

# Policy Year 2020/21

Changes to the Rules of the P&I, FD&D and War Risks Classes

13 January 2020

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CIRCULAR

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## Changes to the Rules of the P&I, FD&D and War Risks Classes

Following consultation with the Members Board, the changes to the Rules of the P&I, FD&D and War Risks Classes detailed in this Circular, were approved by the Directors of The North of England P&I Association Limited and North of England P&I DAC and will be effective from noon GMT on 20 February 2020.

The amended Rule Books will be available on North's website from 20 February 2020. Should any Member wish to discuss issues arising out of these amendments, they should contact their Underwriter.

PAUL JENNINGS

CHIEF EXECUTIVE / EXECUTIVE DIRECTOR

The North of England P&I Association Limited / North of England P&I DAC

## **AMENDMENTS FOR 2020/2021 TO THE RULES OF THE PROTECTING & INDEMNITY CLASS**

Explanatory notes have been provided for the proposed changes and consequential renumbering and any cross referencing which will also be required. In the proposed new Rules, new wording is in **bold** and existing wording to be deleted is shown as [.....].

### **P&I RULES 7(5) AND 7(6) – VARIATION OF COVER**

The proposed changes to rules 7(5) and 7(6) are intended to:

1. clarify which terms and conditions apply to the contract of insurance between North and a Member by making it expressly clear that the Rules, as may be varied by the Certificate of Entry, constitute the only terms and conditions applicable in relation to the contract of insurance (Rule 7(5)); and
2. clarify how the terms and conditions of the contract of insurance can be validly varied post entry (Rule 7(6)).

These clarifications are relevant to ‘battle of forms’ arguments where, for example, insurance or finance departments of large operators have procurement processes that require North to agree to pro forma supplier terms either before or after an entry is confirmed. The amendments to the Rules make it clear that such terms have no effect and cannot be relied upon by the Member in relation to the contract of insurance between North and the Member.

7(5) The terms and conditions upon which a Ship is accepted for entry, including those relating to the nature and extent of the risks covered and the Contributions or Fixed Premiums payable by the Member, shall be those set out in the Rules hereinafter mentioned but subject to such variations within the scope of these Rules as may have been agreed in writing between the Member and the Managers and set out in the Certificate of Entry, **and such terms and conditions shall constitute the entire agreement between the Association and the Insured Parties and shall supersede and extinguish all previous agreements, promises, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.**

7(6) If at any time the Managers and the Member agree to vary the terms and conditions upon which a Ship is entered the Managers as soon as reasonably practicable thereafter shall confirm in writing the nature of such variation and the date from which such variation is to be effective, **provided that such variation shall not be effective and enforceable unless and until a new Certificate of Entry or endorsement thereto is issued.**

## **P&I POOLING AGREEMENT AMENDMENTS**

These amendments reflect changes to the Pooling Agreement already approved by the International Group (IG) Managers following debate and discussion within the specialist IG Sub-Committees looking at various areas involved. The amendments are by way of clarification and/or are made to reflect the agreed approach to particular aspects of cover.

### **RULE 2 – DEFINITIONS**

The following Note will be added to the definition of “Knock For Knock”:

Note: Inclusion of reciprocal terms providing that the “Knock for Knock” agreement does not apply to liabilities arising as a result of gross negligence or wilful misconduct will usually be acceptable to the Managers.

### **RULE 28(1) – EXCLUSION OF CERTAIN RISKS RELATING TO SPECIALIST OPERATIONS**

Liabilities, costs and expenses incurred by a Member during the course of performing dredging, blasting, pile-driving, well-intervention, cable or pipelaying, construction, installation or maintenance work, core sampling, depositing of spoil [,] **or power generation**, [professional oil spill response or professional oil spill response training and tank cleaning (other than on the Entered Ship)] to the extent that such liabilities, costs and expenses arise as a consequence of:

- (a) claims brought by any party for whose benefit the work has been performed, or by any third party (whether connected with any party for whose benefit the work has been performed or not), in respect of the specialist nature of the operations; or
- (b) the failure to perform such specialist operations by the Member or the fitness for purpose or quality of the Members’ work, products or services, including any defect in the Members’ work, products or services; or
- (c) any loss of or damage to the contract work.

