

C.S.

LEGAL
(Ordinances & Acts.)
NAVAL & MILITARY
(Miscellaneous.)

WAR/W2H/5#12

19 41.

No. 74/41.

S. of S.

SUBJECT.

19 41.

2nd June.

WAR DAMAGE ACT, 1941.

Previous Paper.

MINUTES.

1-2. S. of S. Circular despatch of 2. 6. 41.

YH
*Reps 1-2 returned. To await arrival of
Legal Adviser?*

*C. J. Ford.
29/8/41.*

Not required.

[Signature] 28/11/41

3-4. Circular Note from S. of S. of 18. 11. 41.

Legal Adviser.

To see.

*C. J. Ford.
21/2/42.*

Subsequent Paper.

H. B. P.

Seen - Thank you - no action necessary

21-2-42

[Signature] F.A.

S. of S. Circular Note of 30. 1. 42.

5-13.

Legal Adviser

Go see, please.

L.A.
for C.S.
15/4/42.

H. B. S.

Seen, thank you - no action is necessary

L.B.
-L.A.

17-4-42.

8A.

Enc. telegram from S. of S. of 23/4/42. 14.

Y.E. Red 14 referred, pl. N.F.A. at present?

L.A.
for C.S.
24/4/42.

pl

Telegram No. 117 from S. of S. of 27/4/42. 15.

Y.E. Referred, pl.

L.A.
for C.S.
3/4/42.

To Treat? + then L-A for comment

4/10/42

Hon. L.S. for your comments on red (15), pl.

L.A.
for C.S.
4/4/42.

Honorable. (18)
Re: (15) at first sight, this matter appears to be somewhat complicated. Whether or not such scheme would be practicable here, should, I submit, be fully studied before arriving at a definite decision. Since this deals with goods held for sale, including crops in store on plantations, this would involve stocks of goods held by the two Municipal firms, plus three or four smaller firms, in addition to wood stocks (maximum 4,000,000 lbs at any one time) held by farmers. The Govt is responsible for this work, once it is embarked on the "fitzroy" for Montevideo, but previous to this, the risk is borne by the farmer themselves.

Attention is called to (h) which presumably reduces the risks to one of destruction by enemy attack only. Before submitting any further observations, or recommendations I should like to hear what Mr R. A. has to say about it.

Red
for F.S. 14/7/42

R.A. (19)
For your observations, pl. on red 15.

R.A.
14/7/42.

H. B. S. (20)
This is entirely a commercial matter ~~on~~ which I have no knowledge or competence to offer an opinion ~~at~~ at this stage

15-7-42.

H.B.S.
I.A.

(21)
Hon. G.S. To see R.A.'s minute, & for any further comment you may wish to make.

R.A.
15/4/42.

Hon. G.S. (22)

I submit that, if this Government is liable to pay compensation to firms or individuals for any damage to property or destruction of goods as a result of enemy attack on the Island, excepting (h) of the S of S's telegram to 16, it will perhaps be found expedient to put the proposed scheme into operation. If, on the other hand, this Government is not liable for such damage, the scheme is not necessary. It will be interesting to learn H.E.'s views on the subject.

Red
for Financial Secretary.
16/7/1942.

48 minutes by R.A. + J.S. submitted, pl.
 Before any further action is taken, may I
 suggest that the S of S. be asked to send
 the additional information and specimen
 legislation referred to in the final para.
 of rec 15.

A.A.
 J.S.
 15/4/42.

(24)
 I am not quite clear on this subject as it seems
 to me in so small a community there could
 be enough insurable property to average a
 premium within reasonable proportion.

(a) What are the rates for ordinary fire
 insurance & are these rates fixed by the
 Insurance Companies or purely F.I. or a
 part of their total covering?

(b) Perhaps Mr K. Price may have some
 remarks.

A.A.
 17/4/42

Hon. J.S. To you accordingly, pl.
 A.A.
 J.S.
 14/4/42.

