

WELCAR Developments

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Last Year

- Chairman of JRC
- Work Plan 2010

JRC 2010 Work Plan

- **Energy Seminars** – two planned, March and October/November
- **Wordings**
 - **Construction – WelCar updated – end 2nd Quarter**
 - Political Risk Exclusion and Buyback clause – 1st Quarter
 - Review Making Wells Safe endorsement – end 1st Quarter
 - EED amendment to Termination clause – end 1st Quarter
 - Review & Update LSW 498 Mobile Unit Shift Addendum – 1st/2nd Quarter

JRC WELCAR Sub Committee

- Brian Randall-Watkins Syndicate (Chairman)
- Steve Dyke-Hiscox
- Steve Warren-Canopus
- David Sharp-AAA/INDECS
- Tim Taylor-BLG
- Paul Dawson-Beazley
- Geoff Jones-Catlin
- Duncan Wilson-QBE
- Dudley Chapman-Lloyd Warwick

Progress

- Working on WELCAR revisions for nearly 2 years
- 2nd Quarter of 2010 optimistic
- Progress **has** been made
- Consultation will follow shortly
- Invitation to JRC member to speak

Revised Timetable

- Target April 2011
- Consultation Draft
 - Brokers
 - Assureds
 - Adjusters
 - IMCA (Contractors)
 - Lawyers
- Target end June 2011

History of CAR Policies

- Wide cover
 - “overdeveloped product in an overheated market”
- Low premiums
- Huge claims
- Need to achieve balance

Good Things

- Stability
- No litigation
- A lot of settled claims

Less Good Things

- Schedule B problems
 - CAPEX contingency
 - Change of Risk
- Escalation
- Warranty Surveys
- Contractors
 - Who is “boss”
 - Access to policy

- QA/QC uncertainty
 - Consequences of breach
 - Contractual indemnities/limits
 - Does the contractor have enough “skin in the game”
- Wreck removal (Third Party Liabilities)
- Welding issues
- Contract rates for remedial work (cost v profit)
- Registration of wording

Defective Part

- Most debated topic
- Definition of “Part”
- Buy back
 - Good to have
 - Too expensive
 - Limits too low

What will it look like?

A large, white, stylized question mark is centered on a background of red, vertically pleated curtains. The curtains are lit from above, creating a bright glow at the top and a dark shadow at the bottom. The question mark is simple and bold, with a thick stroke and a small dot at the bottom.

Likely Major Changes

- Escalation
- Warranties
- Definition of “physical damage”
- Defective Part
- Section II Liabilities
- Deletion of Builders Risk Clauses

Escalation

- Clearer language
- Option to buy automatic Escalated Schedule B of 125% at inception subject to quarterly declaration
- Adjustable on completion
- If further increases are required, subject to agreement of insurers but with overall limit of 150% of Schedule B values

Warranties

- Condition precedent to attachment of cover in respect of each operation that Certificate of Approval issued by MWS
- Duty on all Insureds to comply with the recommendations/restrictions of MWS
- Breach of duty will lead to non-recovery for loss arising out of the breach

QA/QC

- Replaced by modified due diligence clause
- No warranty or condition precedent
- General obligation on all insureds to exercise due diligence including requirement for and compliance with QA/QC systems
- Failure to comply will result in non-recovery attributable to failure
- “Other Insureds” will have no access to benefits of the policy if they fail to comply
- If rights of subrogation against a contractor are prejudiced by contract limitations, the Principal Insured will be subject to an additional deductible

Defective Part

- Definition of physical damage

*“A change in state or condition of the **Property Insured** which is permanent, materially impacts its usefulness and is caused by an extraneous and fortuitous event.*

***Property Insured** shall not be regarded as **Physically Damaged** or physically lost solely by virtue of the existence in such **Property Insured** of any defect in design, plan or specification, defect in workmanship, defect in material or latent defect.”*

Defective Part Buy Back

- Still under discussion
- Balance to be struck
 - Accidental damage caused by a design or material defect -v- not guaranteeing the performance or suitability of the work
- Possible buy back

“The cost that would have been incurred to replace, repair or rectify the defect in workmanship, defect in material or latent defect, had such defect been discovered immediately prior to the occurrence of the physical loss and physical damage covered”

Others

- Optional additional cover for search cost
- Optional excess removal of wreck

Section II-Liabilities

- Limited changes
- Cross liabilities clause
- Looking at exclusion of drilling operations
- Scope of liability for damage to existing property
- Looking at the Watercraft Exclusion and endorsement for Excess P&I Cover

The Future

- Personal view
- More menu options
 - Broader cover for defective part
 - Bigger sub-limits for additional covers
 - Watercraft endorsements
 - Deletion of maintenance cover
- Harder look at contractual regime by insurers
 - Identity of contractors
 - Terms of contract

JRC 2011 Work Plan

- **Energy Seminars:** host at least two – March and October/November
 - Andrew Rees (Mat Dan) deepwater drilling wells
 - Contracts forum 24 March 2011
 - Marine Warranty Surveyor Seminar
 - Royal Geological Seminar: 6th July 2011

- **Wordings**
 - OPOL revise and update as accordingly – end Q1
 - Review Making Wells safe endorsement – end Q1
 - Construction – WelCar updated launch - end Q2
 - Removal of Wreck and Abandonment / Pollution – Q2/3
 - Loss of production income – review and refresh – Q3/4

WELCAR Developments

“A Work in Progress”