THE MARINE INSURANCE ACT, 2002.

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THE MARINE INSURANCE ACT, 2002.

An Act to make provision in Uganda in relation to Marine Insurance.

DATE OF ASSENT: 22nd March, 2002.

Date of Commencement: See section 1(2).

BE IT ENACTED by Parliament as follows:

PART I—PRELIMINARY.

1. Short title and commencement

(1) This Act may be cited as the Marine Insurance Act, 2002.

(2) This Act shall come into force on a date appointed by the Minister by statutory instrument; and the Minister may appoint different dates for different provisions of this Act.

2. Interpretation

In this Act unless the context otherwise requires—

“abandonment” means the surrender, relinquishment, disclaimer, or cession of property or of rights or the voluntary relinquishment of all right, title, claim and possession, with the intention of not reclaiming it;

"barratry" means an act committed by a master or mariners of a vessel for some fraudulent or unlawful purpose contrary to their duty to the owner and resulting in injury to the owner;

"bottomry" means a contract by which the owner of a ship borrows for use, equipment, or repair of the vessel, and for a definite term, and pledges the ship or the keel or bottom of the ship or part of it as security, it being stipulated that if the ship is lost in the specified voyage, or during the limited time, by any of the perils enumerated, the lender shall lose his or her money;

"contingent interest" means an interest which depends for its effect upon an event which may or may not happen;

"currency point" has the meaning assigned to it in the First Schedule to this Act;

"defeasible interest" means an insurable interest which ceases during the currency of the voyage;

"floating policy" has the meaning assigned to it in section 29;

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

"hypothecation" means the pledging of property as security or collateral for a debt;

"insurable property" means any ship or movables capable of being insured against maritime perils;

"maritime perils" means the perils consequent on or incidental to the navigation of the sea and inland waters, namely, perils of the seas and inland waters, fire, war, pirates, rovers, thieves, captures, seizures, restraints and detainment of foreign governments and peoples, jettisons and barratry, and any other perils of the like kind or which may be designated by the policy and perils of land incidental to sea voyage;

"Minister" means the Minister to whom the functions of the Minister under this Act have been assigned by the President;

"movables" means any movable tangible property other than the ship, including money, valuable securities and other documents;

"mutual assurance" has the meaning assigned to it by section 85;

"policy" means a policy expressing a contract of marine insurance;

"respondentia" means hypothecation of the cargo or goods on board a ship as security for the repayment of a loan.

PART II—MARINE INSURANCE.

3. Marine insurance defined

(1) A contract of marine insurance is a contract by which the insurer undertakes to indemnify the assured, in a manner and to an extent agreed under the contract, against the losses incidental to marine adventure.

(2) 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 or air risk which may be incidental to any sea voyage.

(3) Where a ship in the course of building, or the launch of a ship or any adventure analogous to a marine adventure, is covered by a policy, this Act applies to it so far as it may, but, except so far as this section provides, this Act does not alter or affect any rule of law applicable to any contract of insurance other than a contract of marine insurance.

4. Marine adventure defined

(1) Subject to 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 insurable property is exposed to maritime perils;

(b) the earning or acquisition of any freight, passage money, commission, profit or other pecuniary benefit, or the security for any advances, loan disbursements, is endangered by the exposure of insurable property to maritime perils; or

(b) any liability to a third party may be incurred by the owner of, or the other person interested in or responsible for, insurable property, by reason of maritime perils.

PART III—INSURABLE INTEREST.

5 Insurable interest defined

(1) Subject to 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 or she stands in any legal or equitable relation to the adventure or to any insurable property at risk in it, in consequence of which he or she may benefit by the safety or due arrival of the insurable property, or may be prejudiced by its loss, or by damage to it, or by the detention of it, or may incur liability in respect of it.

6. When interest must attach

(1) The assured must be interested in the subject matter insured at the time of the loss, though he or she need not be interested when the insurance is effected.

(2) Where the subject-matter is insured "lost or not lost" the assured may recover although he or she may not have acquired his or her 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.

(3) Where the assured has no interest at the time of the loss, he or she cannot acquire interest by any act or election after he or she is aware of the loss.

7. Defeasible or contingent interest

(1) A defeasible interest and a contingent interest are insurable.

(2) In particular, where the buyer of goods has insured them, he or she has an insurable interest, even though he or she might at his or her 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.

8. Partial interest

A partial interest of any nature is insurable.

9. Re-insurance

(1) The insurer under a contract of marine insurance has an insurable interest in his or her risk, and may re-insure in respect of it.

(2) Unless the policy otherwise provides, the original assured has no right or interest in respect of a re-insurance under subsection (1).

10. Bottomry

The lender of money or bottomry or respondentia has an insurable interest in respect of the loan.

11. Master's and seamen's wages

The master or any member of the crew of a ship has an insurable interest in respect of his or her wages.

12. Advance freight

In the case of advance freight, the person advancing the freight has an insurable interest, in so far as that freight is not repayable in case of loss.

13. Charges of insurance
The assured has an insurable interest in the charges of any insurance which he or she may effect.

14. Quantum of interest
(1) Where the subject-matter insured is mortgaged, the mortgagor has an insurable interest in its full value, and the mortgagee has an insurable interest in respect of any sum due or to become due under the mortgage.

(2) A mortgagee, consignee or other person having an interest in the subject-matter insured may insure on behalf and for the benefit of any other person interested as well as for his or her own benefit.

(3) The owner of insurable property has an insurable interest in respect of its full value, even though some third person may have agreed, or be liable, to indemnify him or her in case of loss.

15. Assignment of interest
(1) Where the assured assigns or otherwise parts with his or her interest in the subject-matter insured, he or she does not by that transfer to the assignee his or her rights under the contract of insurance, unless there is an express or implied agreement with the assignee to that effect.

(2) Subsection (1) of this section does not affect a transmission of interest by operation of law.

PART IV—INSURABLE VALUE.

