

THE LAW OF REINSURANCE

First Supplement
to the
Third Edition

P.T. O'Neill
J.W. Woloniecki

INSURANCE
PRACTITIONERS
LIBRARY

SWEET & MAXWELL

**The Law of Reinsurance
in
England and Bermuda**

First Supplement to the Third Edition

P.T. O'Neill
L.L.B, Ph.D (Lond.)
Solicitor of the Senior Courts of England and Wales
Solicitor Advocate (Civil)

J.W. Woloniecki
LL.B, (Lond.), LL.M, (Cantab.), F.C.I.Arb.
Gray's Inn, Barrister (England and Wales)
Barrister and Attorney of the Supreme Court of Bermuda

Chapter 15 by

Andrew Tromans
M.A. (Cantab.), M. Sc. (Oxon),
Solicitor of the Senior Courts of England and Wales

and

Neil Horner B.A. (Cantab)
LL.M. (Cantab.), LL.M. (Chicago)
*Solicitor of the Senior Courts of England and Wales, Member of
the Bar of the State of New York, Barrister and Attorney of the
Supreme Court of Bermuda.*

Mainwork Third Edition 2010 P.T. O'Neill and J.W. Woloniecki

ISBN Mainwork: 978-1-84703-555-4

ISBN Supplement: 978-0-414-02446-5

Thomson Reuters and the Thomson Reuters logo are trademarks of
Thomson Reuters.

Sweet & Maxwell ® is a registered trademark of Thomson Reuters
(Professional) UK Limited.

For further information on our products and services, visit
www.sweetandmaxwell.co.uk

Typeset by LBJ Typesetting Limited, Newbury.

Printed and bound by CPI Group (UK) Ltd, Croydon, CR0 4YY.

No natural forests were destroyed to make this product; only farmed
timber was used and re-planted.

A CIP catalogue record of this book is available for the British Library.

Crown copyright material is reproduced with the permission
of the Controller of HMSO and the Queen's Printer
for Scotland.

All rights reserved. No part of this publication may be reproduced or
transmitted in any form or by any means, or stored in any retrieval system
of any nature without prior written permission, except for permitted fair
dealing under the Copyright, Designs and Patents Act 1988, or in accordance
with the terms of a licence issued by the Copyright Licensing Agency in
respect of photocopying and/or reprographic reproduction. Application
for permission for other use of copyright material including permission
to reproduce extracts in other published works shall be made to the
publishers. Full acknowledgement of author, publisher and source
must be given.

HOW TO USE THIS SUPPLEMENT

This is the First Supplement to the Third Edition of *The Law of Reinsurance*, and has been compiled according to the structure of the main work. At the beginning of this Supplement, the main table of contents from the main work has been included. Where a heading in this table of contents has been marked with the symbol ■, this indicates that there is relevant information in the Supplement to which you should refer. Headings that have been introduced in this Supplement are indicated by the symbol □. Within each chapter, updating information is referenced to the relevant section in the main work. New sections which have been introduced in this Supplement have been identified as, e.g. 1–30A. Likewise new footnotes which have been introduced in this Supplement have been identified as, e.g. 8A. This enables references contained within these sections to be identified in the tables included in this Supplement.

PREFACE

After over 100 years of the Marine Insurance Act 1906, the Law Commission and Airmic (Association of Insurance and Risk Managers in Industry and Commerce) hope that something good is coming for business insurance and for reinsurance. Given what the Mactavish group report of 2010 says, there has to be. The development in the 2 years since the third edition that will have the most long term effect on reinsurance is described in the updates to Chapter 6 below, particularly section 6–008. The Law Commission have succeeded in getting the Consumer Insurance (Disclosure and Representations) Act 2012 passed. In June of 2012 they published their proposals in relation to disclosure and representations for business insurance and reinsurance. If the proposals develop into law as the proposals in relation to consumer insurance have done, there will be changes to the law set out in ss.17–20 of the Marine Insurance Act 1906 and to the remedies for breach of the obligations there imposed. Airmic has already set out on that route.

What may also prove to have long term significance for companies in England is the new structure for regulating and supervising the financial services industry (and therefore reinsurance companies) discussed in Chapter 15.

For insurance brokers, insurance intermediaries in the language of Europe, the proposal for Insurance Mediation Directive 2, released on July 3, 2012, could result in significant changes to their business practices, requiring as it would far greater disclosure of remuneration (see the additions to Chapter 9).

We have seen significant legislative enactments in Bermuda since the third edition was published, particularly in the commercial or non-captive sector, and as a result the European Insurance and Occupational Pensions Authority (EIOPA) has concluded in its preliminary Solvency II equivalence assessment of Bermuda that Bermuda's legislative regime for commercial general insurers (starting from Class 3A upwards) generally meets the criteria for Solvency II equivalence. We have also witnessed, as part of Bermuda's move towards Solvency II equivalence, a complete overhaul of the licensing regime for long-term insurers. There is always a price to be paid for progress and the veritable raft of new legislation implemented since the publication of the third edition has, alas, required us to dispense with the table in Chapter 15 summarising our Bermuda insurance regulatory regime in a mere two pages.