(26)
 Honorable.
 The insurance rates as charged by
 The Royal Insurance Co. are 10% percent on wooden
 buildings and 4% percent on stone & galvanized
 iron buildings. These rates are fixed by the
 Insurance Co. & are not plain "Fire Insurance"
 including the usual "act of God, earthquake, war,
 etc.". The estimated value of Buildings, Stocks,
 Furniture, etc. is more or less as follows:

<u>Buildings</u>	Government	£ 97,930.
	J.J. Co's.	135,000.
	Private Property	250,000.
		<hr/>
		£ 482,930.
<u>Machinery, Furniture & fittings</u>		<hr/>
	Government	£ 46,375
	J.J. Co's.	24,000.
	Private individuals	100,000.
		<hr/>
		£ 170,375

Stocks of Merchandise etc.

Government

29 Coll.

Private individuals

£ 20,000..

6,000..

5,000..

£ 85,000.Wool Stocks (Maximum)£ 225,000.

Properties & goods held in the dependencies, are excluded in the above figures.

Red

(27) J.F.S. 20/7/42

Legal Adviser.

There are two points on which I should welcome your opinion.

(1) As things stand at present is Govt. liable for any war damage incurred by firms or individuals? In view of (14) I take it there is only a moral obligation.

(2). In view of (2) in (15) we must consider to what kinds of dangers commodities are subject here. As far as the Camp is concerned I think we can rule out air-attack. This leaves raids & invasion. A raiding party might destroy a stock of wool - but, to do so, they would presumably to seize the settlement first. It seems, therefore, that all damage to stocks in the camp would probably fall under (2). Do you agree with this?

RFB

20/7

OVER

H.C.S.,

Ref. your (1). No - the position is the same as it was in England prior to the passing of the War Damage Act of 1941 but this Act was made retrospective to September 3rd 1939.

Yes - I think Red 14 realizes a moral obligation but hedges on any definite promise.

Ref. your (2). I should not rule out cover against damage in the camps from air-raid. As I read Red 15; when we get the "specimen legislation" (final words) we shall find that it covers everything except seizure owing to enemy occupation or compulsory demolition and, if so, this will be in accordance with the War Damage Act 1941.

All that appears to be necessary at present is a decision before October 1st next on the general proposition - the details will follow when we get the "further information and specimen legislation".

A.B.

Legal Adviser.
29/7/42.

(29)

B.U.

W.F. A.C.S.

Discussed with V-Prin. At first sight we are inclined to agree that any scheme would be impracticable owing to the small number of premium payers involved & its "short-term" nature. Major Maylor is trying to find an Insurance Expert among the troops.

K.B.
3/8

~~*B.U.*~~
~~7/8/42~~

B.U.

15/8/42

(30)

W.F. Telegram from S.A.S.

14.8.42.

(31)

W.F. This L.P. has been held up pending the receipt of advice from Captain's Harquess and Jackson, who are both insurance men in private life. They both say that (h) in para 1 of (15) as applied in the U.K. virtually means that damage to stocks (except from air-raids) due to invasion is excluded. The air-raid risk for wool-stocks held on the Settlements is negligible. ∴ The scheme would only apply to Stanley. The value of insurable stocks in Stanley is estimated at £65,000 & our "advisors" do not consider that more than 1/2% premium could be charged, as compared with 3/8% in U.K. Our premia wd amount to £325 p.a. or a total of £650 in two years - the

probable limit of the scheme. If warson is ruled out as a liability, the only risk is that of air-raid & bombardment.

As things are at present Govt. has a moral obligation to recompense traders. Presumably such compensation would vary from 100% in the case of an old lady with a small shop to a low proportion in the case of the F.F.C. who have lots of money. If we introduce the scheme our liability is increased by far more than the value of the premia received. In addition the introduction of the scheme means extra work & cost, in the opinion of the Treasury, it is not worth while. The Officers concerned.

I agree & suggest that we should tell the S. of S. accordingly.

KB.
18/8

(32)

Pl. let S. of S. : w.s.l. 117 + 134 introduction of the scheme in this Colony is considered unnecessary + not practicable

KB.
19/11/42
(33)

A.C.S.

Tel. urgently please.

KB.
20/8.

34. Telegram No. 167 to S. of S. of 21/8/42.

35-42 S. of S. Despatch No. 39 of 31. 8. 42.

