



THE JAPAN SHIP OWNERS' MUTUAL PROTECTION & INDEMNITY ASSOCIATION

SPECIAL CIRCULAR

No. 15-015
12 January 2016

To the Members

Dear Sirs,

ALTERATIONS TO THE RULES OF THE ASSOCIATION

As described in our circular of 24 November 2015 (No.15-011), the following alterations to the Rules of the Association (the "Rules") will become effective from 12 noon GMT on 20 February 2016 (the 2016 Policy Year). There will also be an alteration to the Special Clauses. The amendments are explained below, and extracts of the relevant provisions are attached hereto.

1. Alterations to the Rules

RULE 19-1(6)(b) and (8) (LIABILITIES IN RESPECT OF SEAMEN)

The purpose of this alteration is to extend the scope of cover for a Member's liabilities, costs and expenses related to a seafarer's outstanding wages and other entitlements to a maximum of 4 months in case of the Member's insolvency, as required by the amended financial security provisions of the Maritime Labour Convention, 2006, which will come into force in January 2017.

RULE 35-1(7) (RISKS GENERALLY EXCLUDED)

The purpose of this alteration is to clarify, in accordance with the Pooling Agreement, the risks excluded in respect of an entered vessel carrying out drilling or production operations in connection with oil or gas exploration or production. This exclusion shall not apply if there is a special advance agreement for coverage between a Member and the Association.

RULE 35-1(10) and (11) (RISKS GENERALLY EXCLUDED)

The purpose of this alteration is to clarify, in accordance with the Pooling Agreement, what is excluded by this Clause but which can be covered if there is a special agreement for coverage in advance between a Member and the Association in respect of the operation of submarines and the activities of professional or commercial divers.

2. Alteration to the Special Clauses

SPECIAL CLAUSE FOR VOYAGES AFFECTED BY SANCTIONS

The purpose of this alteration is to add clauses to allow the Association to cancel any certificate required for the purposes of compliance with international conventions, such as the Protocol of 2002 to the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Nairobi International Convention on the Removal of Wrecks, 2007, which have come into force since this Special Clause was introduced.

Yours faithfully,

The Japan Ship Owners' Mutual Protection & Indemnity Association

Changes to the Rules of the Association for the 2016 Policy Year

(The underlined parts are to be changed.)

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. 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 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>1 Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p> <p>(3) Unchanged</p> <p>(4) Unchanged</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</p> <p>(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</p> <p>(b) in respect of a repatriation under the 2006 Maritime Labour Convention (MLC 2006) or domestic legislation by a State Party Implementing MLC 2006, but limited to the amount of the Association's retention as notified to a Member. Notwithstanding the provisions of Rule 8.2(3) and Rule 11, the Association may in its discretion discharge or pay such expenses under Rule 19.1(6)(b) incurred within the earlier of three (3) months of the date of the cesser by reason of insolvency or termination of the insurance contract, subject always to the insurance period. Provided always that the following cases shall be excluded:</p> <p>(i) Cessation of insurance contract under Rule 11.1(1)</p> <p>(ii) Cessation of insurance contract under Rule 11.3(3)</p> <p>(7) EXPENSES INCURRED RELATING TO THE SEAMEN LEFT ASHORE Expenses incurred by or chargeable to a Member under statutory obligation in respect 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>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</p>	<p>(5) Unchanged</p> <p>(6) Unchanged</p> <p>(a) Unchanged</p> <p>(b) in respect of a repatriation under <u>the Maritime Labour Convention, 2006 (MLC, 2006)</u> or domestic legislation by a State Party implementing <u>MLC, 2006</u>, but limited to the amount of the Association's retention as notified to a Member. Notwithstanding the provisions of Rule 8.2(3) and Rule 11, the Association may in its discretion discharge or pay such expenses under Rule 19.1(6)(b) incurred within the earlier of three (3) months of the date of the cesser by reason of insolvency or termination of the insurance contract, subject always to the insurance period. Provided always that the following cases shall be excluded:</p> <p>(i) Cessation of insurance contract under Rule 11.1(1)</p> <p>(ii) Cessation of insurance contract under Rule 11.3(3)</p> <p>(7) Unchanged</p> <p><u>(8) OUTSTANDING WAGES AND OTHER ENTITLEMENTS</u> <u>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, provided however that the cover is provided in accordance with such conditions as the Association otherwise provides.</u></p> <p>2 Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p>
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RULE 35 RISKS GENERALLY EXCLUDED

