

AMENDMENTS TO THE RULES OF THE UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSOCIATION (BERMUDA) LIMITED AND TO THE RULES OF THE UNITED KINGDOM MUTUAL STEAM SHIP ASSURANCE ASSOCIATION (EUROPE) LIMITED.

TO BE CONSIDERED BY THE MEMBERS OF THE ASSOCIATION AT THE SPECIAL GENERAL MEETING OF THE ASSOCIATION TO BE HELD IN BERMUDA ON 14th JANUARY, 2016

AMENDMENTS TO THE RULES	EXPLANATORY NOTES
<p><u>Rule 2, Section 13B - Liability arising out of towage of or by an entered ship - Towage of an entered ship other than customary towage</u></p> <p><i>Amend Rule 2, Section 13B by addition of the words in bold type below:</i></p> <p>B Towage of an entered ship other than customary towage Liability under the terms of a contract for towage of an entered ship other than the customary towage covered under paragraph (A) of this Section but only if and to the extent that cover for such liability has been agreed with the Managers upon such terms as the Managers may require.</p> <p>For the purpose of this paragraph B, the Managers will approve contracts for towage of an entered ship on terms not less favourable to the entered ship than:</p> <p>(i) The Lloyds standard form of salvage agreement (1980, 1990, 1995 or 2000, whether or not incorporating SCOPIC), or</p> <p>(ii) a contract that contains a term that the parties to the towage contract, and any parties on whose behalf they contract, shall be responsible for any loss of or damage to or wreck removal of their own ship, cargo or property and for loss of life or personal injury thereon, without recourse against the other and will indemnify the other against any such liability.</p>	<p><u>Rule 2, Section 13B - Liability arising out of towage of or by an entered ship - Towage of an entered ship other than customary towage</u></p> <p><i>The purpose of this change is to set out the pooling requirements relating to towage of an entered ship other than customary towage, for Members' easy reference.</i></p>
<p><u>Rule 2, section 15 - Wreck liabilities</u></p> <p><i>Amend Rule 2, Section 15B by deletion of the provisos as indicated below:</i></p> <p>B Costs or expenses relating to the raising, removal or destruction of any property being carried or having been carried on an entered ship, not being oil or any other substance within the scope of Section 12 of this Rule, when such raising, removal or destruction is compulsory by law or the costs thereof are legally recoverable from the Owner but only if and to the extent that:</p> <p>i. such property does not form part of the entered ship and is not owned or leased by the Owner or by any company associated with or under the same management as the Owner; and</p> <p>ii. the Owner is unable to recover such costs or expenses from the owner or insurer of such property, or from any other party.</p>	<p><u>Rule 2, section 15 - Wreck liabilities</u></p> <p><i>The purpose of this change is to ensure that the underlying cover provided to Members in respect of removal of the wreck of the entered ship and any property on board matches the scope of the liabilities imposed by the Wreck Removal Convention.</i></p>
<p><u>Rule 5H. Exclusion of certain liabilities, costs and expenses of salvage ships, drilling ships, dredgers and others</u></p> <p><i>Amend Rule 5Hv. by deletion as indicated and by addition of words in bold type below:</i></p> <p>v. An entered ship which is used for or in connection with the operations of submarines or underwater vessels or equipment, or an entered ship which is used for or in connection with professional or commercial diving operations, when the claim arises out of those operations, except a claim</p> <p>(a) arising out of salvage operations being conducted by an entered ship where provided that (i) the divers, fully licenced or</p>	<p><u>Rule 5H. Exclusion of certain liabilities, costs and expenses of salvage ships, drilling ships, dredgers and others</u></p> <p><i>The purpose of this amendment is to set out clearly the additional requirements of the Association in respect of claims arising from operations conducted by divers forming part of the crew of a salvage ship.</i></p>

<p>otherwise certified, form part of the crew of that entered ship (or of diving bells or other similar equipment or craft operating from the entered ship); and where (ii) the Owner of that entered ship (except a charterer other than a demise or bareboat charterer) is responsible for the activities of such divers; and (iii) the Owner at all times ensures compliance with any legislation, regulations, rules and other requirements regarding the employment of such divers; and</p>	
<p><u>Rule 5L. Rules subject to Marine Insurance Act</u></p> <p><i>Amend Rule 5L by deletion of words as indicated and by addition of words in bold type both in the title and in the body of the Rule below:</i></p> <p>L Rules subject to Marine Insurance Act 1906 and Insurance Act 2015</p> <p>i. 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 excluded by these Rules or by any term of such contracts.</p> <p>ii. The following provisions of the Insurance Act 2015 (“the Act”) are excluded from the Rules and any contract of insurance as follows:</p> <p>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.</p> <p>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 Owner 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.</p> <p>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 Owner, 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 Owner 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.</p> <p>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 Owner and all insureds in the event that a fraudulent claim is submitted by or on behalf of the Owner and/or any Group Affiliate.</p>	<p><u>Rule 5L. Rules subject to Marine Insurance Act</u></p> <p><i>The Rules are presently subject to the 1906 Marine Insurance Act, which will be modified by the entry into force, on 12th August 2016, of the new UK Insurance Act 2015. The effects of the 2015 Act are described in the Club’s circular 15/15 dated November 2015 (http://www.ukpandi.com/publications/article/circular-15-15-the-uk-insurance-act-2015-133976/).</i></p> <p><i>The purpose of the amendment to Rule 5L is to exclude the application of Sections 8, 10, 11, 13, 13A and 14 of the Insurance Act of 2015, whilst complying with the transparency requirements for contracting out of the Act.</i></p> <p><i>These changes will take effect from the date of entry into force of the new Act and similar changes are being adopted by all IG Clubs that have Rules subject to English law.</i></p>

<p>e. Section 13A of the Act is excluded: As a result the Rules and all terms of the contract of insurance between the Association and the Owner shall not be subject to nor shall the Association be in breach of any implied term that it 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.</p> <p>f. Section 14 of the Act is excluded. As a result, the contract of insurance between the Association and the Owner 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.</p>	
<p><u>Rule 5P – Recoveries and subrogation</u></p> <p><i>Amend Rule 5P by addition of words in bold type below:</i></p> <p>P - Recoveries, savings by the Owner and subrogation</p> <p>i Unless otherwise agreed in writing by the Managers, where the Association has paid a claim to or on behalf of an Owner the whole of any recovery from a third party in respect of that claim shall be credited and paid to the Association up to an amount corresponding with the sum paid by the Association together with any interest element on that sum comprised in the recovery, provided however that where, because of a deductible in his terms of entry, the Owner has contributed to settlement of the claim, any such interest element shall be apportioned between the Owner and the Association taking into account the payments made by each and the dates on which those payments were made.</p> <p>ii. Unless otherwise agreed in writing by the Managers, where the Owner, as a result of an event for which he is covered by the Association, has obtained extra revenue or saved costs or expenses which would otherwise have been incurred and which would not have been covered by the Association, the Association may deduct from the sum otherwise payable to the Owner an amount corresponding to the benefit obtained.</p> <p>iii. Unless otherwise agreed in writing by the Managers, where the Association has paid a claim to or on behalf of an Owner, the Association shall be subrogated to the rights of the Owner in respect of the claim to the extent of that payment, including the right to any interest accruing on that amount prior to its recovery and the right to recover any costs incurred in relation to the exercise of such rights.</p>	<p><u>Rule 5P – Recoveries and subrogation</u></p> <p><i>The purpose of the proposed amendment is to make explicit that the Association may deduct from a claim otherwise payable by the Association an amount equivalent to any savings that are obtained by the Member as a result of the event giving rise to the claim, where such savings are not expressly insured by the Association under the Rules.</i></p> <p><i>The amendment reflects the principle implicit in P&I policies (and already referred to in some parts of the Rules) that the purpose of the insurance is not to enrich but to indemnify in respect of liability and loss.</i></p>
<p><u>Rule 7. Applications for insurance</u></p> <p><i>Amend Rule 7 by deletion of paragraph B and additions of paragraphs B, C, D and E in bold type below and by renumbering paragraph C into paragraph F, as indicated below:</i></p> <p>A Any applicant Owner who desires to enter a ship for insurance in the Association shall make application for such entry in such form as may from time to time be required by the Managers.</p> <p>B The particulars given by an applicant Owner in any application form together with any other particulars or information given in the course of applying for insurance or negotiating changes in the terms of insurance to the Managers of the Association shall, if the entry of the relevant ship be accepted, be deemed to form the</p>	<p><u>Rule 7. Applications for insurance</u></p> <p><i>The Rules are presently subject to the 1906 Marine Insurance Act, which will be modified by the entry into force, on 12th August 2016, of the new UK Insurance Act 2015. The effects of the 2015 Act are described in the Club's circular 15/15 dated November 2015 (http://www.ukpandi.com/publications/article/circular-15-15-the-uk-insurance-act-2015-133976/)</i></p> <p><i>Paragraph B of Rule 7 constitutes a 'basis of contract' clause of a kind that is prohibited under the Insurance Act 2015. The Rule amendment deletes Paragraph B and replaces it with express provisions to incorporate the fair presentation of risk principles set out in the new Act.</i></p>

<p>basis of the contract of insurance between the Owner and the Association and it shall be a condition precedent of such insurance that all such particulars and information were true so far as the Owner knew or could with reasonable diligence have ascertained.</p> <p>B The applicant Owner and any agent must make to the Managers a fair presentation of the risk by providing the Managers with all material particulars and information together with any additional particulars and information as the Managers may require.</p> <p>C The applicant Owner and any agent will ensure that every material representation as to a matter of fact is substantially correct, and every material representation as to a matter of expectation or belief is made in good faith.</p> <p>D In accordance with Rule 5L of the Association’s Rules, Section 8 of the Insurance Act 2015 is excluded. Any breach of paragraphs B and C shall entitle the Association to avoid the contract of insurance, regardless of whether the breach is innocent, deliberate or reckless.</p> <p>E The Owner is obliged to disclose any change in any material information relating to an entry including, but not limited to, change of: management, flag, classification society, government authority responsible for ship certification for the trade in question, nationality of crew, trading or operating area or nature of trade or operation. Upon such disclosure, or failure to disclose, the Managers may amend the Owner’s premium rating or terms of entry, or terminate the entry in respect of such ship with effect from the time of disclosure or failure to disclose.</p> <p>€F The Managers shall be entitled, in their discretion and without assigning any reason, to refuse any application for the entry of a ship for insurance in the Association whether or not the applicant Owner of such ship is a Member.</p>	<p><i>Paragraph D incorporates a remedy of avoidance which used to be (but is no longer) automatic under Section 17 of the Marine Insurance Act 1906.</i></p> <p><i>Paragraph E refers to the owner’s obligations to disclose changes in material information.</i></p> <p><i>These amendments will take effect from the date of entry into force of the new Act and similar amendments are being adopted by all IG Clubs that have Rules subject to English law.</i></p>
<p><u>Rule 27. Laid-up Returns</u></p> <p><i>Amend Rule 27 by deletion as indicated and by addition of words in bold type below:</i></p> <p>For the purposes of this Rule ... b) no claim for laid-up returns relating to any policy year shall be recoverable from the Association unless written notice thereof has been given to the Association within six three months of the end of the policy year concerned.</p>	<p><u>Rule 27. Laid-up Returns</u></p> <p><i>For accounting reasons, it is proposed to shorten the Member’s notice period to the Club for a claim for a laid-up return from six months to three months after the end of the relevant policy year.</i></p>