A.C.S. (43)

Since 35-42 were written, K's teleg at 34 has been despatched

KB.
28/9/42

(44).

U.K.

Before sending (167) we considered only the Colony and the Dependencies, but obviously such a scheme would be even more impracticable there. No action necessary?

UB
(45) 28/9.

My (34) answers (35) final para. ∴ n.a. - but the S. of S's communication (42) is not complete.

AP 29/12/42

Circ. note from S. of S. of 31.8.45.

46.

W.S.

DECODE.

TELEGRAM.

No. 251. From SECRETARY OF STATE FOR THE COLONIES.
To HIS EXCELLENCY THE GOVERNOR.

Despatched : 23rd June, 19 42. Time : 1750.

Received : 24th June, 19 42. Time : 1030.

Red ~~2~~ 2.

Circular unnumbered June 23rd. My circular despatch of June 2nd 1941. His Majesty's Government have found it necessary to review the whole question of war damage in the Colonies. The possibility of restoring property or granting compensation for War damage in the Colonial Empire must be related to wider problems of all War damage. It is impossible to foresee at present how problems will be dealt with after the War and in view of the uncertainty H.M. Government feels it impossible to make any definite promise to Colonies at this stage. It is however recognised that the Colonies are entitled to such assurances as can legitimately be given and it has decided that the assurances should be in the following terms :- "It will be the general aim of H.M. Government after the War that, with a view to the well being of the people and the resumption of productive activities, property and goods destroyed or damaged in the Colonial Empire should be replaced or repaired to such extent and over such a period of time as resources permit. If resources of any part of the Colonial Empire are insufficient to enable this purpose to be achieved without aid, H.M. Government would be ready to give what assistance they can in conjunction with such common funds or organisations that may be established for Post War Reconstruction."

It would clearly be impossible for any Colonial Government in the event of extensive War damage to finance any Compensation Scheme without the backing of H.M. Government and I consider therefore the general policy of the Colonial Governments should be not to enact such legislation. Assurances in the terms mentioned above can be given such publicity as you think desirable.

There would be no objection to small payments to relieve hardship being made in the case of a person who through enemy action loses all his goods and chattels and means of his livelihood. H.M. Government would be prepared to stand behind Colonial Governments in the event of such a payment exceeding their resources. No publicity should be givento this arrangement and in the event of any such cases occuring in the territory with which you are concerned I should be consulted before any scale of payment is finally decided.

G. T. G.

SECRETARY OF STATE.

DECODE.

TELEGRAM.

No. 16.

From SECRETARY OF STATE FOR THE COLONIES.
To HIS EXCELLENCY THE GOVERNOR.

Despatched: 2nd July, 19 42. *Time:* 1436.

Received: 3rd July, 19 42. *Time:* 1030.

No. 117. I shall be glad if you will consider whether a Commodity War Risks Insurance scheme should be introduced in the Falkland Islands. Such schemes are in operation or being prepared in various Colonies. They are based generally on United Kingdom scheme but simpler and they are guaranteed by H.M. Government under certain conditions. Outlining guaranteed scheme adopted in most Colonies is as follows :- (a) under the control of Government (b) participation compulsory (c) subject to suitable minimum value (d) applies generally to goods held for sale including crops in store on plantations (e) administered through insurance companies as agents of Government on the terms approved by Treasury (f) premium $\frac{3}{8}$ per cent per month initially (g) any ultimate deficiency insurance fund paid by treasury disposal of any surplus as treasury may direct (h) risks of seizure owing to enemy occupation or compulsory demolition cannot be covered.

It may be that in the case of a small Colony issue of policy collection premiums and assessment of damage could be undertaken by local staff if insurance agents are not available.

The question of guarantee by H.M. Government has recently been under review and it has been decided as it is undesirable action is to be deferred until emergency actually develops which means no accumulation of funds from premium payments is possible no new scheme will be guaranteed unless guarantee is applied for before October 1st next.

If you consider that introduction of a scheme in the Falkland Islands is desirable and would be practicable I will send you further information and specimen legislation.

G.T.C.

SECRETARY OF STATE.

DECODE.

TELEGRAM.

