



THE JAPAN SHIP OWNERS' MUTUAL PROTECTION & INDEMNITY ASSOCIATION

SPECIAL CIRCULAR

No. 17-014
31 January 2018

To the Members

Dear Sirs,

Alterations to the Rules of the Association

As described in our circular of 30 November 2017 (No. 17-007), the following alterations to the Rules of the Association (the "Rules") will become effective from 12 noon GMT on 20 February 2018 for the 2018 Policy Year. The amendments are explained below, and extracts of the relevant provisions are attached hereto.

Rule 10(2) (Continuation of Insurance Contract)

Rule 16.2 and 3 (Maintenance of Classification and Compliance with Statutory Requirements)

The purpose of these alterations is to make it clear that the Association may cancel the contract of insurance if the Entered Ship ceases to be classed or qualified with a Classification Society or other equivalent and competent organisation approved by the Association, as such classification or qualification is a condition of the contract of insurance.

Rule 19.1(1)(e) (Liabilities in Respect of Seamen)

The purpose of this alteration is to add a new subparagraph providing for coverage of costs and expenses for which Members are socially responsible, subject to prior approval by the Association.

Rule 25.1 (Liabilities in Respect of Pollution)

The twin purpose of this alteration is (1) to clarify the source of escape or discharge of pollutants, and (2) in accordance with an amendment to the IG Pooling Agreement, to adopt a generic reference to the York Antwerp Rules without reference to any specific version.

Rule 30(1) (General Average)

The purpose of this alteration is to amend the wording. (The content of the Rule itself is not changed.)

A Rule Book for the 2018 Policy Year is scheduled to be delivered to Members in early February 2018.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

Proposed Changes to the Rules of the Association for the 2018 Policy Year

(The underlined parts are to be changed.)

RULE 10 CONTINUATION OF INSURANCE CONTRACT

Existing Rules	New Rules
<p>The insurance contract shall continue to run from Policy Year to Policy Year except for the case that the insurance contract terminates for one of the following reasons:</p> <p>(1) When a Member withdraws from the Association in accordance with the provision of Article 13 of the Articles of the Association.</p> <p>(2) When the contract of insurance is cancelled in accordance with the provisions of Rules 2.1, 8.2(3), 17.2.</p> <p>(3) When a Member ceases to be insured by the Association in accordance with the provision of Rule 11.</p> <p>(4) In addition to the preceding items, when the Association deems it justifiable to discontinue a Member's contract for the next Policy Year and notifies him to that effect not later than one (1) month prior to the end of the insurance period.</p> <p>(5) When a Member notifies the Association in writing that he does not desire to continue the insurance contract not later than one (1) month prior to the end of the insurance period.</p>	<p>The insurance contract shall continue to run from Policy Year to Policy Year except for the case that the insurance contract terminates for one of the following reasons:</p> <p>(1) Unchanged</p> <p>(2) When the contract of insurance is cancelled in accordance with the provisions of Rules 2.1, 8.2(3), <u>16.2(1)</u> and 17.2.</p> <p>(3) Unchanged</p> <p>(4) Unchanged</p> <p>(5) Unchanged_</p>

RULE 16 MAINTENANCE OF CLASSIFICATION AND COMPLIANCE WITH STATUTORY REQUIREMENTS

Existing Rules	New Rules
<p>1 Unless otherwise agreed between the Member and the Association, the Member shall warrant the following conditions in respect of maintenance of classification and compliance with statutory requirements of an Entered Ship:</p> <p>(1) The ship must be, and be throughout the period of entry, classed or qualified with a Classification Society or other equivalent and competent organization (hereinafter called "Classification Societies") approved by the Association.</p> <p>(2) The Member must promptly report to the Classification Societies any incident or condition in respect of which the Classification Societies may make recommendations as to repairs or other action to be taken by the Member.</p> <p>(3) The Member must comply with all the rules, recommendations and requirements of the Classification Societies relating to the Entered Ship within the time(s) specified by the Societies.</p> <p>(4) The Member shall give its cooperation to the Association in directly referring to Classification Societies concerning the maintenance of the class of the Entered Ship if the Association may consider it necessary to do so.</p> <p>(5) The Member shall immediately inform in writing the Association if, at any time during</p>	<p>1 Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p> <p>(3) Unchanged</p> <p>(4) Unchanged</p> <p>(5) Unchanged</p>

