REINSURANCE ROUND-UP
September 2025

In 2025, War and Political risks litigation continues to dominate the landscape of English litigation. Judgment was handed down in June 2025 in the claim brought by various aircraft lessors against their respective London Market Insurers, in respect of aircraft that Russian airlines had not returned to them following the Russian invasion of Ukraine. The Court found in favour of the Lessors and Insurers have applied for permission to appeal. Lessors have also brought parallel claims directly against Western Reinsurers of Russian airlines' Hull All Risks and Hull War Risks Insurers, involving many of for the same aircraft. These are listed to be heard in late 2026.

Five years after the first lockdowns, the disruption caused by the Covid-19 pandemic continues to play out in the Courts of England and Wales. One High Court Judge remarked that *"it feels as if there has been a never-ending procession of such issues coming before the English Courts; testament, no doubt, to the extent of the losses suffered, but perhaps also to the ingenuity of lawyers (on both sides)."*

In addition to the above, the past year has also seen a number of cases involving the relatively new Insurance Act 2015 ("the 2015 Act"). Some ten years after its introduction, it has taken longer than expected for the impact to follow through into jurisprudence. These cases illustrate that, whilst the aim of the 2015 Act, inter alia, was to enhance the balance in-between insurers and policyholders, the Courts are not *"throwing the baby out with the bathwater"*, and sound principles of the preceding law persevere.

The following is our annual review of some of the cases and legislation over the last year that may be of interest to insurers and reinsurers:

War and Political Risk

- ***AerCap Ireland Ltd v AIG Europe SA [2025] EWHC 1430 (Comm):*** This high-profile dispute arose from the leasing of aircraft to Russian airlines prior to the invasion of Ukraine. When sanctions and Russian decrees prevented repossession by various lessors of aircraft leased to Russian Airline Operator, the Lessors claimed under their Lessor Policies. Numerous issues were considered; notably, the Court held cover was triggered under the contingent cover provisions, rather than possessed cover, with loss crystallising on 10 March 2022 when Russian government export bans made it impossible for the airlines to return the aircraft. The proximate cause of the loss was held to be government restraints, not, as averred by the War Risks Defendants, unwillingness on the part of the Airline Operators to return aircraft for commercial reasons. Therefore, the Court found the risk was excluded from the All Risks cover, but covered under the War Risks cover. The Court also held that the "grip of peril" doctrine applied, so that losses remained covered even if the policy expired whilst the aircraft were in the "grip of peril" and before the loss crystallised. Finally, the Court rejected arguments that payments to the Claimants were barred by sanctions exclusions.

  The resulting judgment exceeded USD 1 billion — one of the largest ever in UK insurance litigation.

Covid-19 Litigation – Business Interruption

- ***Bath Racecourse Company Ltd & Ors v Liberty Mutual Insurance Europe SE & Ors [2025] EWHC Civ 153 & EWHC 1870 (Comm):*** A business interruption claim arising out of Covid-19, was brought by the Arena Racing Group pursuant to a Composite Policy. There were two separate hearings in the matter in 2025. In February 2025, the Court of Appeal upheld the first instance finding that furlough payments should be set off against other losses, pursuant to the Savings Clause contained within the policy. Essentially, this was because the furlough payments caused the Insureds' wage costs to cease or reduce, which must be accounted for. This issue is under appeal to the Supreme Court.

  In June, the Commercial Court decided on further preliminary issues. Notably, the Court found that measures put in place by organisations that were not public bodies (in this case the British Horseracing Association and the Greyhound Board of Great Britain) were nonetheless actions of a "competent authority" for the purposes of the denial of access extension.

- ***Carbis Bay Hotel Ltd & Anor v American International Group Ltd [2025] EWHC 1041 (Comm):*** In this Covid-19 related business interruption case, the High Court considered whether the policy's "Infectious Diseases" extension covered Covid-19. The policy provided cover for any *"human infectious or human contagious Disease"* excluding AIDS, but its defined term *"Disease"* listed a closed set of 33 notifiable illnesses, none of which included Covid-19. The Claimant argued that the wording of the extension should be understood in plain language, encompassing Covid-19 as an "Infectious Disease." The Judge held that allowing such a reading would transform a narrowly drafted, closed-list policy into an open-ended one. This would significantly alter the risk the underwriter had agreed to cover. Accordingly, the claim was dismissed.