Existing Rules	New Rules
<p>1 The Association shall not indemnify liabilities, costs and expenses arising out of the following events or circumstances:</p> <p>(1) Liabilities, costs and expenses caused by wilful misconduct of the Member himself or his agent.</p> <p>(2) Liabilities, costs or expenses irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member (or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was caused by:</p> <p>(a) war, civil war, revolution, rebellion, insurrection or civil strife arising therefrom, or any hostile act by or against a belligerent power, or any act of terrorism;</p> <p>(b) capture, seizure, arrest, restraint or detainment (barratry and piracy excepted) and the consequences thereof or any attempt thereat;</p> <p>(c) mines, torpedoes, bombs, rockets, shells, explosives or other similar weapons of war, provided that this exclusion shall not apply to liabilities, costs and expenses which arise solely by reason of</p> <p>(i) the use of any such weapons, either as a result of government order or with the agreement in writing of the Association where the reason for such use was the avoidance or mitigation of liabilities, costs or expenses which would otherwise fall within the cover given by the Association, or</p> <p>(ii) the transport of any such weapons whether on board or not.</p> <p>However a Member may recover from the Association the liabilities, costs and expenses which arise or are incurred as a result of (a) to (c) above if there is a special agreement between the Member and the Association. In the event of any dispute as to whether or not any act constitutes an act of terrorism, the decision of the board of directors shall be final.</p> <p>Provided always that the exclusion set out in this Rule 35.1(2) shall not apply to the event that liabilities, costs and expenses of a Member are directly or indirectly caused by or contributed to by or arising from</p> <p>(i) any chemical, biological, biochemical or electromagnetic weapon, or</p> <p>(ii) the use or operation, as a means for inflicting harm, of any computer, computer system, computer software programme, malicious code, computer virus or process or any other electronic system.</p> <p>Provided however that any recovery from the Association in respect of such liabilities, costs and expenses of a Member in this paragraph which are not excluded by Rule 35.1(2), shall be subject to such terms and conditions as the Association separately provides. At any time or times before, or at the commencement of, or during the Policy Year,</p>	<p>1 Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p>