<p>the period of entry, the Classification Societies with which the Ship is classed is changed.</p> <p>(6) The Member must comply with all statutory requirements of the state of the Entered Ship's flag relating to the construction, adaptation, condition, fitment, equipment, manning, operation and management of the Entered Ship, and must at all times maintain the validity of such statutory certificates as are issued by or on behalf of the state of the Entered Ship's flag in relation to such requirements and in relation to the International Safety Management (ISM) Code and the International Ship and Port Facility Security (ISPS) Code.</p> <p>2 In the case of the Member failing to comply with the requirements referred to in the preceding paragraph, the Association may <u>reject any claim by the Member against the Association arising out of the casualty, or reduce the amount payable by the Association in respect thereof.</u></p>	<p>(6) Unchanged</p> <p>2 In the case of the Member failing to comply with the requirements referred to in the preceding paragraph, the Association may:</p> <p><u>(1) cancel the contract of insurance</u></p> <p><u>(2) reject the payment of claims or reduce the amount thereof under the contract of insurance in respect of the Entered Ship.</u></p> <p><u>3 The cancellation of the contract of insurance by the Association referred to in the preceding paragraph shall become effective on the day of the occurrence of the conduct by the Member which would entitle the Association to cancel the entry of the Entered Ship.</u></p>
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Explanation:

The alterations to Rule 10(2), 16.2 and 16.3 are make it clear that the Association may cancel the contract of insurance if the Entered Ship ceases to be classed or qualified with a Classification Society or other equivalent and competent organization approved by the Association.

RULE 19 LIABILITIES IN RESPECT OF SEAMEN

Existing Rules	New Rules
<p>1 The Association shall indemnify a Member for the following liabilities, costs and expenses which the Member may incur in respect of seamen who are employed on board an Entered Ship under working regulations or a contract of employment (hereinafter referred to as "Seamen", or "Seaman", as the case may be) or any others who have been approved as Seamen by the Association.</p> <p>(1) LIABILITIES, COSTS AND EXPENSES IN RESPECT OF DEATH, INJURY, ETC.</p> <p>The following liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of a Seaman's death, being missing, injury or illness (hereinafter collectively called "Death or Injury").</p> <p>(a) Costs and expenses for rescuing the life of and/or searching the body of a Seaman, provided always that there shall be no recovery from the Association if such costs and expenses are recoverable from hull underwriters, cargo owners or any other</p>	<p>1 Unchanged</p> <p>(1) LIABILITIES, COSTS AND EXPENSES IN RESPECT OF DEATH, INJURY, ETC.</p> <p>The following liabilities which a Member may incur, together with costs and expenses incidental thereto, in respect of a Seaman's death, being missing, injury or illness (hereinafter collectively called "Death or Injury").</p> <p>(a) Unchanged</p>

