

## CLASS 5, THE PROTECTING AND INDEMNITY CLASS

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NOTICE IS HEREBY GIVEN that a SEPARATE MEETING of the MEMBERS OF CLASS 5, THE PROTECTING AND INDEMNITY CLASS, of the Association will be held at the REGISTERED OFFICE of the Association, 50 LEMAN STREET, LONDON, E1 8HQ at 12 noon on WEDNESDAY, 28th JANUARY 1998, or as soon thereafter as the meeting of the Committee called for that day is finished, for the purpose of altering and adding to the Rules.

The following alterations and additions together with such further alterations and additions, if any, as may be proposed will be submitted for adoption with or without modification and with effect from noon G.M.T. on the 20th day of February 1998.

*[New wording is in bold. The explanatory notes in italics will not appear in the actual Rules.]*

### **RULE 8 CLASSIFICATION, INSPECTIONS OF SHIPS, AND STATUTORY REQUIREMENTS**

**8.1** Unless otherwise previously agreed by the Association in writing, every entered ship shall be fully classed throughout her period of entry with a Classification Society approved by the Association, regardless of any separate ~~condition surveys~~ **inspections** which the Association may have required, ~~and evidence of such Classification shall be provided by the Member to the Association upon the entry of any vessel. A Member shall give~~ The Association **shall be given** 30 days notice preceding any proposed change of Classification Society.

*(The words "condition surveys", "surveys" and "surveyors" have been replaced by the words "inspections" and "inspectors" throughout the Rule to reflect the fact that the Association arranges inspections of entered ships and not full surveys.*

*The requirement to provide evidence of Classification at the time of entry is unnecessary, because the Managers are obviously entitled to demand such evidence, as a condition prior to accepting the entry. The final amendment reflects the fact that there may be more than one Member or assured in relation to any single ship.)*

**8.2** Any occurrence known or likely to have caused damage to the entered ship in respect of which the Classification Society might reasonably be expected to make recommendations as to repairs or other action to be taken, must be promptly called to the attention of the Classification Society.

*(This Rule remains unchanged.)*

**8.3** All the Rules, recommendations and requirements of the Classification Society relating to the entered ship must, within the time or times specified by the Classification Society, be complied with.

*(This Rule remains unchanged.)*

**8.4** The Association shall have the right to inspect any records or information relating to the classification of an entered ship during any period of entry and if required, the Member **concerned** shall authorise the Classification Society ~~concerned~~ to make available all such records and information to the Association.

*(There may be more than one assured in relation to a particular vessel and each of them would have Member status. However one or more of the assureds may not have the authority to comply with this requirement. The proposed amendment recognises that practicality, whilst enabling the Association to refuse a claim brought by any of the named assureds if the one authorised to deal with the Classification Society fails to procure the release of records to the Association.)*

**8.65** Without derogation from and in addition to Rules 8.1 - ~~8.5~~ **8.4**, the Association may **but shall not be obliged to** require a Member to submit any ship to be submitted to ~~survey~~ **inspection of her condition and structure or any part thereof and her safety management (including the ship's managers and/or operators) by a surveyor or an inspector** nominated by the Association at any time or within any period of time as may be specified by the Association. ~~Unless the Committee shall in its sole discretion otherwise determine, there shall be no recovery in respect of any liability, costs or expenses where the above requirements have not been complied with.~~

*(The additional reference to safety management reflects the fact that the existing ship inspection system already encompasses certain areas of "safety software" and that is likely to be enhanced in future to reflect the introduction of the ISM Code. Application of the Committee's discretion to disallow claims is repeated at various places in the existing Classification Rules. It has therefore been deleted from this Rule and replaced in an all-embracing position later).*

**8.76** **Any defects noted and/or any recommendations made** as to repair or remedy ~~made by any surveyor nominated under~~ **as a result of any inspection undertaken in accordance with Rule ~~8.6~~ 8.5 shall be corrected and/or** carried out forthwith or within such period of time as may be specified by the Association. ~~and unless the Committee in its sole discretion shall otherwise determine there shall be no recovery in respect of any liability, costs or expenses where such recommendations have not been complied with.~~ **Notwithstanding anything herein, no action, lack of action or omission by the Association with regard to any inspection, noting of defect, recommendation, or lack thereof by the Association or its nominated inspector under this Rule 8 shall constitute an approval, disapproval, warranty, undertaking, certification, or assumption of responsibility of any kind by the Association regarding the Member, his ship(s) or management, nor shall any such action, lack of action or omission by the Association relieve the Member of any of his responsibilities or obligations under the Rules.**