The last 2 years have not been as studded with major reinsurance cases as the previous decade but there are some that one needs to be aware of to be up to date with the law, particularly *Beazley v Travelers* and *PT Buana Samundra Pratama v Maritime Mutual Insurance Association* in Chapter 3, *Ted Baker v Axa* and *Axa v National Westminster Bank* in Chapter 4, *Swindon v Quinn*, *Durham v BAI (Run-Off)* and *Beazley* again in Chapter 5, *Synergy v CGU* in Chapter 6, *Teal v Berkeley* in Chapter 7, *Gilbey v JLT* in Chapter 9, *Youngs v Aviva* in Chapter 10, *Crema v*

Cenkos in Chapter 10, *Stonebridge v Ontario Mutual* and *Sulamerica v Enesa* in Chapter 13, *New Cap Re* in Chapters 16 and 17 and *Provident v FSA* in Chapter 18.

The ubiquity of arbitration clauses in the Bermuda market has continued to keep reinsurance disputes out of sight of the judiciary. However, Bermuda Courts have provided guidance on the winding-up of segregated account companies (*CAI Master Fund*, Chapter 16), and addressed the “vexed question” of the scope of the their winding-up jurisdiction (*Kingate*) and their powers to assist foreign liquidators at common law (*Founding Partners*, Chapter 17).

With reference to Chapter 13, Section 13–025 we apologise for admitting the existence of the House of Lords ruling only a dozen years after it was issued, we appreciate the indulgence shown to us for not berating us about such an omission and we are thankful that the House of Lords upheld the decision of the first instance judge and the Court of Appeal.

We take this opportunity to provide readers with an errata list for the third edition. We apologise for the glitches. Readers may notice that the errata sheet does not pick up all the errata; however we have concentrated on the ones that may mislead unless rectified. Those that can wait for the next edition have been noted and kept safe. We have done our best to state the law of England and Bermuda as at August 1, 2012.

TABLE OF CASES

A v B [2011] EWHC 2345 (Comm); [2011] 2 Lloyd's Rep. 591; (2011) 161 N.L.J. 1291	14-011
ACAL Underwriting Ltd, Re [2012] EWHC Ch.	17-060A
AK Investment CJSC v Kyrgyz Tel Ltd [2011] UKPC 7; [2012] 1 W.L.R. 1804; [2011] 4 All E.R. 1027; [2012] 1 All E.R. (Comm) 319; [2011] 1 C.L.C. 205, PC.	13-033
Abuja International Hotels Ltd v Meridien SAS [2012] EWHC 87 (Comm); [2012] 1 Lloyd's Rep. 461, QBD	14-004
African Farms, Re [1906] T.S. 373, Ch D.	17-072A
Aizkir Navigation Inc v Al Wathba National Insurance Co PSC [2011] EWHC 3940 (Comm), QBD.	5-020
Alliance Bank JSC v Aquanta Corp [2011] EWHC 3281 (Comm); [2012] 1 Lloyd's Rep. 181; (2012) 109(4) L.S.G. 19 (Comm), QBD	13-046
Alpha Prime Fund Limited v Primeo Fund Ltd [2011] SC (Bda) 37 Com (August 12, 2011).	17-019
Arash Shipping Enterprises Company Ltd v Groupama Transport [2011] EWCA Civ 620; [2011] 2 Lloyd's Rep. 607; [2011] 1 C.L.C. 984; [2012] Lloyd's Rep. I.R. 40, CA.	3-009
Arbuthnott v Fagan [1996] L.R.L.R. 135; [1995] C.L.C. 1396, CA.	4-061
Arrowhead Capital Finance Ltd (In Liquidation) v KPMG LLP [2012] EWHC 1801 (Comm); [2012] S.T.I. 2218, QBD	3-054, 16-029
Aviva Insurance Ltd v Brown [2011] EWHC 362 (QB); [2012] Lloyd's Rep. I.R. 211, QBD	6-061
Avocet Industrial Estates LLP v Merol Ltd [2011] EWHC 3422 (Ch); [2012] L. & T.R. 13; [2012] 1 E.G.L.R. 65; [2012] 14 E.G. 64, Ch D	6-002
Axa Corporate Solutions SA v National Westminster Bank Plc [2010] EWHC 1915 (Comm); [2010] 2 C.L.C. 149; [2011] Lloyd's Rep. I.R. 438, QBD	4-069A
Axa Sun Life Services Plc v Campbell Martin Ltd [2011] EWCA Civ 133; [2012] Bus. L.R. 203; [2011] 2 Lloyd's Rep. 1; [2011] 1 C.L.C. 312; 138 Con. L.R. 104, CA.	10-014A
BAI (Run Off) Ltd v Durham [2012] UKSC 14; [2012] 1 W.L.R. 867; [2012] 3 All E.R. 1161; [2012] I.C.R. 574; [2012] Lloyd's Rep. I.R. 371; [2012] P.I.Q.R. P14; (2012) 125 B.M.L.R. 137; (2012) 162 N.L.J. 502; (2012) 156(13) S.J.L.B. 31, SC	17-040
Barclay Pharmaceuticals Ltd v Waypharm LP [2012] EWHC 306 (Comm); (2012) 109(26) L.S.G. 19, QBD.	9-037
Bashir v Ali [2011] [2011] EWCA Civ 707; [2011] 2 P. & C.R. 12, CA.	4-051A
Beazley Underwriting Ltd v Travelers Companies Inc [2011] EWHC 1520 (Comm); [2012] 1 All E.R. (Comm) 1241, QBD.	3-007A, 5-008, 5-092
Belmont Park Investments Pty Ltd v BNY Corporate Trustee Services Ltd [2011] UKSC 38; [2012] 1 A.C. 383; [2011] 3 W.L.R. 521; [2011] Bus. L.R. 1266; [2012] 1 All E.R. 505; [2011] B.C.C. 734; [2012] 1 B.C.L.C. 163; [2011] B.P.I.R. 1223, SC	16-016A
Bermuda Monetary Authority v The South of England Protection and Indemnity Association (Bermuda) Ltd [2011] SC (Bda) 54 Com (November 30, 2011) ...	17-028
Bols Distilleries BV (t/a Bols Royal Distilleries) v Superior Yacht Services Ltd [2006] UKPC 45; [2007] 1 W.L.R. 12; [2007] 1 All E.R. (Comm) 461; [2007] 1 Lloyd's Rep. 683; [2007] 1 C.L.C. 308; [2007] I.L.Pr. 46, PC	13-030A