- ***Unipolsai Assicurazioni S.p.A. v Covéa Insurance Plc [2024] EWCA Civ 1110:*** This Court of Appeal ruling clarified two critical issues under a Property Catastrophe Excess-of-Loss Reinsurance Treaty

covering non-damage business interruption losses. Following Covid-19, the Reinsured's Policyholder was forced to close various nurseries which they operated. The Court of Appeal confirmed that the Covid-19 pandemic constituted a *"catastrophe"*, rejecting Reinsurers' arguments that a catastrophe must be a sudden, violent event causing physical damage. Further, the policy contained an Hours Clause, which limits the loss occurrence period to 168 hours. The Court of Appeal held that this defines the timing of when each "*individual loss*" first occurs. It was not intended to restrict coverage to losses incurred within that window from the first loss. All losses first triggered in the 168 hour period remain subject to aggregation, even if the resulting financial losses unfold over a longer period. For a full analysis, please see our article at this link.

The Insurance Act 2015 ("the 2015 Act")

- ***Scotbeef Limited v (1) D&S Storage Limited (In Liquidation) and (2) Lonham Group Ltd [2024] EWHC 341 (TCC):*** In one of the first cases to be considered at appellate level under the 2015 Act, the Court of Appeal considered its treatment of warranties. By way of background, D&S were contracted to store meat on behalf of Scotbeef pursuant to an unwritten agreement. The meat was damaged due to mould contamination rendering it unfit for human consumption. As D&S had been placed in liquidation, Scotbeef sought recovery directly from D&S's Insurer, under the Third Parties (Rights against Insurers) Act 2010. Insurers sought to avoid cover pursuant to the "Duty of Assured" Clause contained in the policy. Insurers said this contained a warranty that the insured were to take "*all reasonable and practicable steps to ensure that their trading conditions are incorporated in all contracts entered into by the Assured."* The Insured on the other hand, based on the context in which the provision appeared, said this was a representation, incapable of being converted into a warranty. The Court of Appeal found in favour of the Insurer and held the provision was a warranty, meaning that the Insurer was entitled to avoid cover in circumstances where trading conditions had not been properly incorporated into the underlying contract. For a full analysis, please see our article at this link.

- ***Clarendon Dental Spa LLP & Anor v Aviva Insurance Ltd & Zurich Insurance Limited [2025] EWHC 267 (Comm):*** Following a fire at a Dental Practice in Leeds ("Clarendon"), a claim was made under Clarendon's property insurance for physical damage and business interruption. As part of the renewal process, Clarendon had been asked: "*Have you or any partners, directors or family members involved in the business […] been declared bankrupt or insolvent, or been disqualified from being a company director?"* Clarendon had responded saying: *"no"*. However, two former companies (which shared a director with Clarendon and which had been partners of Clarendon) had previously gone into liquidation. Therefore, Insurers sought to avoid cover on grounds of failure to make fair representations pursuant to S.3 of the 2015 Act. Reiterating the general principle that when interpreting questions posed by Insurers, any genuine ambiguity is to be resolved in favour of the applicant, the Court held that a reasonable person would understand the insolvency question to relate only to insolvencies of current partners or directors. Therefore, the Court struck out parts of the Insurer's Defence. By limiting the scope of its question, the Insurer was found to have waived disclosure of matters outside it.

- ***Oversea-Chinese Banking Corp Ltd v Argoglobal Underwriting Asia Pacific Pte Ltd [2025] SGHC 82:*** Although not binding on English Courts, this judgment of the High Court of Singapore addresses the relationship between perils of the seas and decrepitude, and breaches of warranties under the Insurance Act 2015, making it of interest to the English market . In its capacity as a mortgagee and co-assured of an offshore rig, the Claimant claimed for its constructive total loss following the rig's capsizing during tow. The Court accepted that an accidental, unexplained ingress of seawater gives rise to a rebuttable presumption of loss by "perils of the seas," rejecting Insurers' attempts to shift the burden by requiring proof of how the vessel capsized. The Court further held that alleged breaches of warranties requiring compliance with regulatory and operational requirements, had not been breached. In the event there had been a breach, the Judge found that, in any event, the warranties did *"not appear to be so fundamental or extensive such that they may define "risk as a whole"".* As such, s.11 of the 2015 Act would have prevented the Insurer from excluding liability on the basis that the term was irrelevant to the loss.

