

# Freight Notice to Policyholder



## Changes you need to know about before you renew your Freight policy:

This notice tells you about changes to your policy which will take effect from your renewal date as shown on your schedule. Please ensure you read the changes carefully (together with your policy booklet), as they will form part of your contract of insurance, and keep them together with your other policy documents.

### Complaints Procedure

Change in contact details for Marine Claims Manager and update in address for The Financial Ombudsman Service

### Policy Definitions

Definitions added for:

- 'Premises'
- 'Substantial Construction'
- 'Temporarily stored'
- 'Unattended' – amended and added under "constant and close proximity" surveillance

### Geographical Limits

Zones have been redefined to read as follows:

#### Zone 1

England, Scotland, Northern Ireland, Republic of Ireland, Wales, all offshore islands, (including the Channel Islands), only.

#### Zone 2

Zone 1 (as defined above), Austria, Andorra, Belgium, Cyprus, Czech Republic, Denmark, Finland, France, Germany, Gibraltar, Liechtenstein, Luxembourg, Monaco, Netherlands, Norway, Portugal, Spain, Sweden, Switzerland only.

#### Zone 3

Zone 2 (as defined above), Bosnia and Herzegovina, Bulgaria, Croatia, Estonia, Greece, Hungary, Iceland, Italy, Kosovo, Latvia, Lithuania, Macedonia, Malta, Montenegro, Poland, Romania, San Marino, Serbia, Slovakia, Slovenia, Turkey (not east of the Bosphorous only).

#### Zone 4

Zone 3 (as defined above), Albania, Russian enclave, Belarus, Moldova, Russia, (not east or South of Moscow) Turkey (south and east of the Bosphorous) Ukraine only

#### Zone 5

Worldwide (Freight Forwarders only).

#### Zone 6 – now deleted

## Policy procedure

Amended to read as follows:

### 2. Declarations

Where the premium is calculated on Your estimate of actual turnover or revenue and charges as specified in The Schedule, You must maintain a full record of such charges and make the full record of such charges available to Us at any time.

Within ninety days of the expiry of each Period of Insurance, You shall submit to Us a declaration of the actual turnover or revenue and charges for the Period of Insurance and the premium will be adjusted accordingly. In the event of declared figures not being received by Us within six months of the date of expiry of the policy period We reserve the right to charge an additional premium of a minimum of the difference between the original deposit premium and original 100% estimated premium.

### 3. Non-Adjustable Policies – added

If Your Schedule states that your policy is Non-adjustable, the premium is based on the estimated turnover, revenue or charges that you have supplied to us. If you exceed these, within the policy period, We reserve the right to charge an additional premium to cover these charges.

## General Conditions

Added in the following wording:

### 8. Sanction Limitation and Exclusion Clause

No (re)insurer shall be deemed to provide cover and no (re)insurer shall be liable to pay any claim or provide any benefit hereunder to the extent that the provision of such cover, payment of such claim or provision of such benefit would expose that (re)insurer to any sanction, prohibition or restriction under United Nations resolutions or the trade or economic sanctions, laws or regulations of the European Union, United Kingdom or United States of America.

## Special Condition

**Theft Attractive Goods** - inner limit shall be increased from £50,000 to £75,000 and the following list of goods have been added to the existing Theft Attractive Goods:

- Footwear, clothing, leathers, smart phones, Satellite navigation equipment, hardware (excluding loss of data where no cover shall apply)

## Exclusions

4) Loss or damage caused by:

- (f) Inherent vice of the goods

has been added

## Additional Benefits

The following shall be added and/or amended:

3. **Personal Effects of Driver** - computer equipment, satellite navigation equipment

7. **Unwitting CMR** – inner limit shall be increased from £250,000 to £350,000

### 9. Lien

Your legal liability for loss or damage to Goods over which You are properly exercising a contractual lien, Our liability shall be limited to:

- a) the amount of the debt properly the subject of the lien, or,
- b) the value of the Goods, or,
- c) the limit stated in The Schedule, or,
- d) 50,000 in respect of any one Occurrence

whichever is the least.

## 10. Non-Incorporation of Contract / Trading Conditions

We will indemnify You to the extent to which You have a liability at common law in the event that You have failed to incorporate the contract/trading conditions as specified within the Policy Schedule into the contract with Your customer provided that:

- a) You intended to trade under such contract conditions and took all reasonable steps to notify customers of their application and
- b) the failure to notify Your customer of such contract conditions was due to an error or omission and it can be proved by You to Our satisfaction that You had established business procedures for such notification to be given to all customers and that all of Your employees or agents had been instructed in writing to follow such procedures.

The onus of proving that the exact requirements of this clause have been complied with shall rest upon You.

