

AMENDMENTS FOR 2014/2015 TO THE RULES OF THE PROTECTING & INDEMNITY CLASS OF THE NORTH OF ENGLAND PROTECTING AND INDEMNITY ASSOCIATION LTD

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as [.....]. At Appendix A there is a list of other amendments which the Managers intend to make to the Rules which deal with matters such as the format of the Rules book, typographical errors or inconsistencies in form or format, inaccurate or redundant cross-referencing, etc. The amendments set out in Appendix A do not impact upon the scope or terms of cover provided under the Rules.

.....

- **RULE 2 (1) DEFINITIONS (SHIP)**

NB: As advised to Members in the Notice of General Meeting dated 19 December 2013, following discussions at International Group level, the Group Managers approved in principle an amendment to the Pooling Agreement definition of an Eligible Vessel to make it clear that Poolable cover is *not* available for units or vessels constructed or adapted for oil and gas drilling. This does not impact upon any units or vessels currently entered with the Association. Discussions regarding the amendment have now concluded and it has been agreed that the definition of “Eligible Vessels” within the Pooling Agreement will be amended to reflect the relevant exclusion.

To give effect to the Pooling Agreement amendment it is also necessary to make a corresponding amendment to the definition of “Ship” under the P&I Class Rules. As notified in the aforementioned Notice of General Meeting, the Rule amendment will be put to the Directors for approval pursuant to the powers given to them in the Articles of Association. If approved, the amendments will subsequently be notified to the Members by Circular.

OLD RULE

SHIP

A ship, boat, hovercraft or other description of vessel or structure (including any ship, boat, hovercraft or other vessel or structure under construction) used or intended to be used for any purposes whatsoever in navigation or otherwise on, under, over or in water, or any part of such ship, or any proportion of the tonnage thereof, or any share therein.

NEW RULE

SHIP

A ship, boat, hovercraft or other description of vessel or structure (including any ship, boat, hovercraft or other vessel or structure under construction, **but excluding (a) a unit or vessel constructed or adapted for the purpose of carrying out drilling operations in connection with oil and gas exploration or production and (b) a fixed platform or fixed rig**) used or intended to be used for any purposes whatsoever in navigation or otherwise on, under, over or in water, or any part of such ship, or any proportion of the tonnage thereof, or any share therein.

- RULE 19(4) LIABILITIES IN RESPECT OF THIRD PARTIES
- RULE 19(10) LIABILITIES ARISING FROM COLLISIONS

NB: This amendment is being made to address a potential argument that the provisions of Rules 19(4) and 19(10), dealing with cover for personal injury liabilities on a vessel with which an entered vessel has collided, are mutually exclusive. Such an argument would effectively result in there being no cover for such liabilities. This is clearly not the intention of the Rules (nor, indeed, have the Managers been interpreting the Rules in this way). Having identified the potential issue, however, the Managers would prefer to clarify the point.

OLD RULE

RULE 19(4) LIABILITIES IN RESPECT OF THIRD PARTIES

Liabilities to pay damages or compensation for death, personal injury or illness of any person (other than those specified in Rules 19(1), (2) and (3)).

PROVIDED ALWAYS THAT in Rule 19(4):

.....

(C) where the liability is in respect of a person on another ship and arises out of a collision between that ship and the Entered Ship, that liability is not covered under Rule 19(4) but may be recoverable under and in accordance with Rule 19(10)(b).

.....

RULE 19(10) LIABILITIES ARISING FROM COLLISIONS

Liabilities and costs incurred as a result of a collision between an Entered Ship and any other ship:

.....

(b) to the extent of four-fourths of the Member’s liabilities, costs and expenses relating to:

NEW RULE

RULE 19(4) LIABILITIES IN RESPECT OF THIRD PARTIES

Liabilities to pay damages or compensation for death, personal injury or illness of any person (other than those specified in Rules 19(1), (2) and (3)).

PROVIDED ALWAYS THAT in Rule 19(4):

.....

(C) where the liability is in respect of a person on another ship and arises out of a collision between that ship and the Entered Ship, that liability is not covered under Rule 19(4) but may be recoverable under and in accordance with Rule 19(10)(b).

.....

RULE 19(10) LIABILITIES ARISING FROM COLLISIONS

Liabilities and costs incurred as a result of a collision between an Entered Ship and any other ship:

.....

(b) to the extent of four-fourths of the Member’s liabilities, costs and expenses relating to:

.....