16. Measure of insurable value
Subject to any express provision or valuation in the policy, the insurable value of the subject-matter insured shall be ascertained as follows—

(a) in insurance on a ship, the insurable value is the value, at the commencement of the risk, of the ship, including her outfit, provisions and stores for the officers and crew, money advanced for seamen's wages, and other disbursements if any, incurred to make the ship fit for the voyage or adventure contemplated by the policy, plus the charges of insurance upon the whole, and the machinery and boilers, and the fuel and engine stores if owned by the insured, and, in the case of a ship engaged in a special trade, the ordinary fittings requisite for that trade;

(b) in insurance on freight, whether paid in advance or otherwise, the insurable value is the gross amount of the freight at the risk of the insured, plus the charges of insurance;

(c) in insurance on goods or merchandise, the insurable value is the prime cost of the property insured, plus the expenses of and incidental to shipping and the charges of insurance upon the whole;

(d) in insurance on any other subject-matter, the insurable value is the amount at the risk of the insured when the policy attaches, plus the charges of insurance.

PART V—DISCLOSURE AND REPRESENTATIONS.

17. Insurance is *uberrimae fidei*

A contract of marine insurance is a contract based upon the utmost good faith, and, if the utmost good faith is not observed by either party, the contract may be avoided by the other party.

18. Disclosure by the assured

(1) Subject to this section, the assured must disclose to the insurer, before the contract is concluded, every material circumstance which is known to the assured, and the assured is deemed to know every circumstance which, in the ordinary course of business, ought to be known by him or her; and, if the assured fails to make that disclosure, the insurer may avoid the contract.

(2) A circumstance is material if it would influence the judgement of a prudent insurer in fixing the premium, or determining whether he or she will take the risk.

(3) In the absence of inquiry, the following circumstances need not be disclosed—

(a) any circumstance which diminishes the risk;

(b) any circumstance which is known or presumed to be known to the insurer; and the insurer is presumed to know matters of common notoriety or knowledge, and matters which an insurer in the ordinary course of his or her business, as such, ought to know;

(c) any circumstance as to which information is waived by the insurer;

(d) any circumstance which it is superfluous to disclose by reason of any express or implied warranty.

(4) Whether any particular circumstance, which is not disclosed, is material or not is, in each case, a question of fact.

(5) In this section “circumstance” includes any communication made to, or information received by, the insured.

19. Disclosure by agent or broker effecting insurance

Subject to section 18 of this Act relating to circumstances which need not be disclosed, where a contract of marine insurance is effected for the assured by an agent or a broker, the’ agent or broker must disclose to the insurer—

(a) every material circumstance which is known to himself or herself; and an agent or broker to insure is deemed to know every circumstance which in the ordinary course of business ought to be known by, or to have been communicated to, him or her; and

(b) every material circumstance which the assured is bound to disclose, unless it comes to his or her knowledge too late to communicate it to the agent or broker.

20. Representations pending negotiation of contract

(1) Every material representation made by the assured or his or her agent to the insurer during the negotiations for a contract of marine insurance, and before the contract is concluded, must be true; and if any such representation is untrue the insurer may avoid the contract.

(2) A representation is material if it would influence the judgement of a prudent insurer in fixing the premium, or determining whether he or she will take the risk.

(3) A representation may be a representation either as to a matter of fact or as to a matter of expectation or belief.

(4) A representation as to a matter of fact is true if it is substantially correct, namely, if the difference between what is represented and what is actually correct would not be considered material by a prudent insurer.

(5) A representation as to a matter of expectation or belief is true if it is made in good faith.

(6) A representation may be withdrawn or corrected before the contract is concluded.

(7) Whether a particular representation is material or not is, in each case, a question of fact.

21. When contract deemed to be concluded

(1) A contract of marine insurance is deemed to be concluded when the proposal of the assured is accepted by the insurer; and for the purpose of showing when the proposal was accepted, reference may be made to the slip or covering note or other customary memorandum of the contract.

(2) When the contract of marine insurance is deemed to be concluded as described in subsection (1) of this section, the assured is entitled to require the issue of the policy on the basis of the contract.

PART VI—THE POLICY.

22. Contract to he embodied in policy

(1) Subject to any other written law, a contract of marine insurance is inadmissible in evidence unless it is embodied in a policy in accordance with this Act.

(2) The policy may be executed and issued either at the time when the contract is concluded, or afterwards.

23. What the policy must specify

A policy must specify—

(a) the name of the assured, or of some person who effects the insurance on his or her behalf;

(b) the subject-matter insured and the risk insured against;

(c) the voyage, or period of time, or both, as the case may be, covered by the insurance;

(d) the sum or sums insured; and

(e) the name or names of the insurers.

24. Signature of insurer

(1) A policy must be signed by or on behalf of the insurer, and if the insurer is a corporation the policy may be executed under the common seal of the corporation or in any other lawful manner.

(2) Where the policy is subscribed by or on behalf of two or more insurers, each subscription, unless the contrary is expressed, constitutes a distinct contract with the assured.

25. Voyage and time policies

(1) Where the contract is to insure the subject-matter "at and from" or from one place to another or others, the policy is called a voyage policy, and where the

contract is to insure the subject-matter for a definite period of time the policy is called a time policy.

(2) A contract for both voyage and time may be included in the same policy.

(3) A time policy which is made for any time exceeding twelve months is invalid.

(4) Notwithstanding subsection (3) of this section, a time policy containing a continuation clause shall not be invalid on the ground only that by reason of the continuation clause it may become available for a period exceeding twelve months.

(5) In this section "continuation clause" means an agreement to the following or the similar effect, namely, that where the ship is at sea or the voyage is otherwise not completed on the expiration of the policy, the subject-matter of the insurance shall be held covered until the arrival of the ship, or for a reasonable time afterwards not exceeding thirty days.

26. Designation of subject matter

(1) The subject-matter insured must be designated in a policy with reasonable certainty.

(2) The nature and extent of the interest of the assured in the subject-matter insured need not be specified in the policy.

(3) Where the policy designates the subject-matter insured in general terms, it shall be construed to apply to the interest intended by the assured to be covered.

(4) In the application of this section regard shall be had to any usage regulating the designation of the subject-matter insured.

27. Valued policy

(1) A policy may be either valued or unvalued.

(2) A valued policy is a policy which specifies the agreed value of the subject-matter insured.

(3) Subject to this Act and in the absence of fraud, the value fixed by the policy is, as between the insurer and assured, conclusive of the insurable value of the subject-matter intended to be insured, whether the loss is total or partial.

(4) Unless the policy otherwise provides, the value fixed by the policy is not conclusive for the purpose of determining whether there has been a constructive total loss.