Third-Parties (Rights against Insurers) Act 2010 ("the 2010 Act")

- ***Scotland Gas Network PLC v QBE UK Ltd and others [2024] CSIH 36:*** This is a landmark decision shaping the interpretation and application of the 2010 Act across the UK. Whilst the judgment of the Scottish Court of Session is not binding on English Courts, it is highly persuasive, and the reasoning has already been followed by Courts of England and Wales. The case was brought by Scotland Gas Network Plc ("SGN"), who alleged that the company, Skene, during works, had caused damage to a high-pressure gas pipeline. Skene's Insurers, argued that default judgments could not establish a "liability" for the purposes of the 2010 Act. The Scottish Court of Session rejected this, confirming that a default decree (whether contested or not) is sufficient to establish both the existence and amount of liability under s.1(4) of the 2010 Act. That decision, upheld by the Inner House, means that third parties may enforce Default Judgments, obtained against an Insured, directly against their Insurers.

- ***Archer v R 'N' F Catering Ltd and Riverstone Insurance (Malta) SE [2025] EWHC 1342 (KB):*** The Claimant, Miss Archer, pursued a personal injury claim against a restaurant having suffered serious illness after contracting Campylobacter from a meal. When the restaurant went into liquidation, she pursued the claim against its liability insurers under the 2010 Act. The Insurer, however, argued that the Insured had failed to comply with conditions precedent requiring timely notification and cooperation with the Insurer. By the time the Insured became insolvent, breaches of those terms had already occurred. The Court held that s.9(2) of the 2010 Act – which provides that *"anything done by the third party which, if done by the insured, would have amounted to or contributed to fulfilment of the condition is to be treated as if done by the insured"* does not allow a third party's compliance post-liquidation to cure the Insured's pre-liquidation breaches.

- ***Makin v Protec & QBE [2025] EWHC 895 (KB):*** The Claimant, Mr Makin, suffered a serious neurological injury and permanent disability after he suffered a stroke shortly after being forcefully ejected from a bar. He made a claim against the door staff's employer (Protec), which succeeded at trial, by way of Default Judgment, when Protec did not attend. This was because by the time of the trial, Protec had entered into liquidation. Via the 2010 Act, Mr Makin sought to recover his claim from Protec's Insurer, QBE, directly. QBE challenged liability on the basis that Protec had breached the policy's notification requirement, which QBE said was a condition precedent. Protec had delayed notice of the incident until July 2020, despite having received a Letter of Claim in October 2019, and having been made aware that the police were investigating the incident shortly after it occurred. The Court held that the notification obligation was a condition precedent, and the Insurer was entitled to refuse indemnity as of right. The judgment also endorsed the *Scotland Gas Networks v QBE* principle, recognising the trial judgment was determinative, even though the Insured had not been present. The Claimant has been granted permission to appeal. For a fuller analysis, please see our article at this link.

- ***Desai v Wood [2025] EWCA Civ 906:*** The Appellant ("Desai") had commissioned interior design services. The relevant contract required the designer firm to hold professional indemnity cover, which they took out with RSA. The interior designer wrongly advised Desai that they would not need listed building consent for the project. This was incorrect, and as a result of the negligent advice, Desai suffered a loss. Before the interior designer went into liquidation, RSA made payment of the full limit of the claim to the company. Desai argued that the indemnity pay out was ring-fenced for their benefit, relying on both implied term and constructive trust arguments. The Court rejected the claim, holding that insurance money paid before insolvency remains part of the Insured's general assets. No trust or equitable interest arose in favour of Desai, absent express contractual provision or statutory assignment under the 2010 Act.