### **RULE 28(5) – ACCOMMODATION VESSELS**

Liabilities, costs and expenses incurred by a Member in respect of personnel (other than marine crew) on board the Entered Vessel (being an accommodation vessel) employed otherwise than by the Member where **either:**

- (a) **such vessel is moored or anchored within 500 metres of an oil or gas production or exploration facilities; or**
  - (b) there has not been a contractual allocation of risks as between the Member and the employer of the personnel which has been approved by the Managers;
- .....

**P&I RULE 24 – WAR RISKS - AMENDMENT TO DEEMED PROPER VALUE OF VESSEL TO REFLECT CHANGE IN INTERNATIONAL GROUP REINSURANCE ARRANGEMENTS**

Changes to the International Group (IG) Reinsurance arrangements for 2020 require the deemed proper value of the vessel to be increased from US\$100 million to US\$500 million. The amendment will in essence only affect owners with vessels worth in excess of US\$100 million who do not purchase a primary layer of P&I War Risks cover.

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**P&I RULE 2 – INTERPRETATION AND DEFINITIONS**

**FULL TONNAGE** – the reference to “gross register tonnage” will be amended to “gross registered tonnage”.

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**P&I RULE 19(13)(e)(iii) – SALVORS’ EXPENSES OR SPECIAL COMPENSATION**

The words "sums payable under" will be added at the start of the Rule to correct a grammatical error.

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## **AMENDMENTS FOR 2020/2021 TO THE RULES OF THE FREIGHT DEMURRAGE & DEFENCE CLASS**

### **FD&D - RULES 7(4) AND 7(5) – VARIATION OF COVER**

FD&D Rules 7(4) and 7(5) mirror the effect of P&I Rules 7(5) and 7(6) discussed above. They will therefore be amended in the same way as the P&I Rules.

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## **AMENDMENTS FOR 2020/2021 TO THE RULES OF THE WAR RISKS CLASS**

### **WAR RISKS - RULE 1.5 AMENDMENTS TO PROTECT AGAINST REINSURANCE SHORTFALLS FOR EXTENDED COVERS.**

The Club provides hull and primary P&I War Risks cover (Class III) and pools liability as a Member of the Combined Group War Risks Association (CGWRA). In addition to this basic War Risk cover, the Club can provide cover for extended risks, such as Loss of Hire and Detention. These extended covers are reinsured in the London market. To protect the Club against any reinsurance shortfall and to limit a recovery from North to the amount recovered from its reinsurers, amendments to Rule 1.5 are being introduced by the CGWRA. These amendments reflect similar provisions already contained the P&I and FD&D Rules in respect of extended covers.

The amended Rules will provide as follows (new wording is in **bold**):

1.5 Subject to Rule 1.5.1, the risks insured by the Class of the Association are only such risks as set out in rules 2 and Rule 3.

1.5.1 The Managers may in any particular case agree in writing with an Insured Owner that the risks insured and/or the cover for his ship shall be modified so that the risks are and/or the cover is less or more extensive than is provided for in these Rules.

1.5.2 In the case of additional risks that may be covered by the Association:

**1.5.2.1 The insurance afforded by the Association for these additional risks shall always be subject to the provisos, warranties, conditions, exceptions, limitations and other terms set out in the Articles and the remainder of these Rules.**

**1.5.2.2 The Association may reinsure in whole or in part such risks and where such reinsurance is arranged:**

**(i) the Insured Owners shall be entitled to recover only the net amount actually recovered under such reinsurance arrangements, together with that portion (if any) of the risk or risks retained by the Association; and**

**(ii) the Managers shall be at liberty in their sole discretion to delay making payment to the Insured Owner until after recovery under such reinsurance.**

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