

英國 1909 年海上保險(賭博保單)法

Marine Insurance (Gambling Policies) Act 1909

Gambling 1909

An Act to prohibit gambling on loss by maritime perils [20th October, 1909]

一部為禁止賭博海事風險損失之法律
1909 年 10 月 20 日)

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows-

本法係 Spiritual 及 Temporal 爵士認可提交，經上議院多數院士及下議院於本會期制定通過如下：

1. Prohibition of gambling on loss by maritime perils

1. 禁止賭博海事風險損失

- (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 like term, the contract shall be deemed to be a contract by way of gambling on loss by maritime perils, and the person effecting it shall be guilty of an offence, and shall be liable, on summary conviction, to imprisonment, with or without hard labour, for a term not exceeding six months or to a fine not exceeding [level 3 on the standard scale], and in either case to forfeit to the Crown any money he may receive under the contract.
- (2) Any broker or other person through whom, and any insurer with whom, any such contract is effected shall be guilty of an offence and liable on summary conviction to the like penalties if he acted knowing that the contract was by way of gambling on loss by maritime perils within the meaning of this Act.
- (3) Proceedings under this Act shall not be instituted without the consent in England of the Attorney-General, in Scotland of the Lord Advocate, and in Ireland of the Attorney-General for Ireland.

- (1) 於有下列情況時
 - (a) 任何投保海上保險契約之人不具任何善意利益，無論該無利益係直接或間接，亦無論契約締結當時船舶已安全抵達或保險標的已安全或保存情況或取得該利益無善意預期者；或
 - (b) 受僱於船舶所有人且非船舶共有之人之任何人投保有關該船舶之海上保險契約，而該契約係以「無論有無利益」或「除本保單外無其他利益證明者」或「保險人不得享有殘值利益」或其他類似條件締結者，
該契約應被視為賭博海事風險損失之契約，投保之人應受犯罪之宣判而依簡易即時判決處以不超過六個月之監禁，無論有無服勞役，且須課以不超過[罰款等級表第三級]之罰金，法院並應沒收其於該契約所收取之任何款項。
- (2) 任何經紀人或透過類似之人及任何保險人為投保或接受該投保，對該契約係為本法所稱海事冒險損失賭博契約時，亦應為犯罪之宣告而以簡易即時判決處以相同處罰。
- (3) 依本法所進行之訴訟，經應英格蘭檢察總長，蘇格蘭檢察總長及愛爾蘭檢察總長同意始可進行。
- (4) 依本法向被控訴已投保海事冒險損失

- (4) Proceedings shall not be instituted under this Act against a person (other than a person in the employment of the owner of the ship in relation to which the contract was made) alleged to have effected a contract by way of gambling on loss by maritime perils until an opportunity has been afforded him of showing that the contract was not such a contract as aforesaid, and any information given by that person for that purpose shall not be admissible in evidence against him in any prosecution under this Act.
- (5) If proceedings under this Act are taken against any person (other than a person in the employment of the owner of the ship in relation to which the contract was made) for effecting such a contract, 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 Act, every offence shall be deemed to have been committed either in the place in which the same actually was committed or in any place in which the offender may be.
- (7) Any person aggrieved by an order or decision of a court of summary jurisdiction under this Act, may appeal to [the Crown Court].
- (8) For the purposes of this Act the expression 'owner' includes charterers.
- (9) Subsection (7) of this section shall not apply to Scotland.

2. Short title

This Act may be cited as the Marine insurance (Gambling Policies) Act, 1909, and the Marine insurance Act, 1906, and this Act may be cited together as the Marine insurance Acts, 1906 and 1909.

NOTES

Subs (1): words omitted repealed by virtue of the Criminal Justice Act 1948, s 1(2); words in square brackets substituted by virtue of the Criminal Justice Act 1982, ss 37, 38, 46.

Subs (7): amended by the Courts Act 1971, s 56, Sched 9, Part 1.

賭博保險契約之人(契約締結當時受雇於船舶所有人之人除外)所進行之訴訟，於提供該人得以辯釋該契約並非所指控賭博契約之機會前不應進行，另依本法之任何公訴程序中，該人為辯解目的所提供之任何資料不應被採證為證據。

- (5) 依本法向投保該賭博性契約或該契約係以「無論有無利益」或「除本保單外無其他利益證明者」或「保險人不得享有殘值利益」或其他類似條件締結之人(契約締結當時受雇於船舶所有人之人除外)所進行之訴訟，除另有反證外，否則該契約應被視為海事冒險損失賭博契約。
- (6) 為依本法審理管轄目的，實際違犯地或犯罪行為人處所地均視為犯罪違犯地。
- (7) 依本法被簡易法院判決之任何人均得上訴(王座法院)。
- (8) 本法所稱「船舶所有人」包括租傭船人。
- (9) 第7款不適用於蘇格蘭。

2. 簡稱

所引用「本法」乙詞得指1909年海上保險(賭博保單)法及1906年海上保險法，本法得以1906年及1909年海上保險法合併引用。

附註

第(1)項：本項用語為1948年犯罪審判法第1條第2項所廢止；於括號內之用語為1982年犯罪審判法第37條、第38條及第46條所取代。

第7項：業經1971年法院法第56條附錄九第一部份所修正。