Bolton MBC v Municipal Mutual Insurance Ltd [2006] EWCA Civ 50; [2006] 1 W.L.R. 1492; [2006] 1 C.L.C. 242; [2007] Lloyd's Rep. I.R. 173; (2006) 103(9) L.S.G. 31; (2006) 150 S.J.L.B. 226, CA	5–052
Bristol & West Building Society v Mothew (t/a Stapley & Co) [1998] Ch. 1	10–014B
British Arab Commercial Bank Plc v Bank of Communications [2011] EWHC 281 (Comm); [2011] 1 Lloyd's Rep. 664, QBD	12–019, 12–023
British Waterways v Royal & Sun Alliance Insurance Plc [2012] EWHC 460, QBD	4–057
Brown v GIO Insurance Ltd [1998] C.L.C. 650; [1998] Lloyd's Rep. I.R. 201; (1998) 95(9) L.S.G. 29, CA	7–026
CAI Master Allocation Fund Ltd, Re [2011] SC (Bda) 45 Com (September 26, 2011)	16–055, 16–056
Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings Plc [2006] UKPC 26; [2007] 1 A.C. 508; [2006] 3 W.L.R. 689; [2006] 3 All E.R. 829; [2006] 2 All E.R. (Comm) 695; [2006] B.C.C. 962; [2007] 2 B.C.L.C. 141, PC	17–072A
Chandler v Cape Plc [2012] EWCA Civ 525; [2012] 3 All E.R. 640; [2012] P.I.Q.R. P17, CA	16–039
Chantiers de L'Antique SA v Gaztransport & Techigaz SAS [2011] EWHC 3383 (Comm), QBD	14–024
Citigroup Global Markets Ltd v Amatra Leveraged Feeder Holdings Ltd [2012] EWHC 1331, QBD	14–008
Claxton Engineering Services Ltd v TXM Olaj–Es Gazkutato Kft [2011] EWHC 345 (Comm); [2011] 2 All E.R. (Comm) 128; [2011] 1 Lloyd's Rep. 510; [2012] 1 C.L.C. 326, QBD	14–008
Combined Insurance Co of America, Re [2012] EWHC 632 (Ch), Ch D	18–033
Compass Group UK and Ireland Ltd (t/a Medirest) v Mid Essex Hospital Services NHS Trust [2012] EWHC 781 (QB); [2012] 2 All E.R. (Comm) 300, QBD	6–003
Consolidated Contractors International Company SAL v Masri [2009] Bda L.R. 12; [2011] UKPC 29	13–074A
Coys of Kensington Automobiles Ltd v Pugliese [2011] EWHC 655 (QB); [2011] 2 All E.R. (Comm) 664, QBD	13–030A
Crema v Cenkos Securities Plc [2010] EWCA Civ 1444; [2011] 1 W.L.R. 2066; [2011] Bus. L.R. 943; [2011] 2 All E.R. (Comm) 676; [2010] 2 C.L.C. 963; [2011] C.I.L.L. 2980, CA	11–012A
Dubai Islamic Bank v PSI Energy Holding Co BSC [2011] EWHC 1019 (Comm); [2011] 1 C.L.C. 595, QBD	13–045
Durham v BAI (Run Off) Ltd [2012] UKSC 14; [2012] 1 W.L.R. 867; [2012] 3 All E.R. 1161; [2012] I.C.R. 574; [2012] Lloyd's Rep. I.R. 371; [2012] P.I.Q.R. P14; (2012) 125 B.M.L.R. 137; (2012) 162 N.L.J. 502; (2012) 156(13) S.J.L.B. 31, SC	5–052, 12–011, 12–023, 16–039
Eagle Star Insurance Co Ltd v Spratt [1971] 2 Lloyd's Rep. 116, CA	2–020
European Group Ltd v Chartis Insurance UK Ltd [2012] EWHC 1245 (QB); [2012] 2 Lloyd's Rep. 117, QBD	5–057A
Excalibur Ventures LLC v Texas Keystone Inc [2011] EWHC 1624 (Comm); [2012] 1 All E.R. (Comm) 933; [2011] 2 Lloyd's Rep. 289; [2011] 2 C.L.C. 338; 138 Con. L.R. 132; (2011) 108(28) L.S.G. 19, QBD	14–008
FHR European Ventures LLP v Mankarious [2011] EWHC 2308 (Ch); [2012] 2 B.C.L.C. 39, QBD	9–014
Faraday Reinsurance Co Ltd v Howden North America Inc [2011] EWHC 2837 (Comm); [2011] 2 C.L.C. 897, QBD	12–008
Faraday Reinsurance Co Ltd v Howden North America Inc [2012] EWCA Civ 980, CA	4–002
Fearn's (t/a Autopaint International) v Anglo–Dutch Paint & Chemical Co Ltd [2010] EWHC 2366 (Ch); [2011] 1 W.L.R. 366; [2011] Bus. L.R. 579; (2010) 154(37) S.J.L.B. 29, Ch D	11–061

