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Missing the point

Sir - I am glad that Mr Gallimore (FM September 12) finds my criticism of the SASRIA scheme justifiable, but with great respect I feel he too, has missed the fundamental point.

The real criticism is that governmental intervention into the private sector is seldom, if ever, beneficial to any party. The SASRIA scheme is a typical example of the production of greater confusion instead of clarity.

Regarding Mr Gallimore's comment on the question of burden of proof, repetition does not improve the dubious morality of insurers passing the burden on to the insured. I refer to an excellent article by Sententia in Business Man's Law of May 1

1977 and also Gordon's South African Law of Insurance second edition page 165. from which I quote: "... the cause of the loss is not peculiarly within the insured's knowledge, and the courts do not require him to assume the burden of proving a negative."

I have serious doubts that our courts would uphold the insurers' version of the burden of proof when it so obviously runs contrary to established practice and precedent and makes a mockery of the rule of Contra Proferentem.

The very point I made was that there is nothing to prevent SASRIA and the main insurer both repudiating liability on the grounds that the loss was caused, for instance, by insurrection and not riot. To prove the negative would be almost impossible and the cost well beyond the average man's pocket. The reference from Gordon fits exactly these circumstances.

I do not believe the 1976 riots created anything new in the insurance industry. There was no cause to breed the mongrel monster of SASRIA. The fact that several insurers paid riot claims in 1976 without argument serves to underline the unsatisfactory handling of the political riot scheme.

Henry G Tours, Fincare (Pty) Ltd, Johannesburg.

TREFWOORDE

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3. SASRIA
4. Staatsinsig
5. Verskeuring
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