


Lonham Group Ltd v Scotbeef Ltd: Distinguishing representations and warranties

25 March 2025  Felicity Pallas

Earlier this month the Court of Appeal's (CoA) decision in *Lonham Group Ltd (Lonham) v Scotbeef Ltd (Scotbeef)* provided clarification on the interpretation of insurance policy terms and the applicability of the Insurance Act 2015, particularly distinguishing between representations and warranties.

Scotbeef, a meat producer, contracted D&S Storage Ltd (D&S) to store its meat. D&S had an insurance policy with Lonham Group Ltd, initially declaring trading under UK Warehousing Association terms. D&S later switched to Food Storage and Distribution Federation (FSDF) terms, which were not incorporated into its contract with Scotbeef. Following a finding of contamination in its products, Scotbeef brought a claim against D&S, which entered into liquidation. Scotbeef subsequently pursued a claim against Lonham directly under the Third Parties (Rights against Insurers) Act 2010.

The dispute centred around the "Duty of Assured Clause" in the insurance policy, which required D&S to declare its trading conditions at the inception and ensure those conditions were incorporated into all contracts. The central argument of the case was whether this clause was a representation or a warranty and whether it was a condition precedent. In the first instance, the High Court treated the entire Duty of Assured Clause as a representation. It ruled that D&S's failure to incorporate the FSDF terms was a breach of the duty of fair presentation, which did not (on the facts) affect the indemnity under the policy.

The Court of Appeal

The CoA disagreed with the High Court's interpretation of the Duty of Assured Clause. It differentiated the subsections of the clause as follows:

- Subsection (i) was deemed a representation concerning the trading terms at the inception of the policy; and
- Subsections (ii) and (iii) were considered "future warranties" related to ongoing and new trading conditions and were also conditions precedent to liability.

The CoA held that these future warranties were breached by D&S's failure to trade under the declared FSDF terms, which allowed Lonham to decline the claim. The CoA emphasised that each subsection of the clause should be considered on its own merits, rather than forcing a collective interpretation. It highlighted that clear policy wording regarding conditions precedent must be respected, and that such conditions have significant implications for policy coverage.

What does this mean for insurers?

The decision in *Lonham v Scotbeef* clarifies the interpretation of clauses containing both representations and warranties in insurance policies. It underscores the importance of clear and precise policy drafting and the need to understand the implications of each clause independently.

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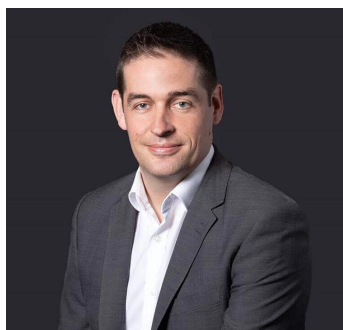


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