28. Unvalued policy

An unvalued policy is a policy which does not specify the value of the subject-matter insured, but, subject to the limit of the sum insured, leaves the insurable value to be subsequently ascertained.

29. Floating policy by ship or ships

(1) A floating policy is a policy which describes the insurance in general terms, and leaves the name of the ship or ships and other particulars to be defined by subsequent declaration.

(2) The subsequent declaration or declarations may be made by endorsement on the policy, or in any other customary manner.

(3) Unless the policy otherwise provides, the declarations must be made in the order of dispatch or shipment, and must, in the case of goods, comprise all consignments within the terms of the policy, and the value of the goods or other property must be honestly stated; but an omission or erroneous declaration may be rectified even after loss or arrival, if the omission or declaration was made in good faith.

(4) Unless the policy 'otherwise provides, where a subsequent declaration of value is not made until after notice of loss or arrival, the policy must be treated as an unvalued policy as regards the subject-matter of that declaration.

30. Construction of terms in policy

Subject to this Act, unless the context of the policy otherwise requires, the terms and expressions used in a policy shall be construed as having the scope and meaning assigned to them in the Second Schedule to this Act.

31. Premium to be arranged

(1) Where a contract of marine insurance is effected at a premium to be arranged, and no arrangement is made, a reasonable premium is payable.

(2) Where a contract of marine insurance is effected on the terms that an additional premium is to be arranged in a given event, and that event happens but no arrangement is made, then a reasonable additional premium is payable,

PART VII—DOUBLE INSURANCE.

32. Double insurance

(1) Where two or more contracts of marine insurance are effected by or on behalf of the assured on the same adventure and interest or any part of it, and the sums insured exceed the indemnity allowed by this Act, the assured is said to be over-insured by double insurance.

(2) Where the assured is over-insured by double insurance—

(*a*) the assured, unless the policy otherwise provides, may claim payment from the insurers in such order as he or she thinks fit, but he or she is not entitled to receive any sum in excess of the indemnity allowed by this Act;

(*b*) where the policy under which the assured claim,, is a valued policy, the assured must give credit as against the valuation for any sum received by him or her under any other policy without regard to the actual value of the subject-matter insured;

(*c*) where the policy under which the assured claims is an unvalued policy he or she must give credit, as against the full insurable value, for any sum received by him or her under any other policy;

(*d*) where the assured receives any sum in excess of the indemnity allowed by this Act, he or she holds that sum in trust for the insurer, according to their right of contribution among themselves.

PART VIII—WARRANTIES, ETC.

33. Nature of warranty

(1) A warranty in the following sections of this Part relating to warranties, means a promissory warranty, namely, a warranty by which the assured undertakes that some particular thing shall or shall not be done, or that some condition shall be fulfilled, or by which he or she affirms or negatives the existence of a particular state of facts.

(2) A warranty may be express or implied.

(3) A warranty, as defined in this section, is a condition which must he exactly complied with, whether it is material to the risk or not; and, if it is not so complied with, then, subject to any express provision in the policy, the insurer is discharged from liability as from the date of the breach of warranty, but without prejudice to any liability incurred by the insurer before that date.

34. When breach of warranty excused

(1) Non-compliance with a warranty is excused when, by reason of a change of circumstances, the warranty ceases to be applicable to the circumstances of the contract, or when compliance with the warranty is rendered unlawful by any subsequent law.

(2) Where a warranty is broken, the assured cannot avail himself or herself of the defence that the breach has been remedied, and the warranty complied with, before loss.

(3) A breach of warranty may be waived by the insurer.

35. Express warranties

(1) An express warranty may be in any form of words from which the intention to warrant is to be inferred.

(2) An express warranty must be included in. or written upon, the policy, or must be contained in some document incorporated by reference in the policy.

(3) An express warranty does not exclude an implied warranty, unless it is inconsistent with it.

36. Warranty of neutrality

(1) Where insurable property, whether ship or goods, is expressly warranted "neutral" there is an implied condition that the property shall have a neutral character at the commencement of the risk, and that, so far as the assured can control the matter, its neutral character shall he preserved during the risk.

(2) Where a ship is expressly warranted "neutral", there is also an implied condition that, so far as the assured can control the matter, she shall be properly documented, namely, that she shall carry the necessary papers to establish her neutrality, and that she shall not falsify or suppress her papers, or use simulated papers; and, if any loss occurs through breach of that condition, the insurer may avoid the contract.

37. No implied warranty of nationality

There is no implied warranty as to the nationality of a ship, or that her nationality shall not be changed during the risk.

38. Warranty of good safety

Where the subject-matter insured is warranted "well" or "in good safety" on a particular day, it is sufficient if it is safe at any time during that day.

39. Warranty of seaworthiness of ship

(1) In a voyage policy there is an implied warranty that at the commencement of the voyage the ship shall be seaworthy for the purpose of the particular adventure insured.

(2) Where the policy attaches while the ship is in port, there is also an implied warranty that she shall, at the commencement of the risk, be reasonably fit to encounter the ordinary perils of the port.

(3) Where the policy relates to a voyage which is performed in different stages, during which the ship requires different kinds of or further preparation or equipment, there is an implied warranty that at the commencement of each stage the ship is seaworthy in respect of that preparation or equipment for the purposes of that stage.

(4) A ship is deemed to be seaworthy when she is reasonably fit in all respects to encounter the ordinary perils of the seas of the adventure insured.

(5) In a time policy there is no implied warranty that the ship shall be seaworthy at any stage of the adventure, but, where with the privity of the assured the ship is sent to sea in an unseaworthy state, the insurer is not liable for any loss attributable to unseaworthiness.

40. No implied warranty that goods are seaworthy

(1) In a policy on goods or other movables there is no implied warranty that the goods or movables are seaworthy.

(2) In a voyage policy on goods or other movables there is an implied warranty that at the commencement of the voyage the ship is not only seaworthy as a ship, but is also reasonably fit to carry the goods or other movables to the destination contemplated by the policy.

41. Warranty of legality

There is an implied warranty that the adventure insured is a lawful one, and that, so far as the assured can control the matter, the adventure shall be carried out in a lawful manner.

PART IX—THE VOYAGE.