Ferrexpo AG v Gilson Investments Ltd [2012] EWHC 721 (Comm); [2012] 1 Lloyd's Rep. 588, QBD	13–032
Fiona Trust & Holding Corp v Privalov [2010] EWHC 3199 (Comm); [2011] EWHC 715 (Comm), QBD	9–014
Folgate London Market Ltd v Chaucer Insurance Plc [2011] EWCA Civ 328; [2011] Bus. L.R. 1327; [2011] B.C.C. 675; [2012] 1 B.C.L.C. 550; [2011] B.P.I.R. 1001; [2011] Lloyd's Rep. I.R. 623, CA	16–016A
Founding Partners Global Fund Ltd (in liquidation), Re [2011] SC (Bda) 19 Com (April 8, 2011); [2011] Bda L.R. 22	17–014, 17–072A
Gammie v Abbey Legal Protection, Sheriff Court Grampian Highland and Islands (2012) G.W.D. 4–72	10–005
Gard Marine & Energy Ltd v Glacier Reinsurance AG [2010] EWCA Civ 1052; [2011] Bus. L.R. 839; [2011] 2 All E.R. (Comm) 208; [2010] 2 C.L.C. 430; [2011] I.L.Pr. 10; [2011] Lloyd's Rep. I.R. 489, CA	12–030, 13–024
Giedo van der Garde BV v Force India Formula One Team Ltd (formerly Spyker F1 Team Ltd (England)) [2010] EWHC 2373, QBD	3–040
Golden Ocean Group Ltd v Salgaocar Mining Industries Pvt Ltd [2012] EWCA Civ 265; [2012] 3 All E.R. 842; [2012] 1 Lloyd's Rep. 542; [2012] 1 C.L.C. 497; [2012] C.I.L.L. 3161; (2012) 162 N.L.J. 425, CA	12–016
Gray Construction Ltd v Harley Haddow LLP [2012] CSOH 92; 2012 G.W.D. 19–377, CSOH	14–082A
Greener Solutions Ltd v Revenue & Customs Commissioners [2012] UKUT 18 (TCC); [2012] S.T.C. 1056; [2012] Lloyd's Rep. F.C. 235; [2012] B.V.C. 1551, UKUT	9–054, 10–008
Gregor Homes Ltd v Emlich [2011] G.W.D. 8–193	9–003
Ground Gilbey v Jardine Lloyd Thompson UK Ltd [2011] EWHC 124 (Comm); [2012] Lloyd's Rep. I.R. 12; [2011] P.N.L.R. 15, QBD	9–065
Guangzhou Dockyards Co Ltd (formerly Guangzhou CSSC–OCEANLINE–GSW Marine Engineering Co Ltd) v ENE Aegiali I [2010] EWHC 2826 (Comm); [2011] 2 All E.R. (Comm) 595; [2011] 1 Lloyd's Rep. 30; [2010] 2 C.L.C. 870; 133 Con. L.R. 139; (2010) 160 N.L.J. 1568, QBD	14–026
HIH Casualty & General Insurance Ltd, Re [2008] UKHL 21; [2008] 1 W.L.R. 852; [2008] Bus. L.R. 905; [2008] 3 All E.R. 869; [2008] B.C.C. 349; [2008] B.P.I.R. 581; [2008] Lloyd's Rep. I.R. 756; (2008) 105(16) L.S.G. 26; (2008) 152(16) S.J.L.B. 30, HL	16–009A
HMV UK Ltd v Propinvest Friar Ltd Partnership [2011] EWCA Civ 1708; [2012] 1 Lloyd's Rep. 416, CA	14–026
Halle v FR Lurssen Werft GmbH & Co KG [2010] EWCA Civ 587; [2011] 1 Lloyd's Rep. 265, CA	12–008
Highland Crusader Fund II, Ltd, Re [2011] SC (Bda) 38 Com (August 12, 2011)	18–024A
Hobbins v Royal Skandia Life Assurance Ltd [2012] HKCF1 10	9–028B
Informission Group Inc v Convertix Corp [2000] Bda L.R. 75	17–014
Innovia Films Ltd v Frito–Lay North America Inc [2012] EWHC 790 (Pat), Ch D	12–002
Integrated Medical Solutions Ltd, Re [2012] B.C.C. 215, Ch D	16–009A, 17–063
Investors Compensation Scheme Ltd v West Bromwich Building Society (No.1) [1998] 1 W.L.R. 896; [1998] 1 All E.R. 98; [1998] 1 B.C.L.C. 531; [1997] C.L.C. 1243; [1997] P.N.L.R. 541; (1997) 147 N.L.J. 989, HL	4–061
John Youngs Insurance Services Ltd v Aviva Insurance Service UK Ltd [2011] EWHC 1515 (TCC); [2012] 1 All E.R. (Comm) 1045	9–008, 10–009, 10–014B