Fraud and Fortuity

- ***Malhotra Leisure Ltd v Aviva Insurance Ltd [2025] EWHC 1090 (Comm):*** During the COVID-19 lockdown, a cold-water storage tank overflowed at Malhotra Leisure's hotel, causing property damage. Aviva suspected the flooding was deliberately caused and declined cover, alleging the claim was dishonestly advanced, contrary to the policy's fraud condition. The Commercial Court rejected those allegations, finding the incident fortuitous and the claim honestly presented. The Judge noted that fraud is a serious allegation requiring cogent evidence, not mere suspicion. He identified three elements that must be shown: a false representation of fact, made knowingly or recklessly, and intended to improve the Insured's position under the claim. Importantly, he held that inconsistencies in the Insured's evidence did not displace the plausibility of the leak being an accidental, fortuitous event. In the circumstances, documentary and testimonial gaps were attributable to circumstances such as the event having occurred in the midst of the Covid-19 Pandemic, at a time of reduced staffing during lockdown.

Dispute Resolution, Litigation and Jurisdiction

- ***Tyson v GIC Re, India, Corporate Member Ltd [2025] EWHC 77 (Comm):*** Tyson International's captive Insurer entered into a facultative reinsurance contract on the basis of the Market Reform Contract (MRC) which contained an exclusive English jurisdiction Cause. GIC subsequently issued facultative certificates on its own form (MURA), which provided, instead, for New York law and arbitration. Whilst the Judge considered himself bound by the Court of Appeal judgment in *Tyson International Company Limited v Partner Reinsurance Europe SE [2023] EWHC 3243 (Comm)* and agreed with the analysis that the MURA was a contractual document which was intended to supersede the MRC, the MURA contained a "Confusion Clause" stating that in the event of inconsistency, the reinsurance slip would prevail. The Commercial Court held that the MRC remained the governing contract, and that the English Jurisdiction Clause, therefore, prevailed. Hence, the Court granted a final injunction restraining the New York arbitration.

- ***Berytus Insurance & Reinsurance Company SAL v Golden Adventure Shipping SA (Rubymar) [2025] EWHC 664 (Comm***): In a claim brought under a marine risks policies following attacks by the Yemen's Houthis on merchant ships in the Gulf of Aden, the Commercial Court considered whether Insurers could pursue proceedings in England despite one insured having commenced parallel proceedings in Cyprus under an asymmetrical Jurisdiction Clause. That Clause provided that the

Insured only bring proceedings in Cypriot Courts. However, it also expressly reserved Insurers' right to sue in the Courts of any country with jurisdiction. It also provided that the Insured submitted to the "non-exclusive" jurisdiction of the Cyprus Courts. Insurers commenced proceedings in the London Commercial Court for declaratory relief, after which the Insured commenced proceedings in the Cyprus Courts, claiming a total loss. The Insured argued, that under the Hague Convention and under English law, only Cyprus was the proper jurisdiction, so the case should only proceed there. However, the Court held that the Clause provided for non-exclusive jurisdiction and fell outside the scope of the Hague Convention. It also found that the Insured had waived any inconvenience argument. Although parallel proceedings were foreseeable therefore, the Court considered that did not justify a stay. The Court thus upheld England as a proper forum, declining the stay and allowing the Insurers' English proceedings to continue, even though the parallel proceedings may also continue in Cyprus.

- ***Bellhouse & Anor v Zurich Insurance PLC [2025] EWHC 1416 & 1551:*** Following a catastrophic fire at their home, which broke out during renovation works, Mr & Mrs Bellhouse made a claim under their home insurance policy with Zurich. Zurich defended the claim on the grounds of misrepresentation, saying that the Bellhouses had failed to disclose, when asked, that contract works were being undertaken or planned during the following 12 months. The alleged non-disclosure was advanced on the basis of an assumption made by the underwriter, which had not been corrected by the broker. The Court found that whilst there was an arguable case of misrepresentation, it was impossible to identify that case and draw it out from Zurich's pleadings, which the Judge described as "*overly long, rambling, and digressive".* In the initial judgment handed down on 18 June 2025, the Court required Zurich to serve substantially improved particulars of its Defences. The Court found Zurich's pleadings had been deficient to the extent that "*an unkind, or cynical, reader of Zurich's statements of case might be tempted to conclude that their very complexity and length were intended to conceal the lack of essential substance at their very heart*". Whilst the Court permitted Zurich the opportunity to remedy its pleadings, the Judge found the Insurer's conduct had been *"extraordinary"* and *"outside the norm,"* and that it had taken the procedural battle out of the realm of ordinary consumer insurance disputes. Therefore, Zurich was ordered to pay the Claimant's costs of the Application on the Indemnity basis.

