



# THE LONDON

STEAM-SHIP OWNERS'  
MUTUAL INSURANCE ASSOCIATION LIMITED

All correspondence should be addressed to the Managers

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## CLASS 8, THE FREIGHT, DEMURRAGE AND DEFENCE CLASS

NOTICE IS HEREBY GIVEN that a SEPARATE MEETING of the MEMBERS OF CLASS 8, THE FREIGHT, DEMURRAGE AND DEFENCE CLASS, of the Association will be held at the REGISTERED OFFICE of the Association, 50 LEMAN STREET, LONDON, E1 8HQ at 12:20 p.m. on WEDNESDAY, 26th JANUARY 2005, or as soon thereafter as the meeting of Class 7 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 2005.

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

### RULE 5 APPLICATION FOR INSURANCE AND CONDITIONS

- 5.1 It is a condition of entry of a Ship for insurance in this Class that the person making application ~~for, or on whose behalf such application is made, for such entry and who in accordance with Rule 1.5 becomes or continues as a Member as a result of~~ such entry shall agree to become and shall become a member (or, if already a member, shall continue as such) of The London Steam-Ship Owners' Mutual Insurance Association (Bermuda) Limited (herein referred to as "LSSO (Bermuda)", a company incorporated in Bermuda without share capital with which the Association reinsures risks of this Class): **PROVIDED that no person shall by virtue of being an Other Assured be entitled to be a member of LSSO (Bermuda) and no more than one Co-assured in respect of such entry shall be entitled to be a member of LSSO (Bermuda) and the Association shall have the right to designate one Co-assured in respect of an entry as a member of LSSO (Bermuda).**
- 5.2 An application ~~by any person~~ for entry or renewal of entry of a Ship in this Class ~~shall~~ **by or on behalf of any person who in accordance with Rule 1.5 becomes or continues as a Member as a result of such entry shall incorporate or be deemed to incorporate** and be treated as comprising an application to become or continue as a member of LSSO (Bermuda) on the terms of and subject to the ~~incorporating Act~~ **Bermuda Companies Act 1981 (as amended), Incorporating Act (as amended)** and Bye-laws of LSSO (Bermuda), and subject to the Rules of Reinsurance Class II of LSSO (Bermuda), being the Rules applicable to members of LSSO (Bermuda) who have entries in this Class of the Association which are reinsured by the Association with LSSO (Bermuda).
- 5.3 A person by whom or on whose behalf an application has been made and accepted by the Association for insurance in this Class **and who in accordance with Rule 1.5 becomes or continues as a Member as a result of such entry** shall be deemed to have agreed to become a member of LSSO (Bermuda) and to be bound by the terms of the said ~~incorporating~~ **Incorporating Act, Bye-laws and Rules of Reinsurance Class II of LSSO (Bermuda)** and the Managers shall be empowered to sign on behalf of such person any documents required to be signed by such person in order to become or continue as a member of LSSO (Bermuda).

**5.4 As a term of entry of any Ship for insurance in this Class each Assured shall be bound by and comply with the terms of the Incorporating Act and Bye-laws of LSSO (Bermuda) and the Rules of Reinsurance Class II of LSSO (Bermuda).**

~~5.4~~**5.5** The condition stated in Rule 5.1 and the provisions stated in Rules 5.2, ~~and 5.3~~ **and 5.4** shall apply for each Policy Year if, but only if, risks of this Class shall be reinsured by LSSO (Bermuda) for the Association for that Policy Year or any part thereof. For this purpose it shall be assumed that any agreement between the Association and LSSO (Bermuda) for reinsurance of risks of this Class by LSSO (Bermuda), which is current when an application for insurance or renewal of insurance in this Class is received by the Association, will remain in force notwithstanding that such agreement may be capable of being terminated at or before the commencement of the next Policy Year provided that this assumption shall not be made if at such time it shall have been agreed that such reinsurance will terminate at or prior to the commencement of the next Policy Year.

~~5.5~~**5.6** Any application for insurance shall be on such form and in such medium as may from time to time be prescribed by the Association and the applicant shall at the time of the application and at all times thereafter provide all material particulars and information and any further particulars and information requested by the Association. The Association shall be entitled to receive and process applications for insurance which are submitted by Electronic Communication or by any other means agreed by the Association.

~~5.6~~**5.7** If the application is accepted by the Association, all particulars and information given by the applicant shall form the basis of the contract of insurance and it shall be a condition precedent to any right of recovery in respect thereof that the same were all true and, save to the extent otherwise notified in writing to the Association, continued to be true, throughout the period of insurance, in each case so far as the applicant knew or could with reasonable diligence have ascertained. Without prejudice to the generality of the foregoing, it shall further be a condition precedent to any right of recovery in respect of any such contract of insurance that an Assured shall provide details of any change to any particulars and information previously furnished to the Association.

~~5.7~~**5.8** The Association shall in its absolute discretion be entitled to refuse any application for insurance without stating reasons, whether or not the applicant is already an Assured.

~~5.8~~**5.9** The Association may accept separate applications for insurance in respect of different interests in the same Ship without any obligation to disclose any one to any other.

*[Explanation: The proposed changes to Rule 5 make it clear that only one co-assured per entered vessel may be a corporate member of LSSO(Bermuda), as is now the case with LSSO. LSSO(Bermuda) will be making equivalent changes to its Bye-Laws and Rules to those made to the Articles and Rules of LSSO last year.]*

## **RULE 9 RISKS COVERED**

9.1 Subject to any special terms which may be agreed in writing and to the provisions of Rules 22 and 23, an Assured is insured in respect of each Ship entered by him in this Class for legal costs, charges or disbursements incurred in relation to the claims or matters set out in Rules 9.2.1 - 9.2.16,

PROVIDED that such legal costs, charges or disbursements arise:

- 9.1.1 in respect of the Assured's interest in such Ship; and
- 9.1.2 in connection with the operation of such Ship **by** or on behalf of the Assured; and
- 9.1.3 out of events occurring during the period of entry of such Ship; and
- 9.1.4 are incurred with the prior approval of the Association.