Joint Stock Asset Management Co Ingosstrakh–Investments v BNP Paribas SA [2012] EWCA Civ 644; [2012] 1 Lloyd’s Rep. 649, CA	14–008
Kazeminy v Siddiqi [2012] EWCA Civ 416, CA	4–061
Kingate Global Fund Ltd (In Liquidation), Re [2010] Bda LR 57	17–014
Kleinwort Benson Ltd v Glasgow City Council (No.2) [1999] 1 A.C. 153; [1997] 3 W.L.R. 923; [1997] 4 All E.R. 641; [1998] Lloyd’s Rep. Bank. 10; [1997] C.L.C. 1609; [1998] I.L.Pr. 350; (1997) 9 Admin. L.R. 721; (1997) 94(44) L.S.G. 36; (1997) 147 N.L.J. 1617; (1997) 141 S.J.L.B. 237, HL	13–025
Lawlor v Sandvik Mining and Construction Mobile Crushers and Screens Ltd [2012] EWHC 1188 (QB); [2012] 2 Lloyd’s Rep. 25; [2012] I.L.Pr. 31, QBD	12–008A, 12–023
Lombard North Central Plc v GATX Corp [2012] EWHC 1067 (Comm); [2012] 1 Lloyd’s Rep. 662, QBD	14–085
Mellroy Swindon Ltd v Quinn Insurance Ltd [2011] EWCA Civ 825; [2012] 1 All E.R. (Comm) 241; [2011] B.L.R. 579; [2011] Lloyd’s Rep. I.R. 697, CA.	5–096A
Mckillen v Barclay [2012] EWHC 521 (Ch), Ch D	16–028
Manley Management Inc v Everest Capital [1992] Bda L.R. 22.	14–054
Masefield AG v Amlin Corporate Member Ltd [2011] EWCA Civ 24; [2011] 1 W.L.R. 1012; [2011] Bus. L.R. 1082; [2011] 3 All E.R. 554; [2011] 2 All E.R. (Comm) 764; [2011] 1 Lloyd’s Rep. 630; [2011] 1 C.L.C. 97; [2011] Lloyd’s Rep. I.R. 338; 2011 A.M.C. 1447; (2011) 108(6) L.S.G. 18, CA.	5–021
Masri v Consolidated Contractors International Co SAL [2011] EWHC 1780 (Comm); (2011) 108(30) L.S.G. 25, QBD	13–032
Merrett v Capitol was applied in Pegasus v Ernst & Young [2012] EWHC 738 (Ch); [2012] S.T.I. 1387, Ch D.	11–055
Merrill Lynch v Comune di Verona [2012] EWHC 1407, QBD	13–081
Mundy v Brown [2011] EWHC 377 (Ch); [2011] B.P.I.R. 1056, Ch D	16–007
New Cap Reinsurance Corp Ltd (In Liquidation) v Grant [2011] EWCA Civ 971; [2012] 2 W.L.R. 1095; [2012] Bus. L.R. 772; [2012] 1 All E.R. 755; [2012] 1 All E.R. (Comm) 1207; [2011] C.P. Rep. 48; [2011] B.C.C. 937; [2011] B.P.I.R. 1428, CA.	16–009A, 16–016, 17–063
Nomihold Securities Inc v Mobile Telesystems Finance SA [2012] EWHC 130 (Comm); [2012] Bus. L.R. 1289; [2012] 1 Lloyd’s Rep. 442; [2012] 1 C.L.C. 339, QBD	14–011
Pablo Star Ltd v Emirates Integrated Telecommunications Co PJSC (t/a Du) [2009] EWCA Civ 1044, CA.	12–018
Phoenix Kapitaldienst GmbH, Re [2012] EWHC 62 (Ch); [2012] 2 All E.R. 1217; [2012] B.C.C. 561; [2012] I.L.Pr. 18; [2012] B.P.I.R. 392; (2012) 162 N.L.J. 214, Ch D	17–063
PricewaterhouseCoopers Bermuda (a firm) v Kingate Global Fund Ltd (In Liquidation) [2011] Bda L.R. 32	17–014
Princess Cruise Lines v Matthews [2011] SC (Bda) 51 Civ (November 4, 2011) ..	14–054
Provident Insurance Plc v Financial Services Authority [2012] EWHC 1860 (Ch), Ch D	18–033
PT Buana Samudra Pratama v Maritime Mutual Insurance Association (NZ) Ltd [2011] EWHC 2413 (Comm); [2012] 1 All E.R. (Comm) 581; [2011] 2 Lloyd’s Rep. 655; [2011] 2 C.L.C. 722; [2012] Lloyd’s Rep. I.R. 52, QBD	3–068A
R. (on the application of Kaur) v Institute of Legal Executives Appeal Tribunal [2011] EWCA Civ 1168; [2012] 1 All E.R. 1435; [2012] 1 Costs L.O. 23; [2011] E.L.R. 614; (2011) 108(45) L.S.G. 20; (2011) 155(40) S.J.L.B. 31; [2011] N.P.C. 106; [2012] P.T.S.R. D1, CA.	14–011
Razcom CI v Barry Callebaut Sourcing AG [2010] EWHC 2598 (QB), QBD.	10–003
Roberts v Frohlich [2012] EWHC 257, QBD	16–027
Robinson v PE Jones (Contractors) Ltd [2011] EWCA Civ 9; [2012] Q.B. 44; [2011] 3 W.L.R. 815; [2011] B.L.R. 206; 134 Con. L.R. 26; [2011]	

