



THE LONDON

STEAM-SHIP OWNERS'
MUTUAL INSURANCE ASSOCIATION LIMITED

All correspondence should be addressed to the Managers

A. BILBROUGH & CO. LTD
50 Leman Street London E1 8HQ
Telephone: 020 7772 8000
Facsimile: 020 7772 8200
E-mail: london@a-bilbrough.com
www.lsoo.com

CLASS 5, THE PROTECTING AND INDEMNITY CLASS

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, 25th JANUARY 2006, or as soon thereafter as the meeting of the Committee called for that day is finished, for the purpose of amending the Rules.

The following amendments together with such further amendments, 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 2006.

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

RULE 4 UNREASONABLE CONDUCT

- 4.1** The Committee may reject or reduce any recovery by an Assured where in its **sole** discretion it determines that the Assured has not at any time (whether before, at the time of, during or after any casualty, event or matter liable to give rise to a claim upon the Association) taken such steps to protect his interests as the Committee in its **sole** discretion would have expected an uninsured person acting reasonably in similar circumstances to have taken.
- 4.2** Without prejudice to the generality of Rule 4.1, an Assured must at all times (whether before, at the time of, during or after any casualty, event or matter liable to give rise to a claim upon the Association) take such steps to protect his interests in relation to Date Compliance as the Committee in its **sole** discretion would expect an uninsured person acting reasonably in similar circumstances to take. For the purpose of this Rule "Date Compliance" shall mean that, in relation to computers and other equipment or systems for processing, storing or retrieving data, hardware, software, firmware and microprocessors and any equipment which contains or relies upon microprocessors, neither performance nor functioning is adversely affected by dates prior to, during and after the year 2000 and in particular that:
- (a) no value for current date will cause any interruption in operation;
 - (b) date-based functioning and performance shall behave consistently for dates prior to, during and after the year 2000;
 - (c) in all interfaces and data storage, the century in any date shall be specified either explicitly or by unambiguous algorithms or inferencing rules;
 - (d) the year 2000 shall be recognised as a leap year.
- In the event that an Assured commits any breach of this obligation, the Committee may in its **sole** discretion reject any claim by the Assured against the Association arising directly

or indirectly out of such breach, or reduce the sum payable by the Association in respect thereof by such amount as it may determine.

[Explanation: The proposed changes are an example of a need within a number of Rules to achieve consistency in the wording such that it always refers to the exercise of the Committee's sole discretion. It is proposed that like changes are made to Rules 5.8, 9.29.2, 9.29.2.3, 20.1, 26.1, 33.3.1, 33.5.1, 33.5.2, 33.7.1, 33.7.3, 33.8.1 and 38.2.]

RULE 9 RISKS COVERED

9.19 Cargo

9.19.2.5 except where the Association shall have previously agreed in writing, there shall be no recovery in respect of perishable cargo carried in insulated or refrigerating chambers or containers unless ~~both~~:

9.19.2.5.1 **in the event that** the space, apparatus and the means used for the carriage and safe custody of perishable cargo **have been provided by the Assured, such** have been certified and approved before the commencement of each voyage by a **competent expert surveyor** ~~of the entered Ship's classification society~~; and

9.19.2.5.2 **in the event that the space, apparatus and the means used for the carriage and safe custody of perishable cargo have been provided by a third party, the Assured has taken all reasonable steps to ensure or require that such have been certified and approved before the commencement of each voyage by a competent expert; and**

9.19.2.5.2.3 ~~the Association shall have previously approved in writing the protective clauses in the relevant contract of carriage and the instructions given to those on board the Ship;~~ **the relevant contract of carriage contains appropriate protective clauses and appropriate instructions have been given to those on board the Ship for the safe carriage of perishable cargo;**

[Explanation: The proposed changes are directed to up-dating Rule 9.19.2.5 to reflect the predominant carriage of perishable cargo in temperature controlled containers and the inappropriateness of requiring certification by a Class surveyor in all cases. In addition, the proposed changes distinguish between requirements applying to equipment provided by the Assured and by third parties and places the burden on the Assured to ensure that relevant contracts of carriage contain appropriate protective clauses, but in connection with which Assureds may naturally seek guidance from the Managers.]

