



SEMAPHORE

Newsletter of the Maritime Law

Association of Australia and New Zealand



Marine Insurance Act Reform Update

MLAANZ has put a proposal for reform of the Australian Marine Insurance Act 1909 to the Commonwealth Attorney-General, to bring it broadly into alignment with the equivalent UK legislation.

This followed an extensive process of industry consultation, drafting of a proposed Bill and roadshows throughout the country for feedback on the proposal. The proposed reform met with almost universal approval, picking up many of the recommendations of the Australian Law Reform Commission (ALRC) Report of 2001 where applicable and improving compatibility with regional peculiarities such as the Insurance Contracts Act 1984.

The Insurance Council of Australia (ICA) suggested further reforms be included — section 8(1) mixed sea and land risk and section 96 interest on claims. MLAANZ does not oppose these, however, the former is highly complex and contentious and perhaps one of the main reasons the previous ALRC reforms never proceeded. The latter is consistent with neither the Insurance Contracts Act nor the UK reforms and accordingly is difficult to justify.

Therefore, in view of the lack of reform the ALRC report has achieved in the 18 years since its genesis, MLAANZ has kept a narrower focus to its proposal in the hope these non-contentious reforms will achieve greater traction and with the impetus of staying in touch with the global marine insurance market reforms.

The proposed reform Bill was submitted to the Commonwealth Attorney-General on May 31, 2017. Delegates met with representatives of the Attorney-General's department the following July and the department agreed to seek input from other peak bodies. The National Insurance Brokers Association (NIBA) has given the reforms its whole-hearted support.

The ICA position remains that, until consensus has been reached on their requirements for further reforms, they can only provide qualified support to the case for reform and their members aren't seeing anything in the market which would lead them to push for it as a priority.

The matter lies with the Attorney-General's Department. MLAANZ continues to press for the proposed reforms with support of all consumer and industry bodies apart from the ICA. The UK legislation and proposed reforms are largely consumer protective so lack of unqualified support from an insurer body should perhaps be expected.

Members of the board plan to meet with representatives from the Attorney-General's department in the near future to discuss the prospects for this reform. When this proposal was first presented, the federal government was not blessed with a reliable majority making any legislative reform fraught. Hopefully with the changes from the last election better progress can be hoped for soon.

Relevant documents can be viewed [here](#).

Paul Baxter
Partner
Hall & Wilcox
+61 7 3231 7710
Paul.Baxter@hallandwilcox.com.au

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