<p>this cover may be changed, cancelled or reinstated by the Association in its discretion, giving 24 hours prior notice to the Member.</p> <p>Provided always that liabilities, costs, losses and expenses arising from the following shall not be covered:</p> <ul style="list-style-type: none"> (i) explosives or the methods of the detonation or attachment thereof, (ii) the use of the entered ship or its cargo as a means for inflicting harm, unless such cargo is a chemical or bio-chemical weapon, or (iii) the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance system and/or firing mechanism of any weapon or missile. <p>(3) Liabilities, costs or expenses (irrespective of whether a contributory cause of the same being incurred was any neglect on the part of the Member or his servants or agents) when the loss or damage, injury, illness or death or other accident in respect of which such liability arises or cost or expense is incurred, was directly or indirectly caused by or arises from:</p> <ul style="list-style-type: none"> (a) ionising radiations from or contamination by radioactivity from any nuclear fuel or from any nuclear waste or from the combustion of nuclear fuel (b) the radioactive, toxic, explosive or other hazardous or contaminating properties of any nuclear installation, reactor or other nuclear assembly or nuclear component thereof (c) any weapon or device employing atomic or nuclear fission and/or fusion or other like reaction or radioactive force or matter (d) the radioactive, toxic, explosive or other hazardous or contaminating properties of any radioactive matter <p>other than liabilities, costs and expenses arising out of carriage of "excepted matter" (as defined in the Nuclear Installations Act 1965 of the United Kingdom or any regulations made thereunder) as cargo in an Entered Ship.</p> <p>(4) Liabilities, costs and expenses arising out of or consequent upon an Entered Ship's carrying contraband, blockade running and being employed in an unlawful trade.</p> <p>(5) Liabilities, costs and expenses arising out of any voyage of an Entered Ship which the Association in its opinion having regards to all the circumstances, shall deem as imprudent, unduly hazardous and indiscreet.</p> <p>(6) Liabilities, losses, costs and expenses arising out of salvage operations (including for the purpose of this paragraph, wreck removal) conducted by an Entered Ship except for the case of saving or attempting to save life at sea, or the case of salvage operations conducted by a Ship constructed for the purpose of salvage provided a special agreement shall be made between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution.</p>	<p>(3) Unchanged</p> <p>(4) Unchanged</p> <p>(5) Unchanged</p> <p>(6) Unchanged</p>
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<p>(7) Liabilities, costs and expenses arising out of specialist operations (but excluding fire-fighting) including but not limited to dredging, blasting, pile-driving, well-stimulation, cable or pipe laying, construction, installation or maintenance work, core sampling, depositing of spoil, professional oil spill response or professional oil response training and tank cleaning (otherwise than on the Entered Ship). Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member if there is a special agreement for coverage therefor between the Member and the Association, or in respect of following incidents:</p> <ul style="list-style-type: none"> (a) loss of life, injury or illness of crew and other personnel on board the Entered Ship (b) the wreck removal of the Entered Ship (c) oil pollution emanating from the Entered Ship or the threat thereof 	<p><u>(7) Liabilities, costs and expenses arising out of the following vessel or operations:</u></p> <p><u>(a) Liabilities, costs and expenses incurred in respect of an Entered Ship constructed or adopted for the purpose of carrying out drilling operations in connection with oil or gas exploration or production, or</u></p> <p><u>(b) Liabilities, costs and expenses incurred in respect of an Entered Ship carrying out drilling or production operations in connection with oil or gas exploration or production, including any accommodation unit moored or positioned on site as an integral part of any such operations, to the extent that such liabilities, costs or expenses arise out of or during those operations.</u></p> <p><u>For the purpose of paragraph (7)(b) above, the Entered Ship shall be deemed to be carrying out production operations if (inter alia) it is a storage tanker or other vessel engaged in the storage of oil (hereinafter in this paragraph referred to as "storage vessel"), and either:</u></p> <ul style="list-style-type: none"> <u>(i) the oil is transferred directly from a producing well to the storage vessel; or</u> <u>(ii) the storage vessel has oil and gas separation equipment on board and gas is being separated from oil whilst on board the storage vessel other than by natural venting.</u> <p><u>In respect of any Entered Ship employed to carry out production operations in connection with oil or gas production, the exclusion shall apply:</u></p> <ul style="list-style-type: none"> <u>(i) from the time that a connection, whether directly or indirectly, has been established between the Entered Ship and the well until such time that the Entered Ship has been disconnected from the well as part of a planned procedure to leave the site for the purpose of navigation to shore or to another production site; or</u> <u>(ii) where the Entered Ship is unintentionally, as well as intentionally as an emergency response, disconnected from the well; or</u> <u>(iii) where the Entered Ship remains connected to the well, but the production is shut down, whether or not as an emergency response.</u> <p><u>Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred in respect of the Entered Ship if there is a special agreement for coverage therefor between the Member and the Association.</u></p> <p><u>(8) Unchanged</u></p>
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<p>(8) Liabilities, costs and expenses arising out of burning or disposal of waste or other special operations.</p> <p>(9) Liabilities, costs and expenses arising out of the operation of submarines or under-water vessels of equipment, unless the Association shall otherwise decide.</p> <p>(10) Loss of or damage to or wreck removal of cargo carried on a semi-submersible heavy lift vessel or any other vessel designed exclusively for the carriage of heavy lift cargo, save to the extent that such cargo is being carried under the terms of a contract on Heavycon terms or any other terms approved by the Association.</p> <p>2 ~3 Omitted</p>	<p><u>(9)</u> Unchanged</p> <p><u>(10) Liabilities, costs and expenses arising out of the operation of submarines including mini-submarines, diving bells or other similar equipment or craft unless otherwise agreed between a Member and the Association in advance.</u></p> <p><u>(11) Liabilities, costs and expenses arising out of the activities of professional or commercial divers. Provided always that this exclusion shall not apply to liabilities, costs and expenses incurred by a Member if there is a special agreement for coverage therefor between the Member and the Association, or in respect of any of the following:</u></p> <p><u>(i) activities arising out of salvage operations being conducted by the Entered Ship where the divers form part of the crew of that Entered Ship (or of diving bells or other similar equipment or craft operating from the Entered Ship) and where the Member is responsible for the activities of such divers, on the condition that a special agreement has been made in advance between the Member and the Association concerning liabilities during salvage or salvor's liabilities for oil pollution; and</u></p> <p><u>(ii) incidental diving operations carried out in relation to the inspection, repair or maintenance of the Entered Ship or in relation to damage caused by the Entered Ship; and</u></p> <p><u>(iii) recreational diving activities</u></p> <p><u>(12)</u> Unchanged</p> <p>2~3 Omitted</p>
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Explanation:

1. The alteration to Rule 35-1(7) has been made in accordance with the Pooling Agreement in order to clarify the risks excluded in respect of an entered vessel carrying out drilling or production operations in connection with oil or gas exploration or production.
2. The alterations to Rule 35-1 (10) and (11) have been made in accordance with the Pooling Agreement in order to clarify the risks excluded in respect of the operation by Members of submarines and the activities of professional or commercial divers where the Member is responsible for such activities.