74/41:

(36)

No..166. *From*..... SECRETARY OF STATE FOR THE COLONIES.
To..... HIS EXCELLENCY THE GOVERNOR.

Despatched : 14th August, 19 42. *Time* : 13.25.

Received : 15th August, 19 42. *Time* : 10.30.

(15). No. 134. Shall be grateful for a reply to my telegram No. 117 of July 2nd commodities War Risks Insurance Scheme.

G.T.C.

SECRETARY OF STATE.

DECODE.

34

TELEGRAM.

From HIS EXCELLENCY THE GOVERNOR.

To SECRETARY OF STATE FOR THE COLONIES.

Despatched : 21st August, 19 42. *Time* :

Received : 19 *Time* :

Red 15. *Red 30.*

No. 167. With reference to your telegrams No. 117 and 134 introduction of scheme in this Colony is considered unnecessary and not practicable.

GOVERNOR.

T/KP

7th August, 1941.

To the UNDER-SECRETARY OF STATE,
COLONIAL OFFICE,
Downing Street,
LONDON, S.W.1.

Sir,

War Risk Insurance at South Georgia Island.

Our friends, the Compania Argentina de Pesca, S.A., Buenos Aires, who operate a Whaling Station at GRYTVIKEN, South Georgia, have enquired of us whether it is possible to cover War risk on their property there.

We shall be glad to know, therefore, whether any Scheme is at present in operation, and, if so, is it applicable to goods and fixed property, and to whom should application be made to obtain the required cover?

If a scheme is not in operation perhaps you would kindly inform us whether the matter is at present under consideration.

Thanking you in anticipation of any information you may be able to give us,

We are etc.,

(40)

13502/7/41.

Colonial Office,
Downing Street,
W.1.

25th August, 1941

Gentlemen,

In reply to your letter T/KP of the 7th August I am directed by Lord Moyne to inform you that there is at present no legislation in force applicable to South Georgia regarding compensation for war damage to property. A copy of the War Damage Act 1941 was sent to the Governor of the Falkland Islands shortly after its enactment, with a request that he would consider whether any similar local legislation was required. His reply has not yet been received. Lord Moyne feels considerable doubt, however, whether legislation on those lines would be necessary or, indeed, appropriate in the Falkland Islands and its Dependencies.

I am etc.,

(Sgd.) J.A. CALDER.

MESSRS. WILLIAM BRANDT'S SONS AND COMPANY

LONDON, E.C.3. 6th February, 1942
36, Fenchurch Street.

INSURANCE DEPARTMENT.

T/KP

THE UNDER-SECRETARY OF STATE,
COLONIAL OFFICE,
Downing Street,
S.W.1.

Sir,

Your reference 13502/7/41.

We beg to refer to our letter of the 7th August last and to your reply of the 25th idem, and for the sake of convenience enclose herewith copies.

In view of the changed circumstances since our previous enquiry, we should be glad to know whether any decision has yet been arrived at on the question of covering War risks on property in SOUTH GEORGIA.

Our friends are naturally anxious to protect themselves against loss of or damage to their valuable installation and production, and as undoubtedly Whale and Seal Oil is of greater necessity now, it would seem that every encouragement should be extended to induce them to continue the production of this commodity to the maximum capacity, both in the interests of this country and its allies.

In addition to the question of War risk insurance, coupled with the fact that South Georgia has recently become a more vulnerable area, may we suggest consideration should also be given to the question of compensation in the event of destruction of the property by order of the Government or any Local Authority, to prevent its falling into the hands of the enemy.

We are etc.,
(Sgd.)

Encl.

C O P Y

50

of letter received from

13502/7/41.

COLONIAL OFFICE,
Downing Street,
S.W.1.
dated 25th August, 1941.

Gentlemen,

In reply to your letter T/KP of the 7th August, I am directed by Lord Moyne to inform you that there is at present no legislation in force applicable to South Georgia regarding compensation for war damage to property. A copy of the War Damage Act 1941 was sent to the Governor of the Falkland Islands shortly after its enactment, with a request that he would consider whether any similar local legislation was required. His reply has not yet been received. Lord Moyne feels considerable doubt, however, whether legislation on those lines would be necessary or, indeed, appropriate in the Falkland Islands and its Dependencies.

