

**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 16th JANUARY, 2014**

## AMENDMENTS TO THE RULES

Rule 2, Section 4 - Repatriation and substitute expenses

*Amend Rule 2, Section 4 by deletions as indicated and by addition of the words in bold type below:*

**A** Repatriation and substitute expenses which are not recoverable under Sections 2 and 3 of this Rule and which are incurred in sending abroad a substitute to replace a seaman of an entered ship who has been left ashore, or incurred under statutory obligation in repatriating any seaman of the entered ship.

PROVIDED ALWAYS that:

This **paragraph A** of Section 4 does not cover expenses which arise out of or are the consequence of (i) the expiry of a seaman's period of service on the entered ship either in accordance with the terms of a crew agreement or other contract of service or employment or by mutual consent of the parties to it, or (ii) breach by the Owner of any agreement or other contract of service or employment, or (iii) sale of the ship, or (iv) any other act of the Owner in respect of the entered ship, ~~save to the extent permitted by Rule 1 Section 9 in respect of the Owner's liability for such expense under the Maritime Labour Convention 2006 or equivalent statutory provisions.~~

**B** Repatriation and substitute expenses incurred in compliance with Guideline B2.5 of Regulation 2.5 of the 2006 Maritime Labour Convention (MLC 2006) or domestic legislation by a State Party implementing MLC 2006 unless costs are otherwise recoverable under Rule 2, Sections 2, 3 or 4A.

**C** Notwithstanding Rule 5A, where a Member has failed to discharge or pay the liabilities referred to in Section 4B above, the Association shall discharge or pay such claim on the Member's behalf directly to such seaman.

PROVIDED ALWAYS THAT:

- (a) where the Association is under no liability in respect of the claim by reason of a cesser under Rule 29A or cancellation under Rule 31, the Association shall nevertheless discharge or pay a claim under Section 4C incurred within the earlier of three months of the date of cesser or cancellation, or the expiry of the policy, but only as agent of the Owner and the Owner shall reimburse the Association in full for such claim; and
- (b) the Owner shall reimburse the Association in full for any claim paid under Section 4B of Rule 2.

Corresponding change to Rule 1, paragraph 9:

*Amend Rule 1, paragraph 9 by addition of the words in bold type and by deletion of the words indicated below:*

9 ~~(a)~~ Notwithstanding the provisions of Rule 5A, where an Owner has failed to discharge a legal liability ~~(i)~~ to pay damages, compensation ~~or repatriation costs~~ for illness, personal injury or death of a seaman ~~or (ii) in respect of any other repatriation of a seaman under the 2006 Maritime Labour Convention or any equivalent statutory provisions,~~ the Association shall discharge or pay such claim on the Owner's behalf directly to such seaman or dependent thereof.

## EXPLANATORY NOTES

Rule 2, Section 4 - Repatriation and substitute expenses and corresponding change to Rule 1, paragraph 9:

*The Rules were amended for the 2013/2-14 policy year to allow the Club to provide the financial security currently required under the Maritime Labour Convention (MLC).*

*In order to demonstrate that the financial security would not be adversely affected if the Owner becomes insolvent or has his cover cancelled, the proposed amendment to Rule 2 Section 4 makes explicit that cover for financial security purposes will continue for 90 days after a cesser or cancellation, albeit subject to the Club's right to indemnification from the Owner.*

*The proposed amendments to Rule 1 paragraph 9 are logical consequences of transferring some provisions of that paragraph into the amended Rule 2, Section 4.*

*The proposed amendments do not materially change the scope of cover, aside from the 90 day extension, but should make it simpler to demonstrate the existence of adequate financial security under MLC by reference to Rule 2 Section 4 as newly amended.*