42. Implied condition as to commencement of risk

(1) Where the subject-matter is insured by a voyage policy "at and from" or "from" a particular place, it is not necessary that the ship should be at that place when the contract is concluded, but there is an implied condition that the adventure shall be commenced within a reasonable time, and that if the adventure is not so commenced the insurer may avoid the contract.

(2) The implied condition may be negatived by showing that the delay was caused by circumstances known to the insurer before the contract was concluded, or by showing that he or she waived the condition.

43. Alteration of port of departure

Where the place of departure is specified by the policy, and the ship instead of sailing from that place sails from any other place, the risk does not attach unless the insurer is notified in advance and concurrence obtained.

44. Sailing for different destination

Where the destination is specified in the policy and the ship instead of sailing for that destination, sails for any other destination, the risk does not attach unless the insurer is notified in advance and concurrence obtained.

45. Change of voyage

(1) Where, after the commencement of the risk, the destination of the ship is voluntarily changed from the destination contemplated by the policy, there is said to be a change of voyage.

(2) Unless the policy otherwise provides, where there is a change of voyage, the insurer is discharged from liability as from the time of change, namely, as from the time when the determination to change it is manifested; and it is immaterial that the ship may not in fact have left the course of the voyage contemplated by the policy when the loss occurs.

46. Deviation

(1) Where a ship, without lawful excuse, deviates from the voyage contemplated by the policy, the insurer is discharged from liability as from the time of deviation, and it is immaterial that the ship may have regained her route before any loss occurs.

(2) There is a deviation from the voyage contemplated by the policy where—

(a) the course of the voyage is specifically designated by the policy, and that course is departed from; or

(b) the course of the voyage is not specifically designated by the policy, but the usual and customary course is departed from.

(3) To discharge the insurer from his or her liability under the contract, there must be a deviation in fact; and a mere intention to deviate is not sufficient.

47. Several ports of discharge

(1) Where several ports of discharge are specified in the policy, the ship may proceed to all or any of them, but, in the absence of any usage or sufficient cause to the contrary, the ship must proceed to them, or such of them as she goes to, in the order designated by the policy; and if she does not, there is a deviation.

(2) Where the policy is to "ports of discharge", within a given area, which are not named, the ship must, in the absence of any usage or sufficient cause to the contrary, proceed to them, or such of them as she goes to, in their geographical order; and if she does not, there is a deviation.

48. Delay in voyage

In the case of a voyage policy, the adventure insured must be prosecuted throughout its course with reasonable dispatch, and if without lawful excuse it is not so prosecuted, the insurer is discharged from liability as from the time when the delay became unreasonable.

49. Excuses for deviation or delay

(1) Deviation or delay in prosecuting the voyage contemplated by the policy is excused—

(a) where authorised by any special term in the policy; or

(b) where caused by circumstances beyond the control of the master and the master's employer; or

(c) where reasonably necessary in order to comply with an express or implied warranty; or

(d) where reasonably necessary for the safety of the ship or subject-matter insured; or

(e) for the purpose of saving human life, or aiding a ship in distress where human life may be in danger; or

(f) where reasonably necessary for the purpose of obtaining medical or surgical aid for any person on board the ship; or

(g) where caused by the barratrous conduct of the master or crew, if barratry is one of the perils insured against.

(2) When the cause excusing the deviation or delay ceases to operate, the ship must resume her course, and prosecute her voyage, with reasonable dispatch.

PART X—ASSIGNMENT OF POLICY.

50. When and how policy is assignable

(1) A policy is assignable unless it contains terms expressly prohibiting assignment; and it may be assigned either before or after loss.

(2) Where a policy has been assigned so as to pass the beneficial interest in the policy, the assignee of the policy is entitled to sue on it in his or her own name; and the defendant is entitled to make any defence arising out of the contract which he or she would have been entitled to make if the action had been brought in the name of the person by or on behalf of whom the policy was effected.

(3) A policy may be assigned by endorsement on it or in any other customary manner.

51. Assured who has no interest cannot assign

(1) Where the assured has parted with or lost his or her interest in the subject-matter insured and has not, before or at the time of so doing, expressly or impliedly agreed to assign the policy, any subsequent assignment of the policy is inoperative.

(2) Subsection (1) of this section does not apply to the assignment of a policy after loss.

PART XI—THE PREMIUM.

52. When premium payable

Unless otherwise agreed, the duty of the assured or his or her agent to pay the premium, and the duty of the insurer to issue the policy to the assured or his or her agent, are concurrent conditions, and the insurer is not bound to issue the policy until payment or tender of the premium.

53. Policy effected through broker

(1) Unless otherwise agreed, where a policy is effected policy on behalf of the assured by a broker, the broker is directly responsible to the insurer for the premium, and the insurer is broker, directly responsible to the assured for the amount which may be payable in respect of losses, or in respect of returnable premium.

(2) Unless otherwise agreed, the broker has, as against the assured, a lien upon the policy for the amount of the premium and charges in respect of effecting the policy; and, where the broker has dealt with the person who employs him or her as principal, the broker has a lien on the policy in respect of any balance on any insurance account which may be due to him or-her from that person, unless when the debt was incurred the broker had reason to believe that that person was only an agent.

54. Effect of receipt on policy

Where a policy effected on behalf of the assured by a broker, acknowledges the receipt of the premium, the acknowledgement is, in the absence of fraud, conclusive as between the insurer and the assured, but not as between the insurer and the broker.

PART XII—LOSS AND ABANDONMENT.

55. Included and excluded losses

(1) Subject to this Act and to any express provision in the policy, the insurer is liable for any loss proximately caused by a peril insured against, but, he or she is not otherwise liable for any loss which is not proximately caused by a peril insured against.

(2) In particular—

(a) the insurer is not liable for any loss attributable to the wilful misconduct of the assured; but unless the policy otherwise provides, the insurer is liable for any loss proximately caused by a peril insured against, even though the loss would not have happened but for the misconduct or negligence of the master or crew;

(b) unless the policy otherwise provides, the insurer of a ship or goods is not liable for any loss proximately caused by delay, although the delay is caused by a peril insured against;

(c) unless the policy otherwise provides, the insurer is not liable for ordinary wear and tear, ordinary leakage and breakage, inherent vice or nature of the subject-matter insured, or for any injury to machinery not proximately caused by maritime perils.

