

AMENDMENTS FOR 2016/2017 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 [.....]. In the case of rules which have been substantially amended, redrafted, or restructured, however, all of the replacement Rule is shown in **bold**.

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 6 MARINE INSURANCE ACT

NB: The amendments set out below put into effect the changes required as a consequence of the Insurance Act 2015 as set out elsewhere in the Agenda. The current Rule 6 will be amended and replaced as set out.

OLD RULE

RULE 6 MARINE INSURANCE ACT 1906

These Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the Marine Insurance Act, 1906 of the United Kingdom and any statutory modifications thereof except insofar as such Act or modifications may have been expressly excluded by these Rules or by any term of such contracts.

NEW RULE

RULE 6 INSURANCE ACTS

6(1) These Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the Marine Insurance Act 1906 and, upon its entry into force, the Insurance Act 2015 of the United Kingdom and any statutory modifications thereof except insofar as such Acts or modifications may have been expressly excluded by these Rules or by any term of such contract.

6(2) The following provisions of the Insurance Act 2015 ("the Act") are excluded from the Rules and any contract of insurance as follows:

(a) Section 8 of the Act is excluded. As a result any breach of the duty of fair presentation shall entitle the Association to avoid the policy, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.

- (b) Section 10 of the Act is excluded. As a result all warranties in these Rules or any contract of insurance must be strictly complied with and if the Member or any Insured Party fails to comply with any warranty the Association shall be discharged from liability from the date of the breach, regardless of whether the breach is subsequently remedied.
- (c) Section 11 of the Act is excluded. As a result the Rules and all terms of the contract of insurance between the Association and the Member and any Insured Party, including terms which tend to reduce the risk of loss of a particular kind, loss at a particular location and/or loss at a particular time, must be strictly complied with and if the Member or any Insured Party fails to comply with any such term, the Association's liability may be excluded, limited or discharged in accordance with these Rules notwithstanding that the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.
- (d) Section 13 of the Act is excluded. As a result the Association shall be entitled to exercise its right to terminate the contract of insurance in respect of the Member and all Insured Parties in the event that a fraudulent claim is submitted by or on behalf of the Member and/or any Insured Party and/or any affiliated or associated company of the Member.
- (e) Section 13A of the Act is excluded. As a result the Rules and the insurance contract between the Association and the Member and any Insured Party shall not be subject to nor shall the Association or the Managers be in breach of any implied term that they will pay any sums due in respect of a claim within a reasonable time save where the breach is deliberate or reckless and Section 13A of the Act is excluded to this extent.

(f) **Section 14 of the Act is excluded. As a result, the contract of insurance between the Association, the Member and any Insured Party shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith shall entitle the Association to avoid the contract of insurance.**

• **RULE 15 LAID UP RETURNS**

NB: This amendment takes into account the reduction to three months for the period given to the Association to make laid up return declarations to the Pool. A corresponding reduction of the period given to Members to make a declaration ensures that the Managers will be in a position to give accurate declarations to the Pool.

OLD RULE

RULE 15 LAID UP RETURNS

When a Ship shall have been laid up in any safe port approved by the Managers for a period of thirty or more consecutive days after finally mooring there the Member shall be entitled to an allowance at a rate fixed by the Managers.

PROVIDED ALWAYS THAT in Rule 15:

(B) no return of Contributions or Fixed Premiums shall be made under this Rule unless the claim is submitted to the Association within six months of the end of the Policy Year concerned;

NEW RULE

RULE 15 LAID UP RETURNS

When a Ship shall have been laid up in any safe port approved by the Managers for a period of thirty or more consecutive days after finally mooring there the Member shall be entitled to an allowance at a rate fixed by the Managers.

PROVIDED ALWAYS THAT in Rule 15:

(B) no return of Contributions or Fixed Premiums shall be made under this Rule unless the claim is submitted to the Association within [six] **three** months of the end of the Policy Year concerned;

• **RULE 19(17) LIABILITIES IN RESPECT OF CARGO**

NB: This amendment brings North's Rules in line with the Pooling Agreement. In essence, the amendment puts mis-delivery claims under electronic bill of lading systems on the same footing as provided for paper-based systems.

OLD RULE

RULE 19(17)(D)

(iii) delivery of cargo carried under a negotiable bill of lading or similar document of title without production of that bill of lading or document by the person to whom delivery is made;

NEW RULE

RULE 19(17)(D)

(iii) delivery of cargo carried under a negotiable bill of lading or similar document of title **(including an electronic bill of lading)** without production **(or the equivalent thereof in the case of an electronic bill of lading)** of

that bill of lading or document by the person to whom delivery is made **(unless in the case of an electronic bill of lading there has been proper delivery to the person so entitled in accordance with the terms of an electronic trading system approved pursuant to Proviso (I) of this Rule);**

• RULE 20 PAYMENT FIRST BY THE MEMBER

NB: This amendment is to bring North's Rules in line with those of other IG Clubs.

