

Terrorism (Protection of Premises) Draft Bill – what do insurers need to know?

30 May 2023

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The eagerly awaited Terrorism (Protection of Premises Bill), also known as Martyn's Law ("the Bill"), was published in draft form in May. **Insurance tech – the Sky's the limit** The Bill seeks to address the rise in terrorist attacks by keeping citizens safe, reducing the impact of attacks, providing clarity on responsibility for security activity and improving consistency in security considerations and outcomes in the UK.

Applying to over 300,000 premises across the UK, qualifying premises are divided into two tiers with specific obligations. In brief, qualifying premises will be required to:

- undertake terrorism protection training for relevant workers (section 13);
- implement a reasonable set of security measures (section 15);
- appoint a designated senior officer (section 16);
- prepare and maintain a security plan (section 17).

For non-qualifying premises, business owners will be encouraged to voluntarily adopt these measures.

Non-compliance with these obligations could result in fixed penalties of up to the greater of £18 million or 5% of the business' global revenue for enhanced duty premises and qualifying events. The Bill also provides regulatory powers to serve contravention notices, with non-compliance constituting a criminal offence. Notably, Section 42 of the Bill:

'Confers a right of action in any civil proceedings in respect of any contravention or a requirement imposed on any person...'

Consequently, the Bill increases the potential criminal and civil liability for businesses.

Considerations for insurers and underwriters

The Bill increases the possibility of both criminal and civil proceedings being commenced against relevant business, which could potentially be caught under management liability policies. Whilst many such policies exclude claims arising from actual or alleged terrorist incidents, most market exclusions would not exclude claims for failure to comply with the Bill, assuming it is enacted into law. Insurers should therefore review their underwriting appetite and ensure their policy wordings respond (or not, as the case may be) as intended.

Where insurers are prepared to give cover for such claims, it would be sensible to consider whether their pre-inception enquiries and question sets are sufficient to provide the information required to make informed underwriting decisions.

The draft Bill has been published for pre-legislative scrutiny by the Home Affairs Select Committee. We will provide further updates in future editions of The Word as and when the Bill progresses through Parliament.

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