

JAPAN P&I NEWS

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To the Members

Dear Sirs,

Turkey - Pollution Fines (2016)

In our Special Circular (No.15-007), we informed Members of the Turkish regulations and requirements of compliance as for the discharge of pollution materials in Turkish waters.

This article draws Members' attention to the latest tariff of the fines and supplementary information.

1. Determination of the pollution:

The authorities have the right to determine the pollution and impose a fine in line with the governing regulations. Taking samples, recording by photograph or by video are essential in the relevant regulations; however, in the article 10.5 of the relevant regulation, if the vessel has left the incident place and there is an actual impossibility, issuing a “determination minute” is sufficient to impose a fine. Such an exceptional rule gives an extensive right to the authorities and usually prevents obtaining a favorable result if an objection is filed against the fine before the administrative courts.

It is not a necessity for the authorities to obtain the signature of master to issue a determination minute. If the master refuses to sign the relevant minutes or refrains from taking delivery of the said documents, the authorities can go on with the proceedings and as a result, the vessel will be detained until the payment of the fine. Likewise, there is an exceptional rule for the authorities not to deliver the samples to the masters, if they refuse to get them.

2. Objection against the fine:

An objection can be filed against the fine before the administrative courts within 30 days as of the notification date of the penalty order. As you will understand from the explanations herein above, all evidence is collected by the authorities and it is nearly a

fact that solely a determination minute would be enough to impose the fine. The owners therefore cannot avoid the strict liability by proving that they have exercised all care in order to prevent the pollution. Usually, it is rather difficult to obtain a favorable result from the meritorious aspects.

On the other hand, an objection against the fine shall not block the execution of the penalty.

3. Club LOU:

According to relevant articles of Environment Code, the club guarantees are acceptable to lift the arrest order on the vessel. However, especially in Istanbul, where the major part of the pollution incidents occur, the authorities do not accept Club LOU as a security due to contradictions with their financial rules and insist on cash payment. On other hand, please bear in mind that the Club LOU are accepted on the condition that they will be liquidated by the authorities within short notice. (i.e. 10 days).

(Remark: P&I Clubs will not issue such LOU which can be liquidated by the authorities.)

In line with the Code of Misdemeanor, 25 % reduction must be made, in case a payment would be effected before the deadline of filing an objection (within 30 days as of notification date of the imposed fine), which does not prejudice the right of objection.

4. Tariff of Fines ver. 2016

The latest tariff of the fines is as follows. In line with article 23 of the Environment Code, in case the acts, which necessitated administrative fines to be imposed, are repeated in three years time as of the date of such acts, the administrative fine shall be doubled for the first repeat and it shall be tripled for the second and following repeats.

(1) Petrol and Petroleum products discharged into sea by tankers:

- a) Up to 1,000 (inclusive) gross tons: 81.78 TL per ton
- b) Between 1,000 and 5,000 (inclusive) gross tons: 20.40 TL per ton
- c) Over 5,000 gross tons: 1.96 TL per ton

(2) Dirty ballast discharged into sea by tankers

- a) Up to 1,000 (inclusive) gross tons: 61.32 TL per ton
- b) Between 1,000 and 5,000 (inclusive) gross tons: 12.23 TL per ton
- c) Over 5,000 gross tons: 1.96 TL per ton

(3) Petro and Petroleum products and dirty ballast discharged into sea by vessels or any other means of transportation by sea

- a) Up to 1,000 (inclusive) gross tons: 40.87 TL per ton
- b) Between 1,000 and 5,000 (inclusive) gross tons: 8.14 TL per ton
- c) Over 5,000 gross tons: 1.96 TL per ton

(4) Garbage and sewage discharged into sea by vessels or any other means of transportation by sea

- a) Up to 1,000 (inclusive) gross tons: 20.40 TL per ton
- b) Between 1,000 and 5,000 (inclusive) gross tons: 4.03 TL per ton
- c) Over 5,000 gross tons: 0.77 TL per ton

Yours faithfully,

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