OLD RULE

RULE 20 PAYMENT FIRST BY THE MEMBER 20(1)GENERAL

Unless the Directors in their discretion otherwise decide, it is a condition precedent of a Member's right to recover from the funds of the Association in respect of any liabilities, costs or expenses that he shall first have discharged or paid the same.

NEW RULE

RULE 20 PAYMENT FIRST BY THE MEMBER 20(1) GENERAL

Unless the Directors in their discretion otherwise decide, it is a condition precedent of a Member's right to recover from the funds of the Association in respect of any liabilities, costs or expenses that he shall first have discharged or paid the same **out of funds belonging to him unconditionally and not advanced expressly or impliedly for that purpose by way of loan or otherwise.**

• RULE 28 EXCLUSION OF CERTAIN RISKS RELATING TO SPECIALIST OPERATIONS

NB: These amendments reflect changes made to the Pooling Agreement. They clarify the scope and extent of cover provided to accommodation vessels.

OLD RULE

RULE 28

Unless otherwise agreed by the Managers in writing there shall be no recovery from the Association in respect of any claim relating to:.....

28(2) DRILLING SHIPS

Liabilities, costs and expenses incurred in

NEW RULE

RULE 28

Unless otherwise agreed by the Managers in writing there shall be no recovery from the Association in respect of any claim relating to:.....

28(2) DRILLING AND PRODUCTION OPERATIONS

respect of a drilling Ship or barge or any other Ship or barge employed to carry 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 and expenses arise out of or during drilling or production operations.

A Ship shall be deemed to be carrying out production operations if (inter alia) it is a storage tanker or other Ship engaged in the storage of oil, and either:

(a) the oil is transferred directly from a producing well to the storage Ship, or

(b) the storage Ship has oil and gas separation equipment on board and gas is being separated from oil whilst on board the storage Ship other than by natural venting.

(a) 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 drilling or production operations.

(b) For the purposes of Rule 28(2):

(i) an 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, and either:

(ia) the oil is transferred directly from a producing well to the storage vessel; or

(ib) 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; and

(ii) in respect of any Entered Ship employed to carry out production operations in connection with oil or gas production, the exclusion shall apply:

(iia) 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

(iib) where the Entered Ship is unintentionally, as well as intentionally as an emergency response, disconnected from the well; or

(iic) where the Entered Ship remains

connected to the well, but the production is shut down, whether or not as an emergency response.

• RULE 34(5) BAIL

NB: This provision gives North's Managers a contractual basis to take over control of proceedings when security has been put in place. It is not envisaged that the right will be triggered on many occasions (as the intention will always be to conduct proceedings in tandem with Members,) but it will assist in enabling the Managers to take over conduct of proceedings in situations where, for example, the Member has ceased to trade or is no longer providing instructions to the Association, or where there is a fundamental difference of opinion between the Member and the Managers concerning the conduct of the claim and where the Managers believe their proposed course of action will better protect the overall Mutual Membership.

OLD RULE

RULE 34(5) BAIL

(a) The Association is under no obligation to provide bail or other security on behalf of any Member, but where the same is provided it shall be on such terms as the Managers may consider appropriate.....

NEW RULE

RULE 34(5) BAIL

(a) The Association is under no obligation to provide bail or other security on behalf of any Member, but where the same is provided it shall be on such terms as the Managers may consider appropriate.....

(c) The Member agrees that by authorising the provision of bail or other security, the Association is given full power to conduct and control all related proceedings (including the power to settle, compromise or dispose of such proceedings) and the Member shall provide or execute any documents required to allow the Association to effect such conduct or control.

APPENDIX A

1. In the introductory paragraph of Rule 22(3) the words “in the aggregate for all claims under each Owner’s Entry” will be amended to “in the aggregate for all claims **arising out of any one event** under each Owner’s Entry” to bring the wording in line with the Pooling Agreement.
2. In Rule 23(3)(D) the words “threat thereof claims” will be amended to “threat of claims”.

AMENDMENTS FOR 2016/2017 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. As the Rule in question is to be substantially amended, the replacement Rule is shown in **bold** and without reference to the current wording of Rule 6.

• RULE 6 MARINE INSURANCE ACT

NB: The amendments set out below put into effect the changes required as a consequence of the Insurance Act 2015 as set out in the P&I Class Agenda. The current Rule 6 will be amended and replaced as set out.

OLD RULE

RULE 6 MARINE INSURANCE ACT 1906

These Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the Marine Insurance Act, 1906 of the United Kingdom and any statutory modifications thereof except insofar as such Act or modifications may have been expressly excluded by these Rules or by any term of such contracts.