### Extensions to Cover

**Errors and Omissions Committed by You** – f) to be amended to read as follows:

- f) made by H.M Government or E.U. Government for payment of duty or V.A.T. or Fines or Penalties;

### Policy Version

We have identified a number of instances where we have issued the incorrect policy wording at policy inception or at the last renewal.

The applicable policy wording from renewal is: Version 10 - Your Freight Policy (Doc. Ref **BCIMM9362**)

Our document references can be found on the final page of the policy wording.

If your current policy wording is Version 10 - Your Freight Policy (**BCIMM12147**), the differences are outlined below :

	BCIMM9362	BCIMM12147
Page 18 – Extensions to Cover Errors & Omission Committed by You <b>Limit of Indemnity</b>	<b>£250,000</b>	<b>£1,000,000</b>

The Errors & Omission Committed by You, Extension to Cover is only insured where shown by endorsement in Your policy schedule. Where a limit is shown by endorsement within Your policy schedule, this limit is deemed to apply and not as stated elsewhere.

## Claims Service contact address

Our Claims Service contact address has changed to: Marine Claims Manager, Aviva, 4th Floor, The Observatory, Chapel Walks, Manchester, M2 1HL.

## Insurance Act 2015

The Insurance Act 2015 comes into force on 12<sup>th</sup> August 2016 and applies to all policies governed by the laws of England and Wales, Scotland and Northern Ireland that are entered into or varied on or after that date. The key elements of the Act are as follows:

- **A new duty of fair presentation of your risk details**

The Act defines a new structured approach of how details of your business should be presented to us at each renewal or variation of your policy (the duty of fair presentation). Your primary duty is still to tell us about all information you know or ought to know that would affect our judgement in deciding whether to write your cover, and on what terms. Failing that, you must give us enough information so that we know that we need to ask further questions. The Act sets out whose knowledge within your business should be sought and the sort of information you ought to know.

The Act also requires that you provide the information in a suitable manner.

- **Changes in the way non-disclosure or misrepresentation of your risk details are dealt with**  
If a fair presentation is not made, the Act introduces a system of proportionate remedies based on what we would have done had a fair presentation been made. We will still be able to avoid (i.e., cancel from its start date) a policy (and retain the premium) if the failure to make a fair presentation was deliberate or reckless. For other cases, what we may do depends on how we would have acted had we been provided with the correct details. So, if we would not have provided any cover, we may avoid the policy and refund the premium. If we would have charged a higher premium, we may proportionately reduce any claim. If we would have required different terms in the policy, it will be treated as though it contains those terms.
- **Removal of basis of contract clauses**  
Basis of contract clauses are no longer allowed. These have the effect of turning information a customer provides to an insurer into warranties, which in turn means that if that information turns out to be incorrect then the policy is automatically terminated, even if trivial or immaterial to the risk.
- **Revised remedies for breach of certain policy terms**  
The Act changes the way that certain customer obligations operate within a policy. Where the failure to fulfil the obligation used to result in us having no liability, now it will lead to a temporary suspension of cover for the period that the obligation is not being met. However, once the obligation is being fulfilled, cover will be provided again. In addition, where there has been non-compliance with a term which would tend to reduce the risk of a particular type of loss, then we won't refuse any claim if you can show that the non-compliance could not have increased the risk of the loss that actually occurred.
- **Changes in the way fraudulent claims are dealt with**  
If a fraudulent claim is made, we won't be liable to pay the claim (including any honest element of the claim) and we may recoup any amount we have paid out on that claim. We may also cancel the policy from the point when the fraudulent act was committed, but we will still be liable for any losses before that point. Where the insurance is on a group insurance basis (and so provides cover to a number of persons), the new way of handling fraud will apply only to the person who committed the fraudulent act, and won't affect cover for the others.

Please speak to your insurance adviser if you have further questions on how the Act affects your business.

## Changes to your policy

We have made the following changes to your policy wording to reflect the new Act.

### Contract of Insurance (including IMPORTANT wording)

Your existing Contract of Insurance wording is replaced as follows:

#### The Contract of Insurance

This policy, the declaration made by You, The Schedule, and any Endorsement should be read together and form the contract of insurance between You, The Policyholder and Us, Aviva.

We, Aviva, hereby agree, in consideration of the payment to Us by or on behalf of You, The Policyholder, of the premium specified in The Schedule, to insure against loss, damage, liability or expense in the manner hereinafter provided.

The policy is not valid unless The Schedule is attached to the policy and has been countersigned by an authorised official of Aviva and bears Our stamp.

#### Important

This policy is a legal contract. You must tell Us about any material circumstances which affect Your insurance and which have occurred either since the policy started or since the last renewal date.

A circumstance is material if it would influence Our judgement in determining whether to provide the cover and, if so, on what terms. If You are not sure whether a circumstance is material ask Your insurance adviser. If You fail to tell Us it could affect the extent of cover provided under the policy.