(iv) loss of life, personal injury or illness insofar as such liability may be covered under Rules 19(1), 19(2), 19(3) and 19(4);

.....

(iv) loss of life, personal injury or illness insofar as such liability would be covered under the terms of Rules 19(1), 19(2)[,] and 19(3) [and 19(4)] **and loss of life, personal injury or illness of any person on the other ship;**

.....

- **RULE 21 DEDUCTIBLES**

NB: This amendment is being made to set out the fee deductibles agreed by the Directors at their meeting in October and as advised to Members in the Renewal Circular 2014/2015 dated 24 October 2013.

OLD RULE

RULE 21 DEDUCTIBLES

Unless otherwise agreed between the Member and the Managers in writing as part of the terms upon which the Ship is entered in the Association, the Member's recovery from the Association shall be subject to the deductibles set out in the Certificate of Entry.

NEW RULE

RULE 21 DEDUCTIBLES

21(1) [Unless otherwise agreed between the Member and the Managers in writing as part of the terms upon which the Ship is entered in the Association, t]The Member's recovery from the Association **in respect of a liability against which the Member is insured under these Rules** shall be subject to the deductibles set out in the Certificate of Entry.

21(2) Unless otherwise agreed between the Member and the Managers in writing as part of the terms upon which the Ship is entered in the Association, the Member's recovery from the Association in respect of fees, costs and expenses incurred in respect of a liability against which the Member is or may be insured under these Rules shall be subject to a deductible of 25%, with a minimum contribution of US\$1,000 and a maximum contribution of US\$10,000 per claim.

.....

APPENDIX A

- 1. Additional references/cross-references will be added to the Index to increase its usefulness and to introduce references terms used to refer to particular Rules on a day-to-day basis. An increased number of references and cross-references to sanctions and their impact will be added in order to bolster North's ability to show regulatory authorities that all possible efforts are made to draw Member's attention to the existence of and impact of sanctions on their cover:**

The following references should be added to the index with appropriate cross-references to page numbers:

- Contracts – Rights of Third Parties Act 1999 (Rule 3(2))
- Fixed Premium Entry (Rule 8(1))
- Notice to Terminate Entry (Rule 11(4))
- Reinsurance – Sanctions (Rule 43(3))
- Sanctions – Recovery from Reinsurance (Rule 43(3))
- Thirty Days Notice to Terminate Entry (Rule 11(4))

2. Change Rule 2 to INTERPRETATION AND DEFINITIONS

- 3. An updated definition of “writing” will be introduced in Rule 2 (Interpretation and Definitions) to take into account developments in IT and modern communications.**
- 4. The explanatory provisions currently appearing at the end of Rule 2 (Interpretation and Definitions) will be consolidated with those already appearing at the start of the Rule and they will together be given more prominence:**

INTERPRETATION AND DEFINITIONS

2 (1) In these Rules:

“Writing” shall include any method of reproducing words in a visible or non-transitory form, including email.

Words importing the singular number only shall include the plural number and vice versa.

Words importing the masculine gender only shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

The headings hereto shall not affect the construction or interpretation of the Rules.

In the Rules the following words shall have the following meanings:

5. **Rule 19(1)(e) (Liabilities In Respect of Seamen) will receive a minor amendment to make the extent of non-discretionary MLC repatriation cover (ie, only for insolvency repatriation) clear:**

19 (1) LIABILITIES IN RESPECT OF SEAMEN

(e) Liabilities for repatriation arising under Guideline B2.5 of Regulation 2.5 of the Maritime Labour Convention 2006 (“MLC 2006”) or any legislation giving effect to or equivalent to the MLC 2006 (an “MLC 2006 Liability”), **provided always that where a liability under this rule would not be recoverable under Rule 19(1)(d) there is a right of recovery only to the extent permitted by Rule 20(2).**

20 (2) SEAMEN

Notwithstanding the provisions of Rule 20(1), where a Member has failed to discharge a liability to pay damages or compensation for death, personal injury or illness of a Seaman under Rule 19(1)(a) (a “Crew Claim”), **or an MLC 2006 Liability**, the Association shall pay such Crew Claim or discharge such MLC 2006 Liability on the Member’s behalf directly to such Seaman or dependant thereof.

PROVIDED ALWAYS THAT:

(D) where the Association is under no liability to the Member in respect of a Crew Claim or an MLC 2006 Liability in accordance with Rule 17(1) or Rule 37, the Association shall nevertheless discharge or pay that Crew Claim or MLC 2006 Liability to the extent only that either arises from an obligation created or an event occurring prior to the date of Cesser, but as agent only of the Member, and the Member shall be liable to reimburse the Association for the full amount of such payment.