*(The additional reference to the noting of defects reflects the reality of the existing ship inspection system which results in defects being notified to the Member. Recommendations for repair are not usually made. However, such recommendations are occasionally necessary which is why provision for that eventuality is maintained.)*

**8.7 The Member concerned shall ensure compliance with all the statutory requirements of the State of the ship's flag relating to the construction, adaptation, condition, fitment, equipment, manning and safety management of the entered ship and ensure at all times the maintenance of the validity of such statutory certificates as are required to be issued by or on behalf of the State of the ship's flag.**

*(This new Rule brings the Association into line with almost all other clubs who already require compliance with statutory requirements. Reference to "safety management" encompasses the requirements of the ISM Code. Use of the term "Member concerned" recognises that there may be several assureds, one of whom is best able to ensure compliance.)*

**8.8** Save to the extent that the Committee in its sole discretion may otherwise determine, there shall be no recovery in respect of any liability, costs or expenses arising during a period when any of the foregoing requirements have not been fulfilled. **However, where the entry of a ship is in the name of a Member who is a Charterer (other than a demise Charterer), the rights of recovery of such Charterer shall not be dependant upon fulfilment of the requirements of Rules 8.2, 8.3 and 8.4.**

*(This Rule has been renumbered so as to operate in the event of a failure to comply with the Association's requirements, whether in relation to Classification, inspections or management appraisals. The new section of this Rule recognises the reality that a Charterer Member is generally unable to comply with the Rules referred to.)*

**8.9** Without prejudice to Rule 8.8, the Association may:

**8.9.1** immediately terminate any contract of insurance in respect of any Member's interest in an entered ship **or ships** (together with the entry of that ship **or ships** in respect of that interest) after **defects or failures have been noted** ~~a surveyor shall have made recommendations as to repair~~ under Rule ~~8.7~~ **8.6**, in which case a pro rata return of premium (other than of Overspill Calls) shall be allowed;

*(This existing Rule which allows immediate termination of entry of a vessel perceived to be in particularly bad condition is extended so that similar action can be taken in respect of a fleet which is identified to be subject to unacceptably bad management.)*

**8.9.2** exclude cover for any liability, costs or expenses arising out of any accident or occurrence which is caused in whole or in part by any defect in or condition of the entered ship **and/or her safety management (including the ship's managers and/or operators)** in respect of which ~~a surveyor~~ **an inspector** has made any recommendations under Rule ~~8.7~~ **8.6**;

**8.9.3** from a specified date exclude cover for any liability, costs or expenses arising out of any accident or occurrence, caused in whole or in part by any defect in or condition of the entered ship **and/or her safety management (including the ship's managers and/or operators)** in respect of which ~~a surveyor~~ **an inspector** has made any recommendations, unless by that date the Member has submitted the entered ship for ~~re-survey~~ **a further inspection** and the recommended repairs have been effected to the satisfaction of the Association.

## **RULE 9 RISKS COVERED**

## 9.15 Pollution

- 9.15.2** PROVIDED that where such liabilities, costs and expenses are allowable in General Average and contributions thereto would have been recoverable by the Member from other contractual parties if he had not conceded such right in the terms of any contract entered into for the employment of the entered ship, then he shall be entitled to recover from the Association under Rule 9.15 any amounts which, but for the terms of such contract, would have been recoverable from other contractual parties in General Average.

*(This proviso will be required if all the Clubs in the International Group decide that Club cover should not extend to pollution costs normally recoverable in General Average under the York-Antwerp Rules 1994 with effect from 20th February 1998.)*

## RULE 17 OBLIGATION OF THE MEMBER IN RESPECT OF CLAIMS

- 17.1** A Member must promptly:

- 17.1.1** notify the Association of every casualty, event ~~or~~ **and** claim against him which threatens to give rise to any liability, costs or expenses for which he is insured, of all material developments in respect thereof, and of every survey or opportunity for survey (including survey of the condition of the entered ship) in connection therewith;

*(This amendment clarifies the Member's obligation.)*

## RULE 32 OVERSPILL CLAIMS/CALLS

### 32.5 Levying of Overspill Calls

- 32.5.4** The Association shall not levy on any Member in respect of the entry of any one ship an Overspill Call or Calls in respect of any one Overspill Claim exceeding in the aggregate ~~twenty per cent (20%)~~ **two point five per cent (2.5%)** of the Convention Limit of that ship.

*(In July 1997 the Boards/Committees of all Clubs resolved to introduce this reduction in the limit on Overspill Calls from the commencement of the next policy year.)*

By Order of the Committee,  
A. BILBROUGH & CO. LTD.  
(Managers)

9th January 1998