56. Partial and total loss

(1) A loss may be either total or partial; and any loss other than a total loss is a partial loss.

(2) A total loss may be either an actual total loss, or a constructive total loss.

(3) Unless a different intention appears from the terms of the policy, an insurance against total loss includes a constructive, as well as an actual, total loss.

(4) Where the assured brings an action for a total loss and the evidence proves only a partial loss, he or she may, unless the policy otherwise provides, recover for a partial loss.

(5) Where goods reach their destination in specie, but by reason of obliteration of marks or otherwise they are incapable of identification, the loss, if any, is partial and not total.

57. Actual total loss

(1) Where the subject-matter insured is destroyed, or so damaged as to cease to be a thing of the kind insured, or where the assured is irretrievably deprived of it, there is an actual total loss.

(2) In the case of an actual total loss, no notice of abandonment need be given.

58. Missing ship

Where the ship concerned in the adventure is missing, and after the lapse of a reasonable time no news of her has been received, an actual total loss may be presumed.

59. Effect of transshipment, *etc*

Where, by a peril insured against, the voyage is interrupted at an intermediate port or place, under such circumstances as, apart from any special stipulation in the contract of affreightment, to justify the master in landing and reshipping the goods or other movables, or in transhipping them, and sending them on to their destination, the liability of the insurer continues notwithstanding the landing or transhipment.

60. Constructive total loss defined

(1) Subject to any express provision in the policy, there is a constructive total loss where the subject-matter insured is reasonably abandoned on account of its actual total loss appearing to be unavoidable, or because it could not be preserved from actual total loss without an expenditure which would exceed its value when the expenditure had been incurred.

(2) In particular, there is a constructive total loss—

(a) where the assured is deprived of the possession of a ship or goods by a peril insured against; and

(i) it is unlikely that he or she can recover the ship or goods, as the case may be; or

(ii) the cost of recovering the ship or goods, as the case may be, would exceed their value when recovered; or

(b) in the case of damage to a ship, where she is so damaged by a peril insured against that the cost of repairing the damage would exceed the value of the ship when repaired; and in estimating the cost of repairs, no deduction is to be made in respect of general average contributions to those repairs payable by other interests, but account shall be taken of the expense of future salvage operations and of any future general average contributions to which the ship would be liable if repaired; or

(c) in the case of damage to goods, where the cost of repairing the damage and forwarding the goods to their destination would exceed their value on arrival.

61. Effect of constructive total loss

Where there is a constructive total loss, the assured may either treat the loss as a partial loss, or abandon the subject-matter insured to the insurer and treat the loss as if it were an actual total loss.

62. Notice of abandonment

(1) Subject to this section, where the assured elects to abandon the subject-matter insured to the insurer, the assured shall give notice of abandonment; and if the assured fails to do so, the loss shall be treated as a partial loss.

(2) Notice of abandonment may be given in writing, or by word of mouth, or partly in writing and partly by word of mouth, and may be given in any terms which indicate the intention of the assured to abandon his or her insured interest in the subject-matter insured unconditionally to the insurer.

(3) Notice of abandonment must be given with reasonable diligence after the receipt of reliable information of the loss, but where the information is of a doubtful character the assured is entitled to a reasonable time to make inquiry.

(4) Where notice of abandonment is properly given, the rights of the assured are not prejudiced by the fact that the insurer refuses to accept the abandonment.

(5) The acceptance of an abandonment may be either express or implied from the conduct of the insurer; but mere silence of the insurer after notice is not an acceptance.

(6) Where notice of abandonment is accepted the abandonment is irrevocable, and the acceptance of the notice is conclusive evidence of admission of liability for the loss and the sufficiency of the notice.

(7) Notice of abandonment is unnecessary where, at the time when the assured receives information of the loss, there would be no possibility of benefit to the insurer if notice were given to him or her.

(8) Notice of abandonment may be waived by the insurer.

(9) Where an insurer has reinsured his or her risk, no notice of abandonment need be given by him or her.

63. Effect of abandonment

(1) Where there is a valid abandonment, the insurer is entitled to take over the interest of the assured in whatever may remain of the subject-matter insured, and all proprietary rights incidental to it.

(2) Upon the abandonment of a ship, its insurer is entitled to any freight in course of being earned, and which is earned by her subsequent to the casualty causing the loss, less the expenses of earning it incurred after the casualty; and, where the ship is carrying the owner's goods, the insurer is entitled to a reasonable remuneration for their carriage subsequent to the casualty causing the loss.

PART XIII—PARTIAL LOSSES (INCLUDING SALVAGE GENERAL AVERAGE AND PARTICULAR CHARGES)

64. Particular average loss

(1) A particular average loss is a partial loss of the subject-matter insured, caused by a peril insured against, and which is not a general average loss.

(2) Particular charges are expenses incurred by or on behalf of the assured for the safety or preservation of the subject-matter insured, other than general average and salvage charges, and particular charges are not included in particular average.

65. Salvage charges

(1) Subject to any express provision in the policy, salvage charges incurred in preventing a loss caused by perils insured against may be recovered as a loss caused by those perils.

(2) Salvage charges are the charges recoverable under maritime law by a salvor independently of contract; but they do not include the expenses of services in the nature of salvage rendered by the assured or his or her agents, or any person employed for hire by them, for the purpose of averting a peril insured against, and those expenses, where properly incurred, may be recovered as particular charges or as a general average loss, according to the circumstances under which they were incurred.

66. General average loss

(1) A general average loss is a loss caused by or directly consequential on, a general average act, and it includes average expenditure as well as a general average sacrifice.

(2) There is a general average act where any extra-ordinary sacrifice or expenditure is voluntarily and reasonably made or incurred in time of peril for the purpose of preserving the property imperilled in the common adventure.

(3) Where there is a general average loss, the party on whom it falls is entitled subject to the conditions imposed by maritime law, to a rateable contribution from the other parties interested, and that contribution is called a general average contribution.

(4) Subject to any express provision in the policy, where the assured has incurred a general average expenditure, he or she may recover from the insurer in respect of the proportion of the loss which falls upon him or her; and, in the case of a general average sacrifice, he or she may recover from the insurer in respect of the whole loss without having enforced his or her right of contribution for the other parties liable to contribute.

(5) Subject to any express provision in the policy, where the assured has paid, or is liable to pay, a general average contribution in respect of the subject-matter insured, he or she may recover for it from the insurer.