9.23 Fines:

9.23.1 Fines imposed by any court, tribunal or authority for:

9.23.1.1 breach of any immigration law or regulations relating to crew members or their spouses and children or stowaways, PROVIDED that there shall be no recovery from the Association unless the Assured can satisfy the Association that proper steps were taken to guard against desertion and landing without permission of the proper authority;

9.23.1.2 smuggling or any infringement of any customs law or regulation other than in relation to cargo carried on the entered Ship, provided that the Assured upon becoming aware of the alleged offence immediately notifies the Association;

9.23.1.3 short-delivery or over-delivery of cargo or failure to comply with any law or regulation relating to declaration or documentation of cargo, but only when the entered Ship is covered for cargo risks under Rule 9.19 in which case such fines shall be aggregated with cargo claims for the purposes of applying the cargo deductible to the same, and fines under Rule 9.23.1.3 shall not be subject to any other deductible;

9.23.1.4 the accidental discharge or escape of oil or any polluting substance ~~from the entered Ship~~ or threat thereof, but as regards oil only where the entered Ship is covered for pollution risks under Rule 9.15;

9.23.2 All other fines shall be recoverable only **to such extent as** ~~at the sole discretion of the Committee~~ **in its sole discretion may determine** and provided that:

- 9.23.2.1** the Assured has satisfied the Committee that he took such steps as appear to the Committee to have been reasonable to avoid the event giving rise to the fine or penalty; and
- 9.23.2.2** any fine imposed not on an Assured but on the master or crew members of the entered Ship or on any other servant or agent of the Assured shall only be recoverable in circumstances either where the Assured has been compelled by law to pay or reimburse such fine or where the Committee shall determine that it was reasonable for the Assured to have paid or reimbursed the same.

[Explanation: The proposed change to Rule 9.23.1.4 achieves consistency with the Pooling Agreement, while the change proposed in respect of Rule 9.23.2 serves to provide the Committee with discretion in connection with the amount recoverable.]

RULE 9.27 Sue and Labour and Legal Costs:

- 9.27.1** Extraordinary costs and expenses (other than under Rule 9.26) reasonably incurred after any casualty, event or matter for the purpose of avoiding or minimising any liabilities, costs or expenses against which the Assured is insured within this Class, **but only to the extent either that such extraordinary costs and expenses have been incurred with the approval of the Association or that the Committee in its sole discretion shall determine that the same should be recovered.**
- 9.27.2** Legal costs and expenses relating to any liabilities, costs or expenses against which the Assured is insured within this Class, but only to the extent either that such legal costs and expenses have been incurred with the ~~prior~~ approval of the Association ~~in writing~~ or that the Committee in its sole discretion shall determine that the same should be recovered.
- 9.27.3** PROVIDED that the operation of Rule 9.27 shall require account to be taken of any relevant deductible in evaluating the liabilities, costs and expenses for which the Assured is insured within this Class and for the avoiding or minimising of which the extraordinary or legal costs and expenses shall have been incurred.

[Explanation: The proposed changes achieve consistency between Rules 9.27.1 and 9.27.2 and bring Rule 9.27.1 into line with the equivalent Rules of other IG Associations.]

RULE 22 SETTLEMENT OF CLAIMS

- 22.1** The Committee shall meet as often as may be required for the purposes of settling and determining claims or any other matters relating to the business of the Association.
- 22.2** The Committee shall in its sole discretion have power from time to time to authorise the Managers to effect both settlement and payment of any claims, without prior reference to the Committee, of such types and up to such sums as the Committee may in its sole discretion determine.
- 22.3** No member of the Committee may vote upon any claim in which he is in any way interested.
- 22.4** **Where under any Rule the Committee shall have exercised its sole discretion in settling or determining claims or any other matters relating to the business of the Association, the Committee shall not be obliged to give reasons for any decision.**

[Explanation: The proposed change is self-explanatory.]

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

21 October 2005