6. **Minor amendments will be made to the provisions of Rule 50 (Notices) to reflect the fact that telegrams, cables and telexes are no longer used and that in practice Notices are sent and received by e-mail/electronic communication:**

50 (1) ON THE ASSOCIATION

A notice or other document required under these Rules to be served on the Association may be served in writing by sending it through the post in a prepaid letter or by sending it by [telegram, cable,] courier, [telex,]facsimile, **email (to general@nepia.com)** or other electronic communication addressed to the Association at the Association’s registered office for the time being.

50 (2) ON AN INSURED PARTY

A notice or other document required under these Rules **or the Articles of Association** to be served on an Insured Party may be served in writing by sending it through the post in a pre-paid letter or by sending it by [telegram, cable,] courier, [telex,] facsimile, **email** or other electronic communication addressed to the Member at his address appearing in the Association’s records

or to his broker or agent. In the case of joint members notice shall be served on any such Member or on his broker or agent and such service shall be sufficient service upon all joint members.

50 (3) DATE OF SERVICE

Any notice or other document, if served by post or courier, shall be deemed to have been served on the day following the day on which the letter containing the same was put in the post or handed to the courier and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and put into the post in a pre-paid letter or handed to the courier. Any such notice or other document served by [telegram, cable, telex,] facsimile, **email** or other electronic communication, shall be deemed to have been served on the day on which it was [handed into the relevant office or in the case of telex, facsimile or other electronic communication,] despatched and in proving such service it shall be sufficient to prove that such [telegram or cable was duly handed in, or, in the case of telex,] facsimile, **email** or other electronic communication [, that the notice] was duly despatched.

7. A minor housekeeping amendment will be made to Rule 19(15)(B).

the Members Board in its discretion [shall], having regard to all the circumstances, considers the terms of the towage contract as reasonable and the liabilities as coming within the scope of the cover afforded by the Association.

AMENDMENTS FOR 2014/2015 TO THE RULES OF THE FREIGHT, DEMURRAGE AND DEFENCE CLASS OF THE NORTH OF ENGLAND PROTECTING AND INDEMNITY ASSOCIATION LTD

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as [.....].

At Appendix A there is a list of other amendments which the Managers intend to make to the Rules which deal with matters such as the format of the Rules book, typographical errors or inconsistencies in form or format, inaccurate or redundant cross-referencing, etc. The amendments set out in Appendix A do not impact upon the scope or terms of cover provided under the Rules.

.....

- **RULE 20 DEDUCTIBLES**

NB: This amendment is being made to set out the fee deductibles agreed by the Directors at their meeting in October and as advised to Members in the Renewal Circular 2014/2015 dated 24 October 2013.

OLD RULE

RULE 20 DEDUCTIBLES

Unless otherwise agreed between the Member and the Managers as part of the terms upon which the Ship is entered in the Association the Member's recovery from the Association shall be subject to a deductible of 25% with a minimum of US\$10,000 and a maximum of US\$100,000 per claim.

NEW RULE

RULE 20 DEDUCTIBLES

Unless otherwise agreed between the Member and the Managers **in writing** as part of the terms upon which the Ship is entered in the Association the Member's recovery from the Association shall be subject to a deductible of 25% with a minimum of US\$10,000 and a maximum of [US\$100,000] **US\$150,000** per claim.

.....

- **RULE 26 CONDUCT OF CASES**

NB: This amendment is to add a provision to allow the Association to make a recovery of costs in situations not presently catered for by the Rules. The opportunity has also been taken to simplify the wording of the Rule and to clarify how recovered costs are to be applied between the Member and the Association.

The existing Rule 26(8) permits the Association to recover some or all of its cost expenditure out of monies recovered by the Members in the following circumstances:

- **Where there is a settlement for an amount which includes costs**
- **Where there is a settlement where each party agrees to bear its own costs**

- Where there is a settlement which is silent as to costs
- Where there is a judgment or arbitration award of similar effect to any of the above
- Where there is a judgment or arbitration award which does award costs but the costs element of the judgment or award is unsecured or otherwise incapable of enforcement.

In the first of these the Association recovers the identified costs amount; in the others the principal sum recovered by the Member can be applied towards the costs incurred by the Association in an amount to be fixed by the Members Board (or by the Managers under generally delegated powers).