1 E.G.L.R. 111; (2011) 27 Const. L.J. 145; [2011] C.I.L.L. 2972; [2011] 4 E.G. 100 (C.S.), CA.....	3-021
Rodenstock GmbH, Re [2011] EWHC 1104 (Ch); [2011] Bus. L.R. 1245; [2012] B.C.C. 459; [2011] I.L.Pr. 34, Ch D.....	17-068
Royal Bank of Scotland Plc v Highland Financial Partners LP [2012] EWHC 1278 (Comm); (2012) 109(26) L.S.G. 18, QBD.....	13-030
Rubin v Eurofinance SA [2010] EWCA Civ 895; [2011] Ch. 133; [2011] 2 W.L.R. 121; [2011] Bus. L.R. 84; [2011] 1 All E.R. (Comm) 287; [2011] C.P. Rep. 2; [2011] B.C.C. 649; [2011] 2 B.C.L.C. 473; [2011] B.P.I.R. 1110; (2010) 160 N.L.J. 1192, CA.....	16-009A
Safeway Stores Ltd v Twigger [2010] EWCA Civ 1472; [2011] Bus. L.R. 1629; [2011] 2 All E.R. 841; [2011] 1 Lloyd's Rep. 462; [2011] 1 C.L.C. 80; [2011] U.K.C.L.R. 339, CA.....	9-037
Saxon Weald Homes Ltd v Chadwick [2011] EWCA Civ 1202; [2012] H.L.R. 8; [2011] 44 E.G. 107 (C.S.); [2011] N.P.C. 109; [2012] 1 P. & C.R. DG6, CA..	4-051A
Scottish Widows Fund and Life Assurance Society v BGC International [2012] EWCA Civ 607; 142 Con. L.R. 27, CA.....	4-055
Secretary of State for Justice v Topland Group [2011] EWHC 983 (QB), QBD.....	9-012, 9-026
Sompo Japan Insurance Inc, Re [2011] EWHC 260 (Ch), Ch D.....	18-033
Springwell Navigation Corp v JP Morgan Chase [2010] EWCA Civ 1221; [2010] 2 C.L.C. 705, CA.....	9-009
Standard Life Assurance Ltd v Oak Dedicated Ltd [2008] EWHC 222 (Comm); [2008] 2 All E.R. (Comm) 916; [2008] 1 C.L.C. 59; [2008] Lloyd's Rep. I.R. 552; [2008] P.N.L.R. 26, QBD.....	5-092
Stansfield Group Pte Ltd v Consumers' Association of Singapore [2011] SGHC 122; [2012] Lloyd's Rep. I.R. 258, High Court(Singapore).....	6-065A
Stellar Shipping Co LLC v Hudson Shipping Lines [2010] EWHC 2985 (Comm); [2012] 1 C.L.C. 476, QBD.....	4-012
Stonebridge Underwriting Ltd v Ontario Municipal Insurance Exchange [2010] EWHC 2279 (Comm); [2010] 2 C.L.C. 349; [2011] Lloyd's Rep. I.R. 171; (2010) 107(37) L.S.G. 15, QBD.....	12-023, 13-042
Sugar Hut Group Ltd v Great Lakes Reinsurance (UK) Plc [2010] EWHC 2636 (Comm); [2011] Lloyd's Rep. I.R. 198, QBD.....	6-107
Sulamerica Cia Nacional de Seguros SA v Enesa Engenharia SA [2012] EWCA Civ 638; [2012] 1 Lloyd's Rep. 671; [2012] Lloyd's Rep. I.R. 405, CA.....	13-058, 13-064, 14-004, 14-030, 14-109
Synergy Health (UK) Ltd v CGU Insurance Plc [2010] EWHC 2583 (Comm); [2011] Lloyd's Rep. I.R. 500, QBD.....	6-019A
Teal Assurance Co Ltd v W R Berkley Insurance (Europe) Ltd [2011] EWCA Civ 1570; [2012] 1 All E.R. (Comm) 969; [2012] Lloyd's Rep. I.R. 315, CA.....	7-026, 17-040
Ted Baker Plc v Axa Insurance UK Plc [2012] EWHC 1406 (Comm); (2012) 109(28) L.S.G. 21, QBD.....	4-056A
Twinsectra Ltd v Yardley [2002] UKHL 12; [2002] 2 A.C. 164; [2002] 2 W.L.R. 802; [2002] 2 All E.R. 377; [2002] P.N.L.R. 30; [2002] W.T.L.R. 423; [2002] 38 E.G. 204 (C.S.); (2002) 99(19) L.S.G. 32; (2002) 152 N.L.J. 469; (2002) 146 S.J.L.B. 84; [2002] N.P.C. 47, HL.....	6-061
Weaving Capital (UK) Ltd (In Liquidation) v Peterson [2012] EWHC 1480 (Ch); (2012) 109(26) L.S.G. 20, Ch D.....	16-025
West Tankers Inc v Allianz SpA (The Front Comor) [2012] EWCA Civ 27; [2012] 2 All E.R. (Comm) 113; [2012] 1 Lloyd's Rep. 398; [2012] C.P. Rep. 19; [2012] 1 C.L.C. 312; 140 Con. L.R. 45; [2012] I.L.Pr. 19; (2012) 109(6) L.S.G. 21, CA.....	13-016, 13-066