(6) In the absence of express stipulation, the insurer is not liable for any general average loss or contribution where the loss was not incurred for the purpose of avoiding, or in connection which the avoidance of, a peril insured against.

(7) Where a ship, freight, and cargo, or any two of those interests, are owned by the same assured, the liability of the insurer in respect of general average losses or contributions shall be determined as if those subjects were owned by different persons.

PART XIV—MEASURE OF INDEMNITY.

67. Extent of liability of insurer for loss

(1) The measure of indemnity is the sum which the assured can recover in respect of a loss on a policy under which he or she is insured, in the case of an unvalued policy to the full extent of the insurable value, or in the case of a valued policy to the full extent of the value fixed by the policy.

(2) Where there is a loss recoverable under the policy, the insurer, or each insurer if there is more than one, is liable for such proportion of the measure of indemnity as the amount of his or her subscription bears to the value fixed by the policy in the case of a valued policy, or to the insurable value in the case of an unvalued policy.

68. Total loss

Subject to this Act and to any express provision in the policy, where there is a total loss of the subject-matter insured—

(a) if the policy is a valued policy, the measure of indemnity is the sum fixed by the policy;

(b) if the policy is an unvalued policy, the measure of indemnity is the insurable value of the subject matter insured.

69. Partial loss of a ship

Where a ship is damaged, but is not totally lost, the measure of indemnity, subject to any express provision in the policy, is as follows—

(a) where the ship has been repaired, the assured is entitled to the reasonable cost of the repairs, less the customary deductions, but not exceeding the ,; sum insured in respect of any one casualty;

(b) where the ship has been only partially repaired the assured is entitled to the reasonable cost of the repairs, computed as described in paragraph *(a),* and also to be indemnified for the reasonable : depreciation, if any, arising from the unrepaired damage but so that the aggregate amount does not exceed the cost of repairing the whole damage, computed as described in paragraph *(a)*

(c) where the ship has not been repaired, and has not been sold in her damaged state during the risk, the assured is entitled to be indemnified for the reasonable depreciation arising from the unrepaired damage, but not exceeding the reasonable cost of repairing the damage, computed as described in paragraph *(a).*

70. Partial loss of freight

Subject to any express provision *in* the policy, where there is a partial loss of freight, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, as the proportion of freight lost by the assured bears to the whole freight at the risk of the assured under the policy

71. Partial loss of goods, merchandise, *etc*

(1) Where there is a partial loss of goods, merchandise or other movables, the measure of indemnity, subject to any express provision in the policy, is as follows—

(a) where part of the goods, merchandise or other movables insured by a valued policy is totally lost, the measure of indemnity is such proportion of the sum fixed by the policy as the insurable value of the part lost bears to the insurable value of the whole, ascertained as in the case of an unvalued policy;

(b) where part of the goods, merchandise, or other movables insured by an unvalued policy is totally lost, the measure of indemnity is the insurable value of the part lost, ascertained as in case of total loss;

(c) where the whole or any part of the goods or merchandise insured has been delivered damaged at its destination, the measure of indemnity is such proportion of the sum fixed by the policy in the case of a valued policy, or of the insurable value in the case of an unvalued policy, *as* the difference between the gross sound and damaged values at the place of arrival bears to the gross sound value.

(2) In subsection (1) of this section—

"gross proceeds" means the actual price obtained at a sale where all charges on sale are paid by the sellers;

"gross value" means the wholesale price or, if there is no such price, the estimated value, with, in either case, freight, landing charges and duty paid beforehand, or, in the case of goods or merchandise customarily sold in bond, the bonded price.

72. Apportionment of valuation

(1) Where different species of property are insured under a single valuation, the valuation must be apportioned over the different species in proportion to their respective insurable values, as in the case of an unvalued policy.

(2) The insured value of any part of a species is such proportion of the total insured value of the species as the insurable value of the part bears to the insurable value of the whole, ascertained in both cases as provided by this Act.

(3) Where a valuation has to be apportioned, and particulars of a prime cost of each separate species, quality or description of goods cannot be ascertained, the division of the valuation may be made over the net arrived sound values of the different species, qualities or descriptions of goods.

73. General average contributions and salvage charges

(1) Subject to any express provision in the policy, where the assured has paid, or is liable for, any general average contribution, the measure of indemnity is the full amount of that contribution, if the subject-matter liable to contribution is insured for its full contributory value; but if the subject-matter is not insured for its full contributory value, or if only part of it is insured, the indemnity payable by the insurer must be reduced in proportion to the under insurance, and where there has been a particular average loss which constitutes a deduction from the contributory value, and for which the insurer is liable, that amount must be deducted from the insured value in order to ascertain what the insurer is liable to contribute.

(2) Where the insurer is liable for salvage charges, the extent of his or her liability must be determined on the same principle as set out in subsection (1).

74. Liabilities to third parties

Where the assured has effected an insurance in express terms against any liability to a third party, the measure of indemnity, subject to any express provision in the policy, is the amount paid or payable by him or her to that third party in respect of that liability.

75. General provisions as to measure of indemnity

(1) Where there has been a loss in respect of any subject matter not expressly provided for in the foregoing provisions of this Act, the measure of indemnity shall be ascertained, as nearly as is practicable, in accordance with those provisions, in so far as they are applicable to the particular case.

(2) Nothing in this Act relating to the measure of indemnity affects the rules relating to double insurance, or prohibits the insurer from disproving interest wholly or in part, or from showing that at the time of the loss the whole or any part of the subject-matter insured was not at risk under the policy.

76. Particular average warranties

(1) Where the subject-matter insured is warranted free from particular average, the assured cannot recover for a loss of part, other than a loss incurred by a general average sacrifice, unless the contract contained in the policy is apportionable; but, if the contract is apportionable, the assured may recover for a total loss of any apportionable part.

(2) Where the subject-matter insured is warranted free from particular average, either wholly or under a certain percentage, the insurer is nevertheless liable for

salvage charges, and for particular charges and other expenses properly incurred in accordance with the suing the labouring clause in order to avert a loss insured against.

(3) Unless the policy otherwise provides, where the subject-matter insured is warranted free from particular average, under a specified percentage, a general average loss cannot be added to a particular average loss to make up the specified percentage.

