
The New Spanish Law on Maritime Navigation 14/2014 – A Marine Insurance Perspective



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Law of Maritime Navigation 14/2014 – Background

- ❑ Published on the Official Gazette on 25th July 2014
 - ❑ First drafts – 2004
 - ❑ Replace the old Commercial Code of 1885
 - ❑ It covers all the aspects of the private Maritime Law
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Marine Insurance: Regulation on Law 14/2014

- ❑ Title VIII – Art. 406 to 467
 - ❑ General characteristics of the Marine Insurance contract
 - ❑ Specificities (vessels, cargo, liability and freight insurance)
 - ❑ Compulsory civil liability insurances (carriage of passengers, yacht chartering and pollution)
 - ❑ General liability insurance for pleasure and sporting navigation - Excluded
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Marine Insurance: General Considerations

- ❑ *“Insurance contracts that have the object of compensating damage arising from the risks inherent to maritime navigation shall be subject to this Act” (Art. 406)*
 - ❑ Contractual freedom (Art. 407.1)
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Marine Insurance: Coverage and exclusions

- ❑ Coverage: Universality of coverage against all risks (Art. 417)

 - ❑ Exclusions:
 - War, arrest by national/international authority, piracy, terrorism, etc. (Art. 418) and inherent vice / intrinsic nature of the insured object (Art. 420)
 - Willful misconduct of the assured (Art. 419)
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Marine Insurance: The parties

- ❑ Assured – *“the owner of the interest at the time of the casualty”* (Art. 412) – vs. Policy Holder
 - ❑ Coinsurance (Art. 416):
 - Each co-insurer is liable for the proportion of its slip.
 - The Leading Underwriter is legally authorized to handle the management of the marine insurance contract.
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Marine Insurance: Obligations of the Parties

- ❑ Obligations of the Policy Holder / Assured:
 - Declaring all circumstances that may have an influence in the appreciation of the risk (Art. 423)
 - Paying the Premium (Art. 425)
 - Communicating the occurrence of the risk within 7 days (Art. 426)
 - “*Sue and labour*” (Art. 427)

 - ❑ Obligations of the Underwriter – Paying the claim (including contribution to GA, salvage and S&L expenses)
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Marine Insurance: Liquidation of the claim

- ❑ Liquidation of the Claim:
 - Abandonment (Art. 434 to 436)
 - Average adjustment (Art. 437)

 - ❑ Subrogation -
 - Is not affected by the exonerations of liability agreed by the assured (Art. 437.5)
 - It cannot be exercised against the crew members (Art. 437.5)

 - ❑ Time-limit – 2 years (Art. 438)
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Vessels Insurance: Particularities

- ❑ H&M Insurance
 - ❑ Collision Liability is covered in full (Art. 443)
 - ❑ Seaworthiness as a warranty?: *“The insured shall maintain the seaworthiness of the ship, vessel or naval artifact insured during the whole term of the coverage”* (Art. 444)
 - ❑ *“New for old”* (Art. 448)
 - ❑ Reconstitution of the sum assured (Art. 447)
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Cargo Insurance: Particularities

- ❑ Period of cover: from the moment that the cargo leaves the shore to be shipped on board to the moment in which the cargo is on the ground at the port of destination (Art. 455)
- ❑ Cargo insurance extends to trans-shipments, etc. (art. 456) and to carriage by other means of transport accessory to the sea leg (Art. 453)
- ❑ The insurable value cover the value of the cargo in origin, the costs of the carriage and customs plus an increase margin of the 10 % (Art. 454.2)
- ❑ Floating policies are expressly regulated (Art. 458)

Liability Insurance: Particularities

- ❑ The obligation of the insurer began with the occurrence of the damaging event (Art. 465)
 - ❑ Right of direct action: The damaged third party *“will have a direct action against the insurer to demand the fulfillment of the obligation. Any contractual agreement to the contrary is null and void”* (Art. 465)
 - ❑ The insurer can benefit from the same liability regime applicable to the assured (Art. 468)
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Freight Insurance: Particularities

- ❑ Subject to the rules of the vessels insurance (Art. 452)



Other insurances

- ❑ Compulsory civil liability insurance for the carriage of passengers (Art. 300)
 - ❑ Compulsory civil liability insurance in the charter of yachts (Art. 312)
 - ❑ Compulsory civil liability insurance for environmental pollution (Art. 428)
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Conclusion

- ❑ Ambitious project
 - ❑ Follows the international practice
 - ❑ Respect for the national legal background
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Thank you