However, the Rule does not expressly cover the situation where:

- There is a judgment or award on costs, which is enforced, but the Member (or any receiver appointed on the Member's behalf) retains for itself the sum awarded in respect of costs.

This last situation may arise where, for example, the Member has received support from the Association for only part of the claim, and then cover has been withdrawn; or, for example, where the Member has received payment of the amount awarded in respect of costs but this has been held by a receiver or liquidator in the event of the Member's insolvency.

Whilst the Association may be able to recover by way of subrogation in this situation (which fortunately does not arise frequently), there are rules relating to marine insurance and subrogation which may limit or prevent that recovery; for example, there are potential issues caused by the discretionary nature of the cover and, as a further example, a right of subrogation only arises where the Member has been indemnified in whole - which may not be the situation in circumstances where cover has been withdrawn part way through a case.

Accordingly, the suggested Rule amendment is to add a provision for the Association to make a recovery of costs in this or similar situations. The opportunity has also been taken to simplify the wording and to clarify how recovered costs are to be applied between the Member and the Association.

**OLD RULE
RULE 26(8)**

All monies recovered for any Member shall be paid over to him without deduction of any commission or other sum except when a pending proceeding has been settled or compromised for an amount which includes costs whereupon the Member shall then suffer such deduction, or make such payment as is fixed by the Directors to

**NEW RULE
RULE 26(8)**

[All monies recovered for any Member shall be paid over to him without deduction of any commission or other sum except when a pending proceeding has been settled or compromised for an amount which includes costs whereupon the Member shall then suffer such deduction, or make such payment as is fixed by the Directors to

represent party and party costs which might otherwise have been recovered for the benefit of the Association and further when a pending proceeding has been settled or compromised either on terms that each party bear its own costs, or without any provision being made for the payment of costs the Member shall then suffer such deduction or make such payment as is fixed by the Directors to represent the costs which might otherwise have been recovered for the benefit of the Association but for such mode of settlement or compromise.

represent party and party costs which might otherwise have been recovered for the benefit of the Association and further when a pending proceeding has been settled or compromised either on terms that each party bear its own costs, or without any provision being made for the payment of costs the Member shall then suffer such deduction or make such payment as is fixed by the Directors to represent the costs which might otherwise have been recovered for the benefit of the Association but for such mode of settlement or compromise.]

Where the Association has provided cover for any dispute or matter:

- a) **The Member shall be liable to pay to the Association any amount recovered as costs, or where, for any reason, no sum is recovered in respect of costs or the sum so recovered is less than the total amount paid and payable by the Association under these Rules then the Member shall pay such other amount or such additional amount as is fixed by the Members Board to represent a fair recovery of costs for the Association from the principal amount recovered by the Member.**
- b) **The Members Board is entitled to and may direct any third party which holds or is liable to pay (i) any amount recoverable as costs; or(ii) any principal sum which may be applied as costs in accordance with (a) above, to make payment of such sum to the Association;**
- c) **Any amount recovered as costs shall be applied first against costs incurred by the Association (or costs for which the Association may be liable)in excess of those which attract the Member's maximum deductible, and second pro rata to the Association's remaining costs**

and costs liabilities and any deductible paid by the Member in excess of its minimum deductible, and third against the Member's minimum deductible.

The provisions of this Rule 26(8) shall apply whenever the Association has provided cover for any dispute or matter, whether wholly or in part, and shall continue to apply notwithstanding withdrawal or cessation of membership or cover.

APPENDIX A

1. Change Rule 2 to INTERPRETATION AND DEFINITIONS
2. An updated definition of "writing" will be introduced in Rule 2 (Interpretation and Definitions) to take into account developments in IT and modern communications.
3. The explanatory provisions currently appearing at the end of Rule 2 (Interpretation and Definitions) will be consolidated with those already appearing at the start of the Rule and they will together be given more prominence:

INTERPRETATION AND DEFINITIONS

In these Rules:

"Writing" shall include any method of reproducing words in a visible or non-transitory form, including email.

Words importing the singular number only shall include the plural number and vice versa.

Words importing the masculine gender only shall include the feminine gender.

Words importing persons shall include individuals, partnerships, corporations and associations.

The headings hereto shall not affect the construction or interpretation of the Rules.

In the Rules the following words shall have the following meanings:

4. **Rule 39 (Notices) will be updated to reflect the fact that telegrams, cables and telexes are in practical terms no longer used and that in practice Notices are sent to Members by e-mail/electronic communication.**

39 (1) ON THE ASSOCIATION

A notice or other document required under these Rules to be served on the Association may be served in writing by sending it through the post in a prepaid letter or by sending it by [telegram, cable,] courier, [telex,] facsimile, **email (to general@nepia.com)** or other electronic communication addressed to the Association at the Association's registered office for the time being.