<p>parties.</p> <p>(b) Liability to pay damages and/or compensation under legal requirements or under the terms of any collective labour agreement, ship regulations or contract of employment previously approved by the Association (hereinafter called "Contracts") in respect of the Seamen of the Entered Ship.</p> <p>(c) Costs and expenses for delivery of the corpse, remains and personal effects of a deceased Seaman to his bereaved family.</p> <p>(d) Liability to pay costs and expenses for funeral services performed by the Member in case of Seaman's death having connection with his work.</p> <p>(2) UNEMPLOYMENT INDEMNITY Wages or compensation payable by a Member to a Seaman under a statutory obligation, crew agreement or other contract of service, for unemployment which arises in consequence of the actual or constructive total loss of an Entered Ship, or a marine casualty which renders the vessel unseaworthy.</p> <p>(3) LOSS OF/OR DAMAGE TO SEAMEN'S PERSONAL EFFECTS Payments made by a Member based on law or contract as allowance or compensation in respect of the loss of or damage to a Seaman's personal effects caused by a marine casualty, provided always that the amount shall be approved by the Association.</p> <p>(4) EXPENSES FOR SUBSTITUTE SEAMEN Expenses necessarily incurred in providing a substitute for a Seaman who died or is unfit for duty by reason of injury or other causes approved by the Association at its discretion.</p> <p>(5) DEVIATION EXPENSES Extra costs of fuel, insurance, Seamen's wages, stores, provisions and port charges incurred by a Member by the deviation of the Entered Ship solely for the purpose of disembarkation of Seamen and/or embarkation of substitute in case of a Seaman's death or injury or strike or other causes approved by the Association at its discretion.</p> <p>(6) REPATRIATION Expenses necessarily incurred (a) in repatriating a Seaman who is unfit for duty because of his injury or illness and/or the ship being involved in a marine casualty or other causes approved by the Association at its discretion; or (b) in respect of a repatriation under the Maritime Labour Convention, 2006 (MLC, 2006) or domestic legislation by a State Party implementing MLC, 2006.</p> <p>(7) EXPENSES INCURRED RELATING TO THE SEAMEN LEFT ASHORE Expenses incurred by or chargeable to a Member under statutory obligation in respect</p>	<p>(b) Unchanged</p> <p>(c) Unchanged</p> <p>(d) Unchanged <u>(e) Costs and expenses for which the Member is socially responsible, subject to prior approval by the Association.</u></p> <p>(2) Unchanged</p> <p>(3) Unchanged</p> <p>(4) Unchanged</p> <p>(5) Unchanged</p> <p>(6) Unchanged</p> <p>(7) Unchanged</p>
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<p>of a Seaman who have not returned to an Entered Ship and have been left ashore due to desertion, strike or other reasons approved by the Association at its discretion, where such expenses cannot be recovered from the Seaman himself.</p> <p>(8) OUTSTANDING WAGES AND OTHER ENTITLEMENTS Seaman's outstanding wages and other entitlements due from a Member to a Seaman under the Maritime Labour Convention, 2006 (MLC, 2006) or domestic legislation by a State Party implementing MLC, 2006.</p> <p>2 Notwithstanding the provisions of the preceding paragraph, there shall be no recovery from the Association in respect of the following liabilities, costs and expenses:</p> <p>(1) In case of Seamen being required by law or ordinance to be insured against their risks of death, injury or illness, the portion covered by such insurance irrespective of whether or not he is actually so insured.</p> <p>(2) Additional liabilities, costs and expenses arising under the terms of a contract or indemnification which has not been approved in advance by the Association.</p> <p>(3) Liabilities, costs and expenses which arise out of or in the consequence of:</p> <p>(a) the termination of a Seaman's period of service on an Entered Ship either in accordance with the terms of a crew agreement or other contract of service or employment or by mutual consent of the parties to it; or</p> <p>(b) breach by a Member of any agreement or other contract of service or employment; or</p> <p>(c) sale or any other voluntary disposition by a Member of the Entered Ship.</p> <p>3 The maximum amount of cover for liability to passengers and Seamen is the amount specified in the Certificate of Entry, or the limited amount stipulated in the Pooling Agreement, if applicable, whichever is the lesser.</p> <p>4 Where a Member has failed to discharge a legal liability to pay damages, compensation or expenses specified in Rule 19.1(1), the Association shall discharge or pay such claim on the Member's behalf directly to such Seaman or dependent thereof.</p> <p>PROVIDED ALWAYS that</p> <p>(i) the Seaman or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,</p> <p>(ii) subject to (iii) below, the amount payable by the Association shall under no circumstances exceed the amount which the Member would have been able to recover from the Association under the Rules and the Member's</p>	<p>(8) Unchanged</p> <p>2 Unchanged</p> <p>3 Unchanged</p> <p>4 Unchanged</p>
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<p>terms of entry,</p> <p>(iii) where the Association is under no liability to the Member in respect of such claim in accordance with Rule 8.2(3) by reason of cancellation for non-payment of amounts due to the Association, the Association shall nevertheless discharge or pay that claim to the extent only that it arises from an event occurring prior to the effective date of cancellation, but as agent only of the Member, and the Member shall be liable to reimburse the Association for the full amount of such claim.</p> <p>(iv) notwithstanding the provisions of Rule 18, even if the Member has not paid that claim, the Association shall pay such claim directly to the Seaman or dependent thereof.</p>	
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Explanation:

The alteration to Rule 19.1(1)(e) is to add a new subparagraph providing for coverage of costs and expenses for which the Member is socially responsible, subject to prior approval by the Association.

RULE 25 LIABILITIES IN RESPECT OF POLLUTION

Existing Rules	New Rules
<p>1 The Association shall indemnify a Member for the liabilities, costs and expenses set out in subparagraphs (1) to (5) below when and to the extent that they are caused by or incurred in consequence of the escape or discharge of oil carried as cargo, fuel oil or other pollutants, or the threat of the escape or discharge thereof.</p> <p>Provided always that:</p> <p>(a) unless otherwise approved in advance by the Association there shall be no recovery from the Association in respect of such liabilities, costs and expenses which would have been allowable in general average under the York Antwerp Rules <u>1974, 1994 or 2016</u>;</p> <p>(b) unless otherwise determined by the Association in its discretion, there shall be no recovery in respect of any liability for loss, damage, cost and expenses arising as a consequence of the discharge or escape, or the threat of discharge or escape, or the presence of any substance, material, product, or waste determined or deemed to be hazardous, in any dump, site, storage or disposal facility, whether or not such substance, material, product or waste was previously carried on an Entered Ship as cargo, fuel or stores.</p> <p>(1) DAMAGE TO A THIRD PARTY Liability for compensation payable to a third party arising out of damages caused by an escape or discharge of oil or other pollutants.</p> <p>(2) CLEAN-UP COSTS The costs of any measures reasonably taken</p>	<p>1 The Association shall indemnify a Member for the liabilities, costs and expenses set out in subparagraphs (1) to (5) below <u>(unless covered under Rule 23.1(4)(d) and (e))</u> when and to the extent that they are caused by or incurred in consequence of the escape or discharge of oil carried as cargo, fuel oil or other pollutants <u>from an Entered Ship or other property</u>, or the threat of the escape or discharge thereof.</p> <p>Provided always that:</p> <p>(a) unless otherwise approved in advance by the Association there shall be no recovery from the Association in respect of such liabilities, costs and expenses which would have been allowable in general average under the York Antwerp Rules;</p> <p>(b) Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p>

