbitrations worldwide. His clients include leading financial institutions, accountancy firms, energy companies and insurance and reinsurance companies. He is regularly instructed in the leading domestic and international insurance and reinsurance disputes in arbitrations, in the Commercial Court, and in the Court of Appeal.

Margaret Hemsworth, LL B (London), LL M (Bristol) (General Editor, Law of Insurance Contracts)

Margaret has taught law/legal practice since 1994 when she joined the University of Exeter, moving to Plymouth University in 2006 where she successfully led the post-graduate Legal Practice Course for eight years as a senior lecturer. Margaret is now an Associate Professor at the University of Exeter. A civil litigator by training, with 10 years legal practice, Margaret has wide experience of civil procedure, particularly in housing law, insolvency, personal injury, and general contractual disputes.

Mark Simpson KC, Fountain Court Chambers (General Editor, Professional Negligence and Liability)

Mark's most noted specialism is professional liability and he has been involved in many substantial professional liability cases in the UK courts, acting for claimants, defendants and insurers. He also has a wide international practice which involves advising and/or appearing in jurisdictions such as Jersey, Hong Kong and the Cayman Islands. He carries out internal investigations for professional firms and commercial entities and advises on regulatory issues involving the SRA, BSB and FRC.

Franziska Arnold-Dwyer (Author, Insurance Climate Change and The Law (2024))

Franziska is a senior lecturer in insurance law, contract law, and sustainability and the director of the Insurance, Shipping, and Aviation Law Institute at the Centre for Commercial Law Studies, Queen Mary University of London. She holds a PhD in Commercial Law and is a qualified solicitor. Her research interests are insurance law and solutions, and in particular the intersection of insurance contract law, insurance regulation, risk governance, and sustainability.

Zhen Jing (Author, The Regulation of Insurance in China (2021))

Professor Zhen Jing is Chair in Commercial Law at the School of Law, Bangor University. She has taught insurance law for many years and has practical experience in the Chinese insurance industry. She is author of *Chinese Insurance Contracts: Law and Practice* which was awarded the 2017 British Insurance Law Association Book Prize.

Looseleaf Service Issue update

Our Insurance and Reinsurance looseleaf services provide reliable and regularly updated information to ensure users are armed with all the facts and details needed in a wide range of subject areas.

A subscription to each looseleaf includes:

- ▶ Online access to the fully searchable text
- ▶ Hardcopy looseleaf in premium hard-wearing binder(s)
- ▶ Updates delivered up to three times per year

The Law of Insurance Contracts

Edited by Margaret Hemsworth, The Law of Insurance Contracts is widely regarded as the primary reference source that practitioners turn to for detailed, authoritative solutions to any insurance contract problems that arise.

Covering the latest judgments from the courts, this looseleaf is the best source of information needed regarding insurance contracts.



Service Issue 59 available soon

Service issue 58 contained a new section (6–9) on the transfer of insurance business, and commentary on the UK joining the Hague Convention 2019. Case law includes:

- *Ali v HSF Logistics Polska SP z o o* [2024] Lloyd's Rep IR 1
- *Canada Square Operations Ltd v Potter* [2023] UKSC 41
- *Infinity Reliance v Heath Crawford* [2023] EWHC 3022 (Comm)
- *KBC Verzekeringen NV v P&V Verzekeringen CVBA* Case C-286/22
- *Official Receiver v Shop Direct Finance Co Ltd* [2023] EWCA Civ 367
- *Smith v RBS* [2023] UKSC 347
- *University of Exeter v Allianz Insurance* [2024] Lloyd's Rep IR 211

[Click here to access this title on i-law.com](#)

Professional Negligence and Liability

Edited by Mark Simpson KC, this looseleaf brings you step-by-step guidance and analysis on legal and practical issues associated with professional negligence, with contributions from over 50 experts.



Service Issue 45 available soon

Service issue 44 provided updates to chapters including The Nature of Professional Liability, Damages and The Insurance of Professional Indemnity Risks.

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Insurance Broking Practice and the Law

This looseleaf, updated by CMS Cameron McKenna Nabarro Olswang LLP, with contributions from Gatehouse Chambers, covers not only insurance and regulatory issues but also tax, insolvency, competition, data protection and employment issues relevant to brokers. It addresses current market reforms and their impact on brokers, as well as changes in the regulatory field for the industry.



Service Issue 33 available now.

In this update there is commentary on developments relating to the FCA's Consumer Duty, the FCA's Code of Conduct (COCON), the FCA CP 23/20 outlining its proposals to introduce a new regulatory framework on diversity and inclusion in the financial sector, the Bank of England, the PRA and the FCA Discussion Paper 3/22, the Financial Services and Markets Act 2023 and the Insurance Distribution Directive.

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