<p>PROVIDED ALWAYS that  <del>(b). There shall be no recovery in respect of (a)(i) above unless</del>  the seaman or dependent has no enforceable right of recovery against any other party and would otherwise be uncompensated,  <del>(c) ii) s</del> Subject to (iii<del>d</del>) below, the amount payable by the Association shall under no circumstances exceed the amount which the Owner would otherwise have been able to recover from the Association under the Rules and the Owner's terms of entry,  <del>(c) iii) w</del> Where the Association is under no liability to the Owner in respect of such claim in accordance with Rule 31(B)(ii)(a) and (d) by reason of cancellation for non-payment of amounts due to the Association, the Association shall nevertheless discharge or pay that claim to the extent only that it arises from an event occurring prior to the date of cancellation, <del>(c) but</del> <b>Any payment made by the Association under (a)(ii) or (d) above shall be made as agent only of the Owner, and the Owner shall be liable to reimburse the Association for the full amount of such payment claim.</b></p>	
<p>Rule 2, Section 17D – Through or transhipment bills of lading</p> <p><i>Amend Rule 2, Section 17D by addition of the words in bold type below:</i></p> <p>Liability for loss, shortage, damage or other responsibility in respect of cargo carried by a means of transport other than the entered ship, when the liability arises under a through or transhipment bill of lading, or other form of contract, approved by the Managers, <b>providing for carriage partly to be performed by the entered ship, provided that the Owner has contracted on terms that seek to preserve rights of recourse against others involved in the performance of the contract of carriage.</b></p>	<p>Rule 2, Section 17D – Through or transhipment bills of lading</p> <p><i>This amendment is to incorporate a Pooling Agreement requirement which has previously been applied by the Managers in the course of approving contracts.</i></p>
<p>Rule 5H – Exclusion of certain liabilities, costs and expenses of salvage ships, drilling ships, dredgers and others</p> <p><i>Amend Rule 5H(i) by addition of the words in bold type below:</i></p> <p>i An entered ship which is a salvage tug or firefighting ship or other ship used or intended to be used for salvage or firefighting operations, when the claim arises out of any salvage or firefighting service or attempted salvage or firefighting service <b>(including, for the purpose of this paragraph, wreck removal);</b></p>	<p>Rule 5H – Exclusion of certain liabilities, costs and expenses of salvage ships, drilling ships, dredgers and others</p> <p><i>The purpose of this amendment is to align the language of the Rule with the wording of the corresponding provision of the Pooling Agreement, so as to make clear that the salvage operations, referred to in this Rule, includes wreck removal operations performed by salvors.</i></p>
<p>Rule 5P – Recoveries</p> <p><i>Amend Rule 5P by addition of the words in bold type below:</i></p> <p><b>P – Recoveries and subrogation</b></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.  <b>ii. Unless otherwise agreed in writing by the Managers, where the Association has paid a claim to or on behalf</b></p>	<p>Rule 5P – Recoveries</p> <p><i>The purpose of this amendment is to strengthen the Association's recovery position by granting a contractual right of subrogation to the Association, in addition to the right of subrogation that the Association may have under applicable law.</i></p>

<p>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>Rule 11 – Group Affiliated Cover</p> <p><i>Amend Rule 11 by addition of a new paragraph D in bold type below:</i></p> <p><b>D Conduct of any one of the parties insured under this Rule which would have entitled the Association to decline to indemnify him shall be deemed the conduct of all insureds under the same entry.</b></p>	<p>Rule 11 – Group Affiliated Cover</p> <p><i>The added paragraph reflects a strict requirement of the Pooling Agreement.</i></p>
<p>Rule 44 – Definitions</p> <p><i>Amend Rule 44 by addition of the words in bold type below:</i></p> <p>Seaman Any person (including the Master and apprentices) employed as part of a ship’s complement under the terms of a crew agreement or other contract of service or employment to serve on board an entered ship, whether or not on board that ship, <b>including a seafarer as defined in the Maritime Labour Convention 2006.</b></p>	<p>Rule 44 – Definitions</p> <p><i>The amendment is to make it clear that “seafarer” as defined in the 2006 MLC is within the meaning of “seaman” under the Association’s Rules.</i></p>