Westwood Shipping Lines Inc v Universal Schiffahrtsgesellschaft mbH [2012] EWHC 1394 (Comm), QBD	17-068
William McIlroy Swindon Ltd v Quinn Insurance Ltd [2011] EWCA Civ 825; [2012] 1 All E.R. (Comm) 241; [2011] B.L.R. 579; [2011] Lloyd's Rep. I.R. 697, CA.....	5-043
Woodland v Essex County Council [2012] EWCA Civ 239; [2012] E.L.R. 327; [2012] P.I.Q.R. P12; [2012] Med. L.R. 419, CA	3-054
Wooldridge v Torridge DC [2011] EWHC 1238, QBD.....	3-054
Zurich Insurance Co PLC v Colin Richard Hayward [2011] EWCA Civ 641; [2011] C.P. Rep. 39, CA.....	3-034A

TABLE OF STATUTES

United Kingdom

1906	Marine Insurance Act (6 Edw.7 c.41)	
	s.17	6-003
	ss.18—20	6-003
	s.18(3)	6-008A
	s.19	9-034
1930	Third Party (Rights against Insurers) Act (20 & 21 Geo.5 c.25)	5-043
1933	Foreign Judgments (Reciprocal Enforcement) Act (23 & 24 Geo.5 c.13)	16-009A
1986	Insolvency Act (c.45) s.426	17-063
1998	Competition Act (c.41)	9-037
2000	Financial Services and Markets Act (c.8)	15-001, 15-006
	s.2(2)	15-001
	s.3	15-001
	s.4	15-001
	s.5	15-001
	s.6	15-001
	s.105(2)	18-033
2006	Companies Act (c.46)	17-003
	s.323	18-001
	s.425	17-003
	s.899	18-001
2010	Financial Services Act (c.28)	15-001, 15-006