(4) For the purpose of ascertaining whether the specified percentage has been reached, regard shall be had only to the actual loss suffered by the subject-matter insured, and particular charges and the expenses of and incidental to ascertaining and proving the loss must be excluded.

77. Successive losses

(1) Unless the policy otherwise provides, and subject **to** this Act, the insurer is liable for successive losses, even though the total amount of such losses may exceed the sum insured.

(2) Where, under the same policy, a partial loss which has not been repaired or otherwise made good is followed by a total loss, the assured can only recover in respect of the total loss; except that this section shall not affect the liability of the insurer under the suing and labouring clause.

78. Suing and labouring clause

(1) Where the policy contains a suing and labouring clause, the engagement entered into under that clause is deemed to be supplementary to the contract of insurance, and the assured may recover from the insurer any expenses properly incurred in accordance with the clause, even though the insurer may have paid for a total loss, or the subject-matter may have been warranted free from particular average, either wholly or under a certain percentage.

(2) General average losses and contributions and salvage charges, as defined by this Act are not recoverable under the suing and labouring clause.

(3) Expenses incurred for the purpose of averting or diminishing any loss not covered by the policy are not recoverable under the suing and labouring clause.

(4) It is the duty of the assured and his or her agents, in all cases, to take such measures as may be reasonable for the purpose of averting or minimising a loss.

PART XV—RIGHT OF INSURER ON PAYMENT.

79. Right of subrogation

(1) Where the insurer pays for a total loss, either of the whole, or in the case of goods of any apportionable part, of the subject-matter insured, the insurer thereupon

becomes entitled to lake over the interest of the assured in whatever may remain of the subject-matter so paid for, and me insurer is by that surrogated to all the rights and remedies of the assured in and in respect of that subject-matter as from the time of the casualty causing the loss.

(2) Subject to subsection (1) of this section, where the insurer pays for a partial loss, the insurer acquires no title to the subject-matter insured, or such part of it as may remain, but the insurer is thereupon subrogated to all rights and remedies of the assured in and in respect of the subject-matter insured as from the time of the casualty causing the loss, in so tar as the assured has been indemnified, according to this Act, by that payment for the loss.

80. Right of contribution

(1) Where the assured is over-insured by double insurance, each insurer is bound, as between that insurer and the other insurers, to contribute rateably to the loss in proportion to the amount for which he or she is liable under his or her contract.

(2) If any insurer pays more than his or her proportion of the loss, the insurer is entitled to maintain an action for contribution against the other insurer, and is entitled to the same remedies as a surety who has paid more than his or her proportion of the debt.

81. Effect of under insurance

Where the assured is insured for an amount less than the insurable value or, in the case of a valued policy, for an amount less than the policy valuation, he or she is deemed to be his or her own insurer in respect of the uninsured balance.

PART XVI—RETURN OF PREMIUM.

82. Enforcement of return

Where the premium or a proportionate part of it is, declared by this Act to be returnable—

(a) if already paid, it may be recovered by the assured from the insurer; and

(b) if unpaid, it may be retained by the assured or his or her agent.

83. Return by agreement

Where the policy contains a stipulation for the return of the premium, or a proportionate part of it, on the happening of a certain event, and that event happens, the premium, or, as the case may be, the proportionate part of it, is thereupon returnable to the assured.

84. Return for failure of consideration

(1) Where the consideration for the payment of the premium totally fails, and there has been no fraud or illegality on the part of the assured or his or her agents, the premium is thereupon returnable to the assured.

(2) Where the consideration for the payment of the premium is apportionable and there is a total failure of any apportionable part of the consideration, a proportionate part of the premium is, under the same conditions as described in subsection (1), thereupon returnable to the assured.

(3) In particular—

(a) where the policy is void, or is avoided by the insurer as from the commencement of the risk, the premium is returnable, if there has been no fraud or illegality on the part of the assured; but if the risk is not apportionable, and has once attached, the premium is not returnable;

(b) where the subject-matter insured, or part of it, has never been imperilled, the premium or, as the case may be, a proportionate part of it is returnable; except that where the subject-matter has been insured "lost or not lost" and has arrived in safety at the time when the contract is concluded, the premium is not returnable, unless, at that time, the insurer knew of the safe arrival;

(c) where the assured has no insurable interest throughout the currency of the risk, the premium is returnable, though not in the case of a policy effected by way of gaming or wagering;

(d) where the assured has a defeasible interest which is terminated during the currency of the risk, the premium is not returnable;

(e) where the assured has over-insured under an unvalued policy, a proportionate part of the premium is returnable;

(f) subject to the provisions of this subsection, where the assured has over-insured by double insurance, a proportionate part of the several premiums is returnable.

(4) Notwithstanding paragraph *(f)* of subsection (3), if the policies are effected a! different times, and any earlier policy has at any time borne the entire risk, or if a claim has been paid on the policy in respect of the full sum insured by the policy, no premium is returnable in respect of that policy; and when the double insurance is effected knowingly by the assured, no premium is returnable.

PART XVII—MUTUAL INSURANCE.

85. Modification of Act in case of mutual insurance

(1) There is mutual insurance where two or more persons mutually agree to insure each other against marine losses.

(2) The provisions of this Act relating to the premium do not apply to mutual insurance, but a guarantee, or such other arrangement as may be agreed upon, may be substituted for the premium.

(3) The provisions of this Act, in so far as they may be modified by the agreement of the parties, may in the case of mutual insurance be modified by the terms of the policies issued by the association, or by the rules and regulations of the association.

(4) Subject to the exceptions mentioned in this section, this Act applies to mutual insurance.

(5) In this section "association" means any association formed for effecting a mutual insurance.

PART XVIII—MISCELLANEOUS.

86. Ratification by assured

Where a contract of marine insurance is in good faith effected by one person on behalf of another, the person on whose behalf it is effected may ratify the contract even after he or she is aware of a loss.

87. Implied obligations varied by agreement or usage

(1) Where any right, duty or liability would arise under a contract of marine insurance by implication of law, it may be negatived or varied by express agreement, or by usage, if the usage is such as to bind both parties to the contract.

(2) This section extends to any right, duty, or liability declared by this Act which may be lawfully modified by agreement.