You should keep a written record (including copies of letters) of any information You give Us or Your insurance adviser when You renew this policy.

The following Fraud condition has been added as follows:

## **2. Fraud**

If a claim made by You or anyone acting on Your behalf is fraudulent or fraudulently exaggerated or supported by a false statement or fraudulent means or fraudulent evidence is provided to support the claim, We may:

- a) refuse to pay the claim,
- b) recover from You any sums paid by Us to You in respect of the claim,
- c) by notice to You cancel the policy with effect from the date of the fraudulent act without any return of premium.

If We cancel the policy under c) above, then We may refuse to provide cover after the time of the fraudulent act. This will not affect any liability We may have in respect of the provision of cover before the time of the fraudulent act.

If this policy provides cover to any person other than You and a claim made by such person or anyone acting on their behalf is fraudulent or fraudulently exaggerated or supported by a false statement or fraudulent means or fraudulent evidence is provided to support the claim, We may:

- a) refuse to pay the claim,
- b) recover any sums paid by Us in respect of the claim (from You or such person, depending on who received the sums or who benefited from the cover provided),
- c) by notice to You and such person cancel the cover provided for such person with effect from the date of the fraudulent act without any return of premium in respect of such cover.

If We cancel a person's cover under c) above, then We may refuse to provide cover after the time of the fraudulent act. This will not affect any liability We may have under such cover occurring before the time of the fraudulent act.

The following Non-disclosure, Misrepresentation or Misdescription policy conditions have been added:

## **3. Non-disclosure, Misrepresentation or Misdescription**

### **a) Before this policy was entered into**

If You have breached Your duty to make a fair presentation of the risk to Us before this policy was entered into, then:

- where the breach was deliberate or reckless, We may avoid this policy and refuse all claims, and keep all premiums paid;
- where the breach was neither deliberate nor reckless, and but for the breach:
  - We would not have agreed to provide cover under this policy on any terms, We may avoid this policy and refuse all claims, but will return any premiums paid
  - We would have agreed to provide cover under this policy but on different terms (other than premium terms), We may require that this policy includes such different terms with effect from its commencement, and/or
  - We would have agreed to provide cover under this policy but would have charged a higher premium, Our liability for any loss amount payable shall be limited to the proportion that the premium We charged bears to the higher premium We would have charged, as outlined in Schedule 1 to the Insurance Act 2015.

### **b) Before a variation was agreed**

If You have breached Your duty to make a fair presentation of the risk to Us before any variation to this policy was agreed, then:

- where the breach was deliberate or reckless, We may cancel this policy with effect from the date of the variation, and keep all premiums paid;
- where the breach was neither deliberate nor reckless, and but for the breach:
  - We would not have agreed to the variation on any terms, We may treat this policy as though the variation was never made, but will return any additional premiums paid
  - We would have agreed to the variation but on different terms (other than premium terms), We may require that the variation includes such different terms with effect from the date it was made, and/or
  - We would have agreed to the variation but would have increased the premium, or would have increased it by more than We did, or would not have reduced it or would have reduced it by less than We did, Our liability for any loss amount payable shall be limited on a proportionate basis, as outlined in Schedule 1 to the Insurance Act 2015.

This condition operates in addition to any provisions relating to underinsurance in this policy.

## **Breach of Term / Terms not relevant to the actual loss**

We have introduced the following to confirm that your policy wording aligns with the Act in terms of application of warranties/conditions:

### **Breach of Term**

We agree that where there has been a breach of any term (express or implied) which would otherwise result in Us automatically being discharged from any liability, then such a breach shall result in any liability We might have under this policy being suspended. Such a suspension will apply only from the date and time at which the breach occurred and up until the date and time at which the breach is remedied. This means that We will have no liability in respect of any loss occurring, or attributable to something happening, during the period of suspension.

### **Terms not relevant to the actual loss**

Where there has been non-compliance with any term (express or implied) of this policy, other than a term that defines the risk as a whole, and compliance with such term would tend to reduce the risk of:

- loss of a particular kind, and/or
- loss at a particular location, and/or
- loss at a particular time,

then We agree that We may not rely on the non-compliance to exclude, limit or discharge Our liability under this policy if You show that non-compliance with the term could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

### **Statement of Fact**

We have amended our Statement of Fact document to reflect the new Act and give guidance on how to present your risk in a fair manner and what a material circumstance could include.

Please check the General Details section of your Statement of Fact to review the statements and to ensure that you meet the criteria specified.

In addition, we have amended our Statement of Fact document to reflect the new Insurance Act and give guidance on how to present your risk in a fair manner and what a material circumstance could include.

If you are unable to meet the new criteria or are unsure about any aspect of the changes, please contact your insurance adviser.