

## NEWSLETTER 01/2019

### **DIFFERENCE BETWEEN GOODS IN TRANSIT INSURANCE AND CARRIERS LIABILITY INSURANCE**

Most transporters think that if they have a Goods in Transit policy (covering third party goods whilst in their care, custody and control), that all circumstances are covered, and this is all the cover they need. WRONG!

This obviously depends on the specific policy wording; however, Goods in Transit Insurance policies often have the following conditions: -

- 1) Only New goods are covered for All Risks.
- 2) New Goods (not carried in a fully enclosed vehicle/container), or Second-hand (or similar) are only covered for restricted conditions being fire, collision and overturning of the carrying conveyance, theft following these perils and Hijacking.
- 3) There must be a written contract of carriage – i.e.: no verbal agreements.
  - a) In terms of the Road Traffic Act – The consignee and consignor must have a written contract stating the responsibilities of all parties involved in the transportation of cargo.
- 4) Many policies state that the Goods in Transit Policy is NOT a Carrier's Liability Policy.

Goods in Transit Policies are peril-based policies and not Liability policies.

Goods in Transit policies are for the benefit of the cargo owner whereas a carrier's liability policy is for the benefit of the Transporter.

#### **WHAT IS A CARRIERS LIABILITY POLICY?**

A Carriers Liability policy covers any claims brought against the Transporter where the goods being carried were lost/damaged caused by the fault and/or negligence of the Transporter and/or their Employees / Drivers.

#### **WHEN WOULD A TRANSPORTER CLAIM ON A CARRIERS LIABILITY POLICY?**

Firstly, a Transporter needs to operate on Standard Trading Conditions and/or Specific Contacts (Which need to be approved by Insurers). Depending on what the Transporter has made themselves responsible for (or not), is what Insurers will defend the transporters claim against in the event of a claim brought against them. No STC's = No cover given.

If the Transporters STC's state that all goods are carried at owners risk or perhaps their limit of liability is limited, in the event of a claim brought against the transporter, Insurers will defend the claim, and it would be up to the owner of the goods to prove the transporter was at fault or acted negligently which caused damage to the

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goods. If they can prove this, there would be a claim under the transporters carrier's liability policy.

- 1) Verbal agreement – “He said – she said!” – No written contract of carriage, therefore no claim under the GIT policy, but there could be a claim under the carriers liability policy if there was fault / negligence proven on behalf of the transporter.
- 2) A large piece of second-hand cargo hits an overhead bridge – without the carrying conveyance (being the truck itself) being involved in any collision. There would be no cover under their Goods in Transit Policy, but there could be a claim under the Carriers Liability policy for negligence – due to the transporter not measuring the height of the bridge.
- 3) Elsewhere insured - Most Importantly and the most common example, the goods owner has their own Goods in Transit insurance policy (which is often the case) which includes goods being carried by outside transporters. In view of this, the Goods owner is covering their goods at “Owners Risk” and no responsibility is passed onto the Transporter to insure the goods.

An incident occurs, and the Goods owners insurers pay the claim under the Goods owners Marine / Goods in transit policy. However, in a struggling economy;

- a) The Insurers want to recover their loss from the party responsible for the loss and;
- b) The Goods owner does not want this loss affecting their loss ratio, which could cause insurers to increase their premiums. So, they try and recover from the transporter under subrogation.
- c) The Goods owner wants to recover the applicable excess.

Any claim brought against a Transporter under subrogation, (where there was no responsibility for the goods being passed onto them), will fall under a Carriers Liability policy and not their Goods in Transit Policy. Without this cover in place, the Goods owners and/or their Insurers could go against the Transporter in their personal capacity.

Every Transporter should have a Carriers Liability Policy – over and above their Goods in Transit Policy and can be taken out as a stand alone policy.

Contact us for a quotation.

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