Disclosure

- ***Mornington 2000 LLP (t/a Sterilab Services) v The Secretary of State for Health [2025] EWHC 540 (TCC):*** In the context of protracted dispute over Covid-19 test kit contracts, the Court considered the issue of disclosure in respect of an independent audit report commissioned by the Secretary of State during "without prejudice" settlement discussions. The High Court held the report was not protected by without prejudice privilege. It was neither a statement nor offer made during negotiations nor a record of them, but rather an independent third-party analysis. The Court emphasised that absent clear evidence to the contrary, merely labelling a document as "without prejudice" or commissioning it amid negotiations does not confer privilege. Therefore, the Court ordered disclosure of the audit report and related documents.

- ***AmTrust Specialty Ltd v Endurance Worldwide Insurance Ltd [2025] EWCA Civ 755:*** Overturning the first instance judgment, the Court of Appeal allowed the Applicant's application for Extended Disclosure, ordering the disclosure of pre-contractual communications between the Professional Indemnity Insurer and two insured firms of solicitors prior to the inception of their professional indemnity policies. The High Court had refused the Application on the presumption that it was irrelevant. The Court of Appeal, on the other hand, allowed the appeal and ordered disclosure, holding that under the Court Practice Direction 57AD, there is no minimum threshold of relevance required before ordering Extended Disclosure. Relevance is only one factor in a proportionality-led, multi-factorial test. Furthermore, it was inappropriate to pre-judge policy construction at the disclosure stage. Documents that may inform the meaning of incorporated terms must be evaluated at trial, not dismissed at a case management stage.

Loss and Damages

- ***Sky UK Limited v Riverstone Managing Agency [2024] EWCA Civ 1567:*** The dispute concerned water ingress and deterioration affecting the timber roof cassettes of Sky's new headquarters in London. The High Court had held that Insurers were liable only for physical damage present at the end of the period of insurance ("POI"). The Court of Appeal disagreed. Applying the so-called "grip of peril" principle, it found that a Construction All Risks policy, as a contract of indemnity, responds not only to damage occurring within the POI, but also to its foreseeable consequences thereafter, including subsequent deterioration and decay. Investigation and remediation costs reasonably incurred were also recoverable. On aggregation, the Court rejected Insurers' argument that each cassette constituted a separate event, holding that a single design defect was one event for deductible purposes. For a full analysis, please see our article at this link.

- ***Riedweg v HCC International Insurance plc [2024] EWHC 2805 (Ch):*** In 2016, Ms Riedweg entered into a contract for the purchase of a property. In entering the contract, she was relying on the valuation and advice of values, Goldplaza, who at that time valued the property at £8 million. She also instructed solicitors to represent her interests

in the transaction. She later sold the property at a reduced price in the sum of £5.5 million. Following this, Ms Riedweg pursued a claim against Goldplaza for negligent valuation claiming damages in the sum of £2.2 million. Goldplaza went into liquidation, following which Ms Riedweg advanced proceedings directly against their professional indemnity insurers, HCC, pursuant to the 2010 Act. HCC, in turn, sought a contribution from the solicitors under the Civil Liability (Contribution) Act 1978, contending they were responsible for the same damage. The Court rejected this, holding that an insurer's contractual liability to indemnify its insured is not the "same damage" as the underlying professional negligence. Contribution was therefore unavailable.

