



TB 25

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Reinsurance (Acts of Terrorism) Act 1993

The following is a copy of a notice issued by HM Treasury on 13 December 2004 which provides guidance on interpretation of wording in the Reinsurance (Acts of Terrorism) Act 1993. The definitions issued do not change the scope of cover provided through Pool Re but clarify the existing situation.

Pool reinsurance arrangements: technical notice to industry

Following consultation with the insurance and commercial property industries, the Treasury has today published a set of general principles of interpretation that it would expect to be guided by in its application of the definition of an ‘act of terrorism’ under the Retrocession Agreement between HM Treasury and Pool Re, made in accordance with the Reinsurance (Acts of Terrorism) Act 1993.

The definitions (see below) are aimed at professionals working in the insurance industry as a clarification of the existing cover provided through the Pool Re arrangements.

HM Treasury and Pool Re have also agreed to review the technical detail of the Retrocession Agreement to ensure that it is delivering the intended outcomes and that it is up-to-date where circumstances have changed since 1993.

The government and insurance industry continue to work in partnership through the Pool Re scheme to ensure that terrorism cover remains available for commercial property and business interruption in Great Britain.

The Definition of “Act of Terrorism” in the Reinsurance (Acts of Terrorism) Act 1993



In applying the definition of “acts of terrorism” in section 2(2) of the 1993 Act in the context of the Pool Re scheme, HM Treasury would expect to be guided by the following general principles of interpretation.

In view of the fact that the definition has not been the subject of a judicial decision, these principles cannot be taken as a definitive legal interpretation. Nor are they offered as legal advice to parties who might be affected by the scheme, or as any legally binding undertaking by HM Treasury to any person.

The essence of the definition is the relationship between the act in question and an “organisation”.

“Organisation”

The scope of the term “organisation” is not expressly limited, and includes “any association or combination of persons” (section 2(3)). Diffuse, decentralised structures would not be excluded.

There is no defined upper or lower limit on the numbers of persons required to constitute an “organisation”, and no express minimum duration for its existence as such. However, it is clear that there would need to be a significant element of continuity before an “organisation” could be said to exist: persons acting spontaneously in concert (without more) would be unlikely to constitute an “organisation”, although their actions might still be carried out “on behalf of”, or “in connection with” an organisation (see further below).

“Overthrowing or influencing a government by force or violence”

The organisation must be one that carries out activities directed towards overthrowing or influencing a government by force or violence.

The activities relied on to characterise the organisation need not of themselves be forceful or violent, provided they are directed towards overthrowing or influencing a government by such means (e.g. an organisation whose activities were limited to funding or otherwise supporting the forceful or violent acts of others would not be excluded).

The government in question may be anywhere in the world and may or may not be recognised.



“Multi-purpose” organisations are not excluded. An organisation is not excluded merely because it carries on a diverse range of activities, provided that at least some of them are directed towards the overthrow or influencing of a government by force or violence.

The precise motive, or subject on which influence is sought to be brought to bear makes no difference: it could be political, ethnic, religious, cultural, or anything else.

The “force or violence” envisaged does not have to be carried out by the organisation itself, nor does it need to be successful in its aims. The fact that the organisation’s activities are directed towards the end of exerting influence over a government by force or violence would be sufficient.

The fact that an organisation’s activities are not aimed at specific government targets would not be decisive: the organisation might seek to influence a government by attacking private property, and would not fall outside the definition for this reason.

Acts “on behalf of” or “in connection with” an organisation

The act in question needs to be related to the organisation. However, the act would not need to be carried out by a member of, or person authorised by, the organisation. The fact that it was carried out by a sympathiser, or “cell” acting independently of the organisation’s hierarchy would not exclude it from the definition.

In the case of a sympathiser acting alone, the mere fact of sharing an organisation’s objectives is unlikely to be sufficient. There would probably have to be something additional to connect the act to a specific organisation. However, there would be a variety of circumstances that could potentially establish a connection of the required kind.