



Counter-Terrorism and Border Security Bill

Introduction

The Bill aims to amend the Reinsurance (Acts of Terrorism) Act of 1993 to enable an extension of cover provided by the government-backed terrorism reinsurer Pool Re to include non-damage business interruption losses resulting from acts of terrorism. It also makes provision regarding national security. The first reading took place in the House of Commons on 6 June 2018.

Core aims of the Bill

- Businesses can claim business interruption insurance to include losses from terrorism which do not arise from physical damage to property.
- Extension of Pool Re scheme to include cyber terrorism along with chemical, biological, radioactive and nuclear risks – thereby creating the largest terrorism retro placement in the world.
- Adapting the Pool Re scheme to accommodate real life events.

Background

The purpose of the Bill is to make provisions to extend definitions of offences and punishments and to enable persons at ports and borders to be questioned for national security and other related purposes.

The government hopes that the Bill will ensure that law enforcement and intelligence agencies are equipped with the most up to date and relevant powers necessary to counter the threat of terrorism. Given advancements in technology and contemporary patterns of radicalisation. The government intends for the punishment to properly reflect the crime and for improvements in preventing re-offending.

The Bill is split into three parts:

- Part 1 sets out definitions of terrorist offences and defines the sentencing and management of terrorist offences.
- Part 2 covers border security at ports and borders and gives powers to question and detain persons suspected of involvement in hostile activity.
- Part 3 outlines the final provisions.

Key points

Terrorism reinsurance amendment

The Bill will mean that businesses can claim business interruption insurance to include losses from terrorism which do not arise from physical damage to property.

This is part of an amendment to the Reinsurance (Acts of Terrorism) Act of 1993, which set up the government-backed Pool Reinsurance Company Limited (Pool Re) to guarantee that insurance companies could cover losses resulting from acts of terrorism, regardless of the scale of the claims.

The expansion of cyber cover will mean that cyber terrorism is now included along with chemical, biological, radioactive and nuclear risks – representing the most comprehensive and largest terrorism retro placement in the world.

As has been the case in the past the Pool Re scheme has adapted to accommodate real life events. The Explanatory Notes give the terrorist attack on Borough Market in June 2017 as a recent example and the reasoning behind the clause:

“... there was limited physical damage to [Borough] market, but traders lost business as a result of the week-long closure of the market to enable police to investigate the crime scene. As the losses incurred by Borough Market businesses were not consequential on physical damage to commercial property, any terrorism-related insurance backed by Pool Re and held by those businesses may not have covered such losses...”

“ ...this gap means that some businesses are potentially uninsured for any business interruption losses linked to a terrorist attack but that were not as a result of physical damage. ”



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Next steps

The legislation was introduced in the House of Commons on 6 June 2018.

Having passed through the Committee stage, the Bill will now face remaining stages - firstly facing Report Stage (date yet to be announced) in which the whole of the House of Commons can review the amended form of the Bill and can make further changes.

Given recent terrorist attacks, this is a priority for the government coming back from recess in September 2018.

Industry reaction

Julian Enoizi CEO at Pool Re: "This amendment will close the terrorism insurance gap for businesses up and down the country, which, combined with our efforts to make cover more affordable for SMEs and regional businesses across Great Britain, will increase the resilience of the economy."

Graeme Trudgill, Executive Director at Biba: "Both Biba members and MPs had raised with us the changing nature of terrorism which is leaving businesses exposed. We raised our concerns with Pool Re on the need to extend their scheme. We also recognise the need to encourage more small businesses to buy any kind of terrorism cover as fewer than 3% of SMEs take up any cover at all."

Bob Neill MP, Justice Select Committee Chair: "With recent terrorist attacks in mind, the Sentencing Council has accelerated the process of producing new guidelines to ensure that they are available as soon as possible. While I commend the urgency with which the council has responded, it must not in any way compromise the full and careful consideration of the responses that it has received to its consultation, including our own."

Professor Colin Harvey of QUB School of Law: "There is a risk that the broad scope of this new offence will have a chilling effect and further undermine guarantees on freedom of expression. Although notionally targeted at a member or supporter of a proscribed organisation the offence is of such breadth as to raise legitimate human rights concerns about its scope and potential application."

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