I am etc.,

(Sgd.) J.A. CALDER.

WM. BRANDT'S SONS & CO.

(37)

London E.C.3.

36, Fenchurch Street.

T/KP

7th August, 1941.

Insurance Department.

To the UNDER-SECRETARY OF STATE,
COLONIAL OFFICE,
Downing Street,
LONDON, S.W.1.

Sir,

War Risk Insurance at South Georgia
Island

Our friends, the Compañia
Argentina de Pesca, S.A., Buenos Aires,
who operate a Whaling Station at
GRYTVIKEN, South Georgia, have
enquired of us whether it is possible
to cover War risk on their property
there.

We shall be glad to know,
therefore, whether any Scheme is at
present in operation, and, if so, is
it applicable to goods and fixed
property, and to whom should
application be made to obtain the
required cover?

If

If a scheme is not in operation, perhaps you would kindly inform us whether the matter is at present under consideration.

Thanking you in anticipation of any information you may be able to give us,

We are etc.,

171

30

Colonial Office,
Downing Street,
S.W.1.

250/9/42.

17th February, 1942

Gentlemen,

I am directed by Lord Moyne to acknowledge the receipt of your letter of the 6th February and to inform you that no proposals for the enactment of War Damage Legislation in the Falkland Islands and its Dependencies have been received from the Governor. As stated in the letter from this Department of the 25th August last, considerable doubt exists whether legislation on the lines of the United Kingdom Act would be appropriate in the Falkland Islands.

2. In the absence of such legislation the question of the grant of compensation in the event of damage to or destruction of property by enemy action would be

a

MESSRS. WILLIAM BRANDT'S SONS AND COMPANY.

a matter for consideration if
and when the occasion should arise.

3. As regards the last paragraph
of your letter, the question of
compensation in respect of property
destroyed in the circumstances
stated would have to be deferred
until after the conclusion of the
war.

4. I am to add that the
Secretary of State will communicate
again with the Governor on the
subject and that a further letter
will be addressed to you as soon
as he is in a position to give an
indication of the policy to be
followed in the matter.

I am, etc.

(Sgd.) J.B. SIDEBOTHAM.

9250/9/42.

23 July, 1942.

Gentlemen,

I am directed by Viscount Cranborne to refer to the letter from this Department of the 17th February last regarding the enactment of War Damage Legislation in the Falkland Islands, and to inform you that the whole question of war damage in the Colonial Empire has now been reviewed.

2. The possibility of restoring property or granting compensation for war damage in the Colonial Empire must be related to the wider problem of all war damage and it is impossible to foresee at present how the problem will be dealt with after the war. After full consideration of the whole question, Colonial Governments have been informed that it will be the general aim of His Majesty's Government after the war that with a view to the well being of the people and the resumption of productive activity, property and goods destroyed or damaged in the Colonial Empire should be replaced or repaired to such extent and over such a period of time as resources permit. If the resources of any part of the Colonial Empire are insufficient to enable this purpose to be achieved without aid, His Majesty's Government would be ready to give what assistance they can in conjunction with such common fund or organisation that may be established for post-war reconstruction.

3. In these circumstances it is not expected

expected that the Government of the Falkland Islands will enact legislation under which buildings in South Georgia can be insured against war damage, and the question of the grant of any compensation in respect of any such property which may be damaged or destroyed must remain for consideration until after the war. The Governor will, however, be asked to examine the possibility of introducing a war risk insurance scheme, on the lines of guaranteed schemes in certain other colonies, to cover goods held for sale.

I am,

Gentlemen,

Your obedient servant,

(*sd*) J. B. Sidelbotham

FALKLAND ISLANDS.
Despatch, No. 39.

Reference: S. of S. 111
telegram of 23rd June, 1942. (111)

Red 111

Transmitted, with the compliments of the Secretary
of State, for the Governor's information.

Date 31st August, 1942.

Date

Nature of Communication.

1941.

7th August

From Wm. Brandt's Son & Co.

25th August

To " " " "

1942.

6th February

From " " " " (with enclosures.)

17th February

To " " " "

23rd July

To " " " "