Professional Negligence

- ***Watford Community Housing Trust v Arthur J Gallagher Insurance Brokers Limited [2025] EWHC 743 (Comm):*** Following a significant data breach, Watford Community Housing Trust ("Watford") held three overlapping policies: A Cyber policy with a £1 million limit; a Combined General Liability policy with a £5 million limit; and a Professional Indemnity policy with a £5 million limit. All of the policies were arranged and placed by a broker, Gallagher. Upon the incident occurring, the broker advised their client to notify the claim under the Cyber policy, but not the Combined or the Professional Indemnity policies. As a result, notifications under those policies were late. Whilst the Combined Policy Insurer affirmed cover, the Professional Indemnity Insurer declined. Watford was able to recover £6 million from the responding Insurers, but anticipated losses exceeded that amount. Watford, then, issued proceedings against the broker, averring that, had timely notification been made to the Professional Indemnity Insurer, it would have been entitled to a total indemnity in the sum of £11 million. Gallagher argued that each policy contained "other insurance" clauses which provided for rateable contribution principles. Therefore, they said, the maximum indemnity available to Watford would have been no more than £5 million. As such, the broker's negligence caused no loss. The Court rejected this, finding that there is no general principle of rateable contribution in cases involving double insurance, whereby a policyholder's indemnity was capped at the highest limit of any one policy. Rather, the Insured may recover the whole of their loss under one or more of the policies up to a maximum of the combined limits. The policyholders may choose the order of claim and, absent a Rateable Proportion Clause, cannot be limited to the highest single policy limit. The Court also noted that the issue of contribution is a matter for the Insurers, not the Insured.

- ***Norman Hay v Marsh [2025] EWCA Civ 58:*** Upholding the findings of Picken J in the first instance, the Court of Appeal confirmed that there was not scope for striking out Norman Hay's claim in circumstances where the claim was based on loss of chance. The assessment involved the consideration of the counterfactual with a hypothetical policy of insurance. For a full analysis, please see our article on the first instance judgment at this link.

Finance

- ***Hopcraft and another v Close Brothers Limited [2025] UKSC 33:*** In these conjoined appeals, the Supreme Court reversed the Court of Appeal's findings on duties of dealers in motor finance commission cases. The Court of Appeal had applied an expansive approach, finding that where a motor dealer arranged finance, but failed to disclose commission arrangements with the lender, this could amount to a breach of fiduciary duties. The Supreme Court unanimously held that motor dealers acting as finance brokers, do not owe customers fiduciary duties. It stressed that motor dealers, even when introducing finance products, are not fiduciaries. In one case, however, the Court upheld a claim under section 140A of the Consumer Credit Act 1974, finding the relationship "unfair" due to the high, undisclosed commission (amounting to 55 % of the total cost of credit), lack of disclosure of the commercial tie between the lender and the dealer, and the customer's vulnerability. There will likely be a large number of people with claims of this nature. The FCA is therefore now consulting with a view to implementation of a compensation scheme for motor finance customers.

Arbitration

- ***Arbitration Act 2025:*** Having received Royal Assent in February 2025, the Arbitration Act 2025 came into force on 1 August 2025. The Act is an evolutionary, not revolutionary, development in English arbitration. Essentially, it enhances the Tribunal's case management powers, in line with powers available to Courts under the Civil Procedure Rules. For a full analysis, please see our article on the new Arbitration Act at this link.

Regulation, PCCs and ILS

- ***Leeds Reforms:*** At a Leeds Summit in July 2025, the Chancellor announced a number of Financial Service reforms which aim to promote efficiency, innovation, and competitiveness in order to boost the UK financial services sector and enhance competitiveness. For the insurance industry, three developments stand out: (i) the Government confirmed plans to introduce a bespoke captive insurance regime, with lower capital and reporting requirements, expedited authorisation, and expansion of protected-cell company (PCC) usage. The PRA and FCA plan to consult on the details in summer 2026; (ii) it will consult on a new Insurance-Linked Securities (ILS) and risk transformation framework, aimed at modernising structures like PCCs and supporting capital-market funding solutions; and (iii) more generally, the reforms will seek to streamline oversight, for

example, by shortening regulatory decision deadlines, simplifying the SM&CR regime, clarifying insurance product governance rules for large or specialist customers, and enhancing international competitiveness.

If you have any questions regarding any of the issues referred to in this Round-Up, please get in touch with us.

You can also review a range of articles on insurance and reinsurance topics in the Publications section of our website.

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