Changes to the Special Clauses of the Association for the 2016 Policy Year

(The underlined parts are to be changed.)

SPECIAL CLAUSE FOR VOYAGES AFFECTED BY SANCTIONS

Existing Clause	New Clause
<p>1 Any and all claims arising out of any voyage where recovery from the Association may be affected because of any sanction, prohibition, restriction or other adverse action of a competent authority or government applying to the reinsurers of any reinsurance contract (including but not limited to the Pooling Agreement, the Group Excess Loss Reinsurance Contract and other reinsurance contracts specially arranged by the Association), shall not be covered under the Rules of the Association unless the Member has complied with the following undertakings, namely:</p> <p>(1) to make a declaration to the Association in advance of fixing an entered ship for any voyage, on which recovery from the Association may be affected by any sanction, prohibition or restriction or other adverse action of a competent authority or government, indicating the detail of such voyages including the schedule, full details of the cargoes to be carried, the name of the port or place where the cargoes are loaded and discharged and the end user of any such cargo.</p> <p>AND</p> <p>(2) to provide a Letter to the Association confirming that:</p> <p>(a) the Member is aware of the sanctions, prohibitions and restrictions that may apply to such voyage, including those imposed by the United States and European Union authorities (even where the Member is not subject to these sanctions) and that the Member accepts that recovery of any and all claims will be limited to the extent that the Association is able to reimburse the Member as a result of any sanctions, prohibition or restriction.</p> <p>(b) the Member shall conduct such voyages in the full knowledge of the risk that the Association may lawfully cancel the contract of insurance or decline to pay claims or reduce the amount of any payment thereof under Rules 11.3 (3) and 36 (9) due to such voyages.</p> <p>(c) the Member shall pay any costs and/or expenses arising out of any incident relating to such voyages to the extent that such costs and expenses are not recoverable from the Association under the Rules of the Association and the Member fully understands that the Association shall not provide security for the benefit of the Member to the extent that such sum or sums are not recoverable from the Association under the Rules of the Association.</p> <p>(d) the Member shall on demand reimburse to the Association such sum or sums as the Association has paid on behalf of the Member under any guarantee, undertaking or certificate whatsoever provided by the Association on behalf of the Member or on behalf of a ship entered with the Association by or on behalf of the Member to the extent that such payment either is, or in the opinion of the Association is, in respect of liabilities, costs and expenses not recoverable from the Association under the Rules of the Association.</p>	<p>1 Unchanged</p> <p>(1) Unchanged</p> <p>(2) Unchanged</p>

<p>(3) the Member shall on the demand of the Association have the Letter counter-signed by a reliable guarantor who expressly accepts joint and several liability for the obligations set out in the Letter. The Member must obtain prior approval of such guarantor from the Association and the Association shall have an absolute discretion as to the approval of a guarantor.</p>	<p>(3) Unchanged</p>
<p>2 In the event that the Member undertakes a voyage as described in this Clause without declaring it to the Association in advance, or that the Member makes such a declaration but fails to provide a Letter, both as set out in 1. above, the Association may cancel:</p>	<p>2 Unchanged</p>
<p>(1) any certificate required for the purposes of compliance with Article VII of the International Convention on Civil Liability for Oil Pollution Damage 1969 or 1992 or any amendments thereof, or</p>	<p>(1) Unchanged</p>
<p>(2) any certificate required for the purposes of compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001.</p>	<p>(2) any certificate required for the purposes of compliance with Article 7 of the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, <u>or</u> <u>(3) a non-war certificate issued by the Association in compliance with either Article 4 bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974 and the Protocol thereto of 2002 or Regulation (EC) No.392/2009 of the European Parliament and of the Council of 23rd April 2009 on the liability of carriers of passengers by sea in the event of accidents, or</u> <u>(4) a certificate issued by the Association in compliance with Article 12 of the Nairobi International Convention on the Removal of Wrecks, 2007.</u></p>

Explanation:

1. The alteration to this Special Clause has been made in order to add clauses to allow the Association to cancel any certificate required for the purposes of compliance with international conventions such as the Athens Convention and Nairobi International Convention which have come into force since this Special Clause was introduced.