88. Reasonable time, *etc.,* a question of fact

Where by this Act any reference is made to reasonable time, reasonable premium or reasonable diligence, the question of what is reasonable is a question of fact.

89. Slip as evidence

Where there is a duly stamped policy, reference may be made to the slip or covering note in any legal proceedings.

90. Avoidance of wagering or gaming contracts

(1) Every contract of marine insurance by way of gaming contracts 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 by this Act. 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 similar term; except that, where there is no possibility of salvage to the insurer the policy may be effected without benefit of salvage.

91. Prohibition of gambling on loss by maritime perils

(1) If—

(a) any person effects a contract of marine insurance without having any *bona fide* interest, direct or indirect, either in the safe arrival of the ship in relation to which the contract is made or in the safety or preservation of the subject-matter insured, or a *bona fide* expectation of acquiring such an interest; or

(b) any person in the employment of the owner of a ship, not being a part owner of the ship, effects a contract of marine insurance in relation to the ship, and the contract 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 similar term,

the contract shall be deemed to be a contract by way of gambling on loss by maritime perils, and the person effecting it commits an offence and is liable on conviction to a fine not exceeding fifteen currency points or imprisonment not exceeding six months or both, and in each case to forfeit any money he or she may receive under the contract.

(2) Any broker or other person through whom, and any insurer with whom, any contract described in subsection (1) is effected commits an offence and is liable on conviction, to the same penalties specified in subsection (1), if he or she acted knowing that the contract was by way of gambling on loss by maritime perils within the meaning of this section.

(3) A person shall not be prosecuted under this section except with the consent of the Director of Public Prosecutions.

(4) A person shall not be prosecuted under this section, other than a person in the employment of the owner of the ship in relation to which the contract was made, until an opportunity has been afforded him or her of showing that the contract was

not a contract by way of gambling on loss by maritime perils, and any information given by that person for that purpose shall not be admissible" in evidence against him or her in a prosecution under this section.

(5) If a person is prosecuted under this section other than a person in the employment of the owner of the ship in relation to which the contract was made, and the contract was 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, the contract shall be deemed to be a contract by way of gambling on loss by maritime perils unless the contrary is proved.

(6) For the purpose of giving jurisdiction under this section, every offence shall be deemed to have been committed either in the place in which the offence actually was committed or in any place in which the offender may be.

(7) In this section, "owner" includes a charterer.

(8) This section does not affect the operation of section 5 of this Act.

92. Minister's power to amend First Schedule

The Minister may, by statutory instrument, amend the First Schedule.

93. Savings for other laws

The rules of the common law, including the law merchant, shall continue to apply to contracts of marine insurance, so far as those rules are for the time being in force and are not inconsistent with this Act, and the rules of construction of a policy set out in the Second Schedule to this Act shall apply.

FIRST SCHEDULE.

SECTIONS 2 AND 92.

CURRENCY POINT.

A currency point is equivalent to twenty thousand shillings.

SECOND SCHEDULE.

SECTIONS 30 AND 93.

RULES FOR CONSTRUCTION OF POLICY.

1. Where the subject-matter is insured "lost or not lost", and the loss has occurred before the contract is concluded, the risk attaches unless, at that time the assured was aware of the loss, and the insurer was not.

2. Whore the subject-matter is insured "from" a particular place, the risk does not attach until the ship starts on the voyage insured.

3. Where a ship is insured "at and from" a particular place, and she is at that place in good safety when the contract is concluded, the risk attaches immediately.

4. If she is not at that place when the contract is concluded, the risk attaches as soon as she arrives there in good safety, and, unless the policy otherwise provides, it is immaterial that she-is covered by another policy for a specified time after arrival.

5. Where chartered freight is insured "at and from" a particular place, and the ship is at that place in good safety when the contract is concluded, the risk attaches immediately. If she is not there when the contract is concluded, the risk attaches as soon as she arrives there in good safety.

6. Where freight, other than chartered freight, is payable without special condition and is insured "at and from" a particular place, the risk attaches *pro rata* as the goods or merchandise are shipped; except that if there is any cargo in readiness which belongs to the ship - owner, or which some other person has contracted with him or her to ship, the risk attaches as soon as the ship is ready to receive that cargo.

7. Where goods or other movables are insured "from their loading; the risk does not attach until the goods or movables are actually on board, and the insurer is not liable for them while in transit from the shore to the ship.

8. Where the risk on goods or other movables continues until they are "safely landed", they must be landed in the customary manner and within a reasonable time after arrival at the port of discharge, and if they are not so landed the risk ceases.

9. In the absence of any further licence or usage, the liberty to touch and stay "at any port or place whatsoever" does not authorise the ship to depart from the course of her voyage from the port of departure to the port of destination.

10. The term "perils of the seas" refers only to fortuitous accidents or casualties of the seas and it does not include the ordinary action of the winds and waves.

11. The term "pirates" includes passengers who mutiny and rioters who attack the ship from the shore.

12. The term "thieves" does not cover clandestine theft or a theft committed by any one of the ship's company, whether crew or passengers.

13. The term "arrests, etc., of Kings, princes and people" refers to political or executive acts, and does not include a loss caused by a riot or by ordinary judicial process,

14. The term “barratry” includes every wrongful act wilfully committed by the master or crew, to the prejudice of the owner, or, as the case may be, the charterer.

15. The term “all other perils” includes only perils similar in kind to the perils specifically mentioned in the policy.

16. The term “average unless general” means a partial loss of the subject-matter insured other than a general average loss, and does not include “particular charges”.

17. Where the ship has stranded, the insurer is liable for the excepted losses, although the loss is not attributable to the stranding if when the stranding takes place, the risk has attached and, if the policy is on the goods, the damaged goods are on board.

18. The term “ship” includes the hull, materials and outfit, stores and provisions for the officers and crew, and. in the case of vessels engaged in a special trade, the ordinary fittings requisite for the trade, and also, in the case of a steamship, the machinery, boilers, and coals and engine stores, if owned by the assured.

19. The term “freight” includes the profit derivable by a ship-owner from the employment of his or her ship to carry his or her own goods or movables, as well as freight payable by a third party, but does not include passage money.

20. The term “goods” means goods in the nature of merchandise, and does not include personal effects or provisions and stores for use on board.

21. In the absence of any usage to the contrary, deck cargo and living animals must be insured specifically, and not under the general denomination of goods.