2012	Consumer Insurance (Disclosure and Representations) Act (c.6)	5-002, 6-003, 6-008, 6-114, 6-120
	s.2(5)	6-003
	s.11	9-034

Bermuda

1885	External Companies (Jurisdiction in Actions) Act s.1(1)	17-014
1958	Judgments (Reciprocal Enforcement) Act s.4(1)	13-074A
1967	Non-Resident Insurance Undertakings Act	17-014
1981	Companies Act.	17-014
	s.133	17-014
	s.133A	17-014
	s.134	17-014
	s.176(3)	16-055
	s.225	16-055
2000	Segregated Accounts Companies Act.	15-061
	s. 17(7)	16-055
	s.24(1)	16-055
	s.25(1)	16-055
2012	Insurance Amendment Act	15-059

TABLE OF STATUTORY INSTRUMENTS

Bermuda

		2011	Companies Act	2006
1956	Judgments Extension Order		(Consequential	
	(SR&O 5/1956)		Amendments and	
1998	Judgments (Reciprocal		Transitional Provisions)	
	Enforcement) (Australia)		Order (SI 2011/1265). 17–003	
	Order			13–074

United Kingdom

1994	Reciprocal Enforcement of			
	Foreign Judgments			
	(Australia) Order (SI			
	1994/1901)			16–009A

TABLE OF INTERNATIONAL TREATIES AND CONVENTIONS

1980	Rome Convention on the Law Applicable to Contractual Obligations art.3 12-016 art.4(2). 12-019 (5). 12-019	1988	Lugano Convention..... 13-025 art.2..... 13-032 art.3..... 13-025 art.5(1). 13-025 art.23..... 13-030A art.27..... 13-032 art.28..... 13-032
1985	UNCITRAL Model Law on International Commercial Arbitration art.11(5). 14-054		

TABLE OF CONTENTS

<i>Preface</i>	xvii
<i>Table of Cases</i>	xix
<i>Table of Statutes</i>	xxv
<i>Table of Statutory Instruments</i>	xxvii
<i>Table of International Treaties and Conventions</i>	xxix

PART I

The Nature of Reinsurance Transactions

1. NATURE, TERMINOLOGY AND DEFINITION OF REINSURANCE	1
1. Nature and Purpose of Reinsurance	1-001
Functional descriptions—problems of definition	1-001
Abuse of reinsurance and fraud	1-003
2. Outline of Reinsurance Terminology	1-008
■ Problems of terminology and categorisation	1-008
Basic concepts	1-009
Reinsurance treaties	1-014
Financial reinsurance	1-021
Reinsurance intermediaries	1-022
3. Sources of Reinsurance Law	1-023
English law	1-023
Bermuda law	1-025
4. Legal Definition of Reinsurance	1-031
Historical definitions	1-031
Modern definitions	1-033
Working hypothesis	1-042
2. INTRODUCTION TO THE REINSURANCE MARKET	2
1. Reinsurance in Historical Perspective	2-001
Origins and early development	2-001
Eighteenth century marine underwriting and the Act of 1745	2-004
■ The globalisation of reinsurance	2-008
2. Lloyd's and the London Market	2-011
■ The operation of Lloyd's	2-011
■ The operation of the company market	2-021
3. Captives and the Bermuda Market	2-025
■ Captives and the development of Bermuda's reinsurance industry	2-025

■ The “Big Cats”	2-027
Post September 11, 2001 capital	2-028
Additional capital enters the Bermuda Market following 2005 hurricane season	2-029
The Bermuda Market in 2010	2-030
■ Financial reinsurers	2-033
□ Future trends	2-034

PART II

General Principles of Reinsurance Contract Law

3. FORMATION OF THE REINSURANCE CONTRACT	6
1. London Market Practice	3-001
■ General course of business	3-001
LMP and GUA	3-005
2. General Contractual Principles	3-006
■ Offer and acceptance	3-006
Variation of the contract	3-023
Terms implied by custom and usage	3-028
■ Intention to create legal relations	3-032
■ Termination of the contract	3-038
3. The Reinsurance Slip and the Leading Underwriter	3-043
London market practice revisited	3-043
Legal effect of a slip	3-045
Relationship between slip and policy	3-046
■ The leading underwriter and the following market	3-052
4. Bermuda Market Practice	3-073
General course of reinsurance business	3-073
5. Summary	3-081
4. THE RELATIONSHIP BETWEEN THE REINSURANCE CONTRACT AND ORIGINAL INSURANCE CONTRACTS	12
1. ■ Prologue	4-001
2. Reinsurance upon the Same Terms as Original Insurance	4-003
Introduction	4-003
Criteria of incorporation	4-005
Follow the leader	4-006
Time limits and notice provisions	4-007
Proposal forms	4-009
■ Arbitration and jurisdiction clauses	4-010
Differing proper laws	4-014