39 (2) ON AN INSURED PARTY

A notice or other document required under these Rules **or the Articles of Association** to be served on an Insured Party may be served in writing by sending it through the post in a pre-paid letter or by sending it by [telegram, cable,] courier, [telex,] facsimile, **email** or other electronic communication addressed to the Member at his address appearing in the Association's records or to his broker or agent. In the case of Insured Parties (other than Members) notice shall be served on any such Insured Party or on his broker or agent and such service shall be sufficient service upon all Insured Parties.

39 (3) DATE OF SERVICE

Any notice or other document, if served by post or courier, shall be deemed to have been served on the day following the day on which the letter containing the same was put in the post or handed to the courier and in proving such service it shall be sufficient to prove that the letter containing the notice or other document was properly addressed and put into the post in a pre-paid letter or handed to the courier. Any such notice or other document served by [telegram, cable, telex,] facsimile, **email** or other electronic communication, shall be deemed to have been served on the day on which it was [handed into the relevant office or in the case of telex, facsimile or other electronic communication,] despatched and in proving such service it shall be sufficient to prove that such [telegram or cable was duly handed in, or, in the case of telex,] facsimile, **email** or other electronic communication [, that the notice] was duly despatched.

AMENDMENTS FOR 2014/2015 TO THE RULES OF THE WAR RISKS CLASS OF THE NORTH OF ENGLAND PROTECTING AND INDEMNITY ASSOCIATION LTD

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as [.....].

At Appendix A there is a list of any other amendments which the Managers intend to make to the Rules which deal with matters such as the format of the Rules book, typographical errors or inconsistencies in form or format, inaccurate or redundant cross-referencing, etc. Any amendments set out in Appendix A do not impact upon the scope or terms of cover provided under the Rules.

.....

- **RULE 1 INTRODUCTORY**

NB: This amendment is being made to reflect practice relating to cover for Increased Value as agreed by the Combined Group of War Risks Associations. Rule 1.4 requires that the sums insured match exactly the sums insured for the corresponding non-war risks and the change gives the Managers discretion to allow compliance with that requirement where the non-war market allows Increased Value at a higher proportion than 50% of the Insured Value.

OLD RULE

1.4 For all the purposes of Rule 3, Appendix C, and the other provisions of the Rules which relate thereto, the Sum Insured shall be the sum insured for the corresponding risk or risks under the Entered Ship's marine policies, which is agreed between the Insured Owner and the Managers and which is set out in the Certificate of Entry.

PROVIDED ALWAYS THAT:

1.4.1 the sum to be insured under each category of Rule 3 risk shall be specified in any application for insurance;

1.4.2 in no case shall the total Sum Insured for Rule 3 risks exceed 50% of the Insured Value as provided for in Rule 1.3.

NEW RULE

1.4 For all the purposes of Rule 3, Appendix C, and the other provisions of the Rules which relate thereto, the Sum Insured shall be the sum insured for the corresponding risk or risks under the Entered Ship's marine policies, which is agreed between the Insured Owner and the Managers and which is set out in the Certificate of Entry.

PROVIDED ALWAYS THAT:

1.4.1 the sum to be insured under each category of Rule 3 risk shall be specified in any application for insurance;

1.4.2 [in no case shall] **unless otherwise agreed by the Managers in writing** the total Sum Insured for Rule 3 risks **shall not** exceed 50% of the Insured Value as provided for in Rule 1.3.

APPENDIX A

- 1. Rule 33.5 (which deals with reinsurance recoveries) will be moved to Rule 12 (Reinsurance) and become Rule 12.3. This amendment does not affect the scope of cover and is made to consolidate the terms dealing with reinsurance into one Rule and to make the layout of the Rules consistent with the North's other classes of business.**

12.3 The Insured Owner shall in no circumstances be entitled to recover from the Association that part of any liabilities, costs and expenses which is not recovered by the Association from parties to the pool and/or under any reinsurance(s) because of shortfall in recovery from the parties or reinsurers thereunder by reason of any sanction, prohibition or adverse action against them by a state or international organisation or the risk thereof if payment were to be made by such parties or reinsurers. For the purposes of this clause, "shortfall" includes any failure or delay in recovery by the Association by reason of the parties or reinsurers making payment into a designated account in compliance with the requirements of any state or international organisation.