

# MARITIME MUTUAL



20 December 2015

## To all Members

It should be noted that the following amendments to Rules will be effective from the 20th February 2016.

### **General Rule 19 (1) (f)** amended to read:

the Managers shall have the right to control or direct the conduct of any claim or legal or other proceedings relating to any liability, cost or expense in respect of which the Member is or may be insured in whole or in part, and to recommend that the Member settle, compromise or otherwise dispose of such claim or proceedings on such terms as the Managers consider to be appropriate. The Managers shall not proceed to settle any claim or proceedings without the Member's consent. If the Member refuses to consent to any such recommendation made by the Managers and elects to contest or continue any claim or legal proceedings, the Association's liability to reimburse the Member shall not exceed the amount for which the claim or proceedings could have been so settled, plus the costs and expenses incurred with the Managers' consent up to the date of such refusal.

Notwithstanding anything else in this Rule 19 (1)(f), the consent of the Member shall not be required where the Association has provided bail, security for costs, deposits or other security for the Member on terms that give the Association the sole right to settle, compromise or dispose of any associated claim or proceedings.

**General Rule 39** amended to read:

### **MARINE INSURANCE ACT**

The Rules and all contracts of insurance made by the Association shall be subject to and incorporate the provisions of the New Zealand Marine Insurance Act 1908, and any statutory modification thereof except insofar as such act or modification may have been excluded by these Rules or by any terms of such contracts.

### **General Rule 41**

**CHOICE OF LAW** amended to read:

The Rules and any contract of insurance between the Association and a Member shall be governed by and construed in accordance with New Zealand Law.

### **General Rule 44**

**DISPUTES AND DