

MLAANZ CONFERENCE

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TAUPO

Marine Insurance Update

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Reform of Marine Insurance Law

- ALRC 90, 2001
- English/Scottish Law Commissions 2006-2013
- Third Parties (RAI) Act 2010
 - Direct claim even if “pay to be paid”
- Consumer Insurance Act 2012 (all insurance)
 - No duty of disclosure
 - No warranties of fact
 - Remedies for misrepresentation based on fault



Proposed Reforms I

- Modification of remedies for utmost good faith
- Modification of broker disclosure
- Basis clauses banned
- Warranties replaced by suspensory clauses

Proposed Reforms II

- Damages for late payment
- Repeal of policy formalities
- Repeal of Lloyd's SG Policy
- Repeal of obligation of broker to pay premium
- No substantial change to insurable interest



Identifying the Proximate Cause

- *The Popi M* [1983] 2 Lloyd's Rep 235
- *Nulty v Milton Keynes* [2013] EWCA Civ 13
- *European Group v Chartis* [2013] EWCA Civ 224

Concurrent Causes in Marine Insurance

- Insured v excluded perils
- Insured v uninsured perils
- Effect of *The Cendor Mopu* [2010] UKSC 5
 - Perils of the seas v seaworthiness
 - Perils of the seas v inherent vice
 - Perils of the seas v inadequate packing
- A curiosity?
 - *Alstom Ltd v Liberty (No 2)* [2013] FCA 116

Flotsam and Jetsam

- *Argo v Liberty* [2011] EWCA Civ 1572 – waiver of breach of warranty
- *Garnat v Baominh* [2011] EWCA Civ 773 – disclosure, breach of warranty
- *Elafonissos v Aigaion* [2012] EWHC 1512 (Comm) - warranty
- *European Group v Standard Life* [2012] EWCA Civ 1713 – suing and labouring

Dunnage

- *Lane v Dive Two* [2012] NSWSC 104 – liability for injured passenger
- *Melinda v Hellenic* [2011] EWHC 181 (Comm) – perils of (Egyptian) seas
- *Sealion v Valiant* [2012] EWCA Civ 1625 – hull claim, disclosure
- *Clothing Management v Beazley* [2012] EWHC 727 (QB) – constructive total loss

Debris

- *Atlas v Navigators* [2012] EWHC 802 (Comm) – war risks
- *Masefield v Amlin* [2011] EWCA Civ 24 – piracy and meaning of loss
- *All Leisure v Europaische* [2011] EWHC 2629 (Comm) – loss by cancellation of cruise