*[Explanation: The proposed change to Rule 9.1.2 inserts the omitted word.]*

## **RULE 16 OBLIGATION OF THE ASSURED IN RESPECT OF CLAIMS**

16.1 Where an Assured wishes to make recovery out of the funds of this Class he must promptly:

- 16.1.1 notify the Association of every casualty, dispute, event or claim against him which threatens to give rise to any legal costs, charges or disbursements for which he is insured, of all material developments in respect thereof, and in connection therewith;
- 16.1.2 disclose and produce all information, documents, reports or legal advices in or coming into his or his agents' (including lawyers') possession, power or knowledge relevant to any such casualty, event or claim either available at the time of notification or at any time.

- 16.2 An Assured must neither settle nor make any admission **nor grant any waiver** in respect of legal costs, charges or disbursements for which he is insured without prior consent from the Association in writing.

*[Explanation: The proposed change to Rule 16.2 serves to strengthen the Association's position with respect to a Member's unilateral waiver of legal costs, charges or disbursements.]*

## **RULE 17 FAILURE TO GIVE ADVICE**

- 17.1 If an Assured fails to comply with his obligations under Rule 16 or acts unreasonably or incurs any legal costs, charges or disbursements through his neglect or default in each case in connection with any casualty, dispute, event or claim the Committee may in its sole discretion reject or reduce any recovery or require the Assured to repay to the Association any legal costs, charges or disbursements which the Association may have incurred or paid **or undertaken to pay** in connection therewith.

*[Explanation: The proposed change to Rules 17.1 serves to strengthen the Association's position with respect to the entitlement of the Association to require a Member to repay amounts which the Association may have undertaken to pay.]*

## **RULE 31 ADVANCE, DEFERRED AND ADDITIONAL CALLS**

- 31.1 The Assureds who have entered Ships for insurance in the Association in respect of any Policy Year (not being a year closed in accordance with Rule 33) shall (unless such entry is for a fixed premium or as may be otherwise specifically agreed) provide in accordance with the provisions of Rules 31 and 32 by way of Advance, Deferred and Additional Calls, all funds which in the sole discretion of the Committee are required to meet:
- 31.1.1 the claims, expenses and outgoings (whether incurred, accrued or anticipated) of the insurance business of the Association in respect of such Policy Year including, without prejudice to the generality of the foregoing, such excess (if any) of the claims and other outgoings in respect of any category of such business over the Calls payable to the Association in respect thereof as the Committee may charge in whole or in part to such Policy Year, and any proportion of any claims, expenses or outgoings of any insurer other than the Association which has fallen or which may be thought likely to fall upon the Association by virtue of any reinsurance or pooling agreement concluded between the Association and such other insurer;
- 31.1.2 such of the general expenses of the Association as the Committee may from time to time charge against the insurance business of the Association in respect of such Policy Year;
- 31.1.3 such transfers to the reserves or other accounts of the Association (as referred to in Rule 37) and for subsequent application for the purposes of such reserves or other accounts or otherwise as the Committee may determine;
- 31.1.4 any deficiency (but also taking account of any surplus) which has occurred or may be thought likely to occur in any closed Policy Years;
- 31.1.5 any sums which the Association may by any governmental **or other similar** legislation or regulation be required to set aside in order to establish and/or maintain an adequate solvency margin, ~~and/or guarantee fund~~ **and/or other fund or capital requirement** in respect of ~~such~~ **any** Policy Year.

*[Explanation: The proposed amendment reflects the new enhanced capital requirement regime being introduced by the Association's regulator, the Financial Services Authority, in January 2005.]*

## **RULE 42 JURISDICTION AND LAW**

- 42.1 The Association may but shall not be obliged to commence and maintain proceedings to obtain security for and/or payment of any amount outstanding in respect of Calls or otherwise in the High Court of Justice of England and, if it does so, the Assured hereby submits to the jurisdiction of that Court in respect of any such action. Without prejudice to the foregoing, the Association shall be entitled to commence and maintain proceedings in any other jurisdiction and subject to and/or under the law of any other jurisdiction to establish, exercise or enforce any right of lien and/or to obtain security for and/or payment of any amount outstanding in respect of Calls or otherwise.
- 42.2 Save for the matters referred to in Rule 42.1 and subject to Rule 33.4 of Class 5, if any difference or dispute shall arise between an Assured and the Association out of or in connection with these

Rules, or out of any contract between the Assured and the Association, or as to the rights or obligations of the Association or the Assured thereunder, or in connection therewith, or as to any other matter whatsoever, such difference or dispute shall be referred to arbitration in London before a sole legal arbitrator and the submission to arbitration and all the proceedings therein shall be subject to the provisions of the Arbitration Acts 1950,~~1979~~ and 1996 and any statutory modification or re-enactment thereof, and to English Law. In any such arbitration, any matter decided or stated in any judgment or arbitration award (or in any reasons given by an arbitrator or umpire for making any award) relating to proceedings between the Assured and any third party shall be admissible in evidence. No Assured may bring or maintain any action, suit or other legal proceedings against the Association in connection with any such difference or dispute unless he has first obtained an arbitration award in accordance with this Rule.

*[Explanation: The Arbitration Act 1979 has been repealed.]*

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

31 December 2004