

[AS PASSED BY THE NATIONAL ASSEMBLY]

A

BILL

to provide for the regulation of the business of marine insurance

WHEREAS it is expedient to provide for the law relating to Marine Insurance and matters connected therewith and incidental thereto;

It is hereby enacted as follows:-

**CHAPTER 1
PRELIMINARY**

1. Short title, extent, commencement and application.- (1) This Act may be called the Marine Insurance Act, 2017.

(2) It extends to the whole of Pakistan, except section 91 which shall extend only to the Islamabad Capital Territory.

(3) It shall come into force at once.

(4) Notwithstanding any other law for the time being in force and save as otherwise expressly provided, this Act shall apply to every contract of Marine Insurance.

2. Definitions.- In this Act, unless there is anything repugnant in the subject or context,-

(a) "action" includes counter-claim and set off;

(b) "freight" includes the profit derivable by a shipowner from the employment of his ship to carry his own goods or moveables, as well as freight payable by a third party, but does not include passage money;

(c) "marine insurance" means 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;

(d) "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 detainments of

princes and peoples, jettisons, barratry and any other perils, either of the like kind or which may be designated by the policy;

- (e) “moveables” means any moveable tangible property, other than the ship and includes money, valuable securities and other documents;
- (f) “policy” means a marine policy; and
- (g) “ship” means any vessel used for the carriage of goods by sea.

CHAPTER 2 MARINE INSURANCE

3. 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.

4. 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; and
- (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.

CHAPTER 3 INSURABLE INTEREST

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

- (2) A contract of marine insurance is deemed to be a gaming or wagering contract,-
- (a) where the assured has not an insurable interest as defined in section 6 and the contract is entered into with no expectation of acquiring such an interest; or
 - (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:

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

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

(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.

7. When interest must attach.- (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.

(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.

8. Defeasible or contingent interest.- (1) A defeasible interest is insurable, as also is a contingent interest.

(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.

9. Partial interest.- A partial interest of any nature is insurable.

10. Reinsurance.- (1) The insurer under a contract of marine insurance has an insurable interest in his risk and may reinsure in respect of it.