<p>for the purpose of avoiding, minimizing or cleaning up any pollution and/or any losses or damages, including those losses arising out of the measures so taken.</p> <p>(3) PREVENTION COSTS The costs of any measures reasonably taken to prevent an imminent danger of escape or discharge of oil or other pollutants.</p> <p>(4) AGREEMENT Liability for loss, damage or expenses for which the Member is liable as a party to any agreement relating to oil pollution approved in advance by the Association.</p> <p>(5) GOVERNMENT ORDER The liabilities or costs incurred as a result of compliance with any order or direction given by any government or government authority for the purpose of preventing or reducing an escape or discharge of oil or any other pollutants. Provided always that there shall be no recovery from the Association in respect of the following liabilities or costs: (a) The liabilities or costs incurred as a result of compliance with any order or direction for the normal operation or salvage or repair of the Entered Ship. (b) The liabilities or costs recoverable under the Hull Policies of the Entered Ship.</p> <p>(6) SPECIAL COMPENSATION TO SALVORS Liability of the Member to pay special compensation to a salvor of the Entered Ship under the terms of the Special Compensation P & I Clubs (SCOPIIC) Clause or similar compensation clause approved by the Association, or in respect of work done or measures taken to prevent or minimize damage to the environment, but only to the extent that such liability is imposed on the Member pursuant to Article 14 of the International Convention on Salvage, 1989, or the terms of a standard form of Salvage Agreement approved by the Association.</p> <p>2 The maximum amount of cover for oil pollution is the amount specified in the Certificate of Entry, or the limited amount stipulated in the Pooling Agreement, if applicable, whichever is the lesser.</p>	<p>(3) Unchanged</p> <p>(4) Unchanged</p> <p>(5) Unchanged</p> <p>(6) Unchanged</p> <p>2 Unchanged</p>
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Explanation:

The alterations to Rule 25.1 are (1) to clarify the source of escape or discharge of pollutants, and (2) in accordance with an amendment to the IG Pooling Agreement, to adopt a generic reference to the York Antwerp Rules without reference to any specific version.

RULE 30 GENERAL AVERAGE

Existing Rules	New Rules
<p>The Association shall indemnify a Member for its expenses concerning the contribution of general average, as set out in the following subparagraphs: (1) UNRECOVERABLE CARGO'S PROPORTION OF GENERAL AVERAGE</p>	<p>The Association shall indemnify a Member for its expenses concerning the contribution of general average, as set out in the following subparagraphs: (1) UNRECOVERABLE CARGO'S PROPORTION OF GENERAL AVERAGE</p>

<p>Cargo's or some other party's proportion of general average, special charge or salvage which are not legally recoverable solely by reason of a breach by the Member of the contract of carriage, <u>such as unseaworthiness</u>, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable.</p> <p>(2) SHIP'S PROPORTION OF GENERAL AVERAGE</p> <p>Ship's proportion of general average, special charge or salvage which are not recoverable under the Hull Policies by reason of the value at the sound condition of the Entered Ship being assessed for contribution to general average or salvage in excess of the insured value (or the amount insured under the Excess Loss Special Insurance) under such policies.</p> <p>However if the Association considers the insured value under such policies to be unreasonable low, the Association may determine the sums to be paid on the basis of its proper value, which shall be assessed by the Association in reference to the market value of the Entered Ship at the time of the incident.</p>	<p>Cargo's or some other party's proportion of general average, special charge or salvage which are not legally recoverable solely by reason of a breach by the Member of the contract of carriage, subject always to the Entered Ship being insured by the Association for cover for the Member's responsibilities in respect of cargo under Rule 29 and Rule 29.2 shall be applicable.</p> <p>(2) Unchanged</p>
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Explanation:

The alteration to Rule 30(1) is to amend the wording.