NEW RULE

RULE 6 INSURANCE ACTS

6(1) These Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the Marine Insurance Act 1906 and, upon its entry into force, the Insurance Act 2015 of the United Kingdom and any statutory modifications thereof except insofar as such Acts or modifications may have been expressly excluded by these Rules or by any term of such contract.

6(2) The following provisions of the Insurance Act 2015 ("the Act") are excluded from the Rules and any contract of insurance as follows:

- (a) Section 8 of the Act is excluded. As a result any breach of the duty of fair presentation shall entitle the Association to avoid the policy, regardless of whether the breach of the duty of fair presentation is innocent, deliberate or reckless.**
- (b) Section 10 of the Act is excluded. As a result all warranties in these Rules or**

any contract of insurance must be strictly complied with and if the Member or any Insured Party fails to comply with any warranty the Association shall be discharged from liability from the date of the breach, regardless of whether the breach is subsequently remedied.

(c) Section 11 of the Act is excluded. As a result the Rules and all terms of the contract of insurance between the Association and the Member and any Insured Party, including terms which tend to reduce the risk of loss of a particular kind, loss at a particular location and/or loss at a particular time, must be strictly complied with and if the Member or any Insured Party fails to comply with any such term, the Association's liability may be excluded, limited or discharged in accordance with these Rules notwithstanding that the breach could not have increased the risk of the loss which actually occurred in the circumstances in which it occurred.

(d) Section 13 of the Act is excluded. As a result the Association shall be entitled to exercise its right to terminate the contract of insurance in respect of the Member and all Insured Parties in the event that a fraudulent claim is submitted by or on behalf of the Member and/or any Insured Party and/or any affiliated or associated company of the Member.

(e) Section 13A of the Act is excluded. As a result the Rules and the insurance contract between the Association and the Member and any Insured Party shall not be subject to nor shall the Association or the Managers be in breach of any implied term that they will pay any sums due in respect of a claim within a reasonable time

save where the breach is deliberate or reckless and Section 13A of the Act is excluded to this extent.

- (f) Section 14 of the Act is excluded. As a result, the contract of insurance between the Association, the Member and any Insured Party shall be deemed to be a contract of the utmost good faith, and any breach of the duty of the utmost good faith shall entitle the Association to avoid the contract of insurance.

• RULE 15 LAID UP RETURNS

OLD RULE

RULE 15 LAID UP RETURNS

When a Ship shall have been laid up in any safe port approved by the Managers for a period of thirty or more consecutive days after finally mooring there the Member shall be entitled to an allowance at a rate fixed by the Managers.

PROVIDED ALWAYS THAT in Rule 15:

(B) no return of Contributions or Fixed Premiums shall be made under this Rule unless the claim is submitted to the Association within six months of the end of the Policy Year concerned;

NEW RULE

RULE 15 LAID UP RETURNS

When a Ship shall have been laid up in any safe port approved by the Managers for a period of thirty or more consecutive days after finally mooring there the Member shall be entitled to an allowance at a rate fixed by the Managers.

PROVIDED ALWAYS THAT in Rule 15:

(B) no return of Contributions or Fixed Premiums shall be made under this Rule unless the claim is submitted to the Association within **[six] three** months of the end of the Policy Year concerned;

**AMENDMENTS FOR 2016/2017 TO THE RULES
OF THE WAR RISKS CLASS OF THE NORTH OF
ENGLAND PROTECTING AND INDEMNITY ASSOCIATION LTD**

- **RULE 4.D.7 EXCLUSION OF COMPUTER VIRUSES**

NB: These amendments reflect changes made to the Reinsurance of the Class. It represents a broadening of cover in clarifying that the exclusion will not operate where a computer virus is used to trigger a weapon that then causes damage to an Insured Ship.

OLD RULE

RULE 4.D.7

The Association shall not be liable for any losses, liabilities, costs or expenses directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer virus.

NEW RULE

RULE 4.D.7

The Association shall not be liable for any losses, liabilities, costs or expenses directly or indirectly caused by or contributed to by or arising from the use or operation, as a means for inflicting harm, of any computer virus.

PROVIDED ALWAYS that:

Rule 4.D.7 shall not operate to exclude losses (which would otherwise be covered under Rule 2 Parts B, C, D, E and F, Rule 3 and Rule 4.A.2) arising from the use of any computer, computer system or computer software programme or any other electronic system in the launch and/or guidance and/or firing mechanism of any weapon or missile.

APPENDIX B

1. As a consequence of the Insurance Act 2015, the wording of Rule 48 will be amended so that it is in the same terms as Rule 6 of the P&I rules.
2. Typographical errors in Rules 4.D.8.2 and 4.D.8.3 will be made to correct the cross-references from 4.D.7.1 and 4.D.7.2 to 4.D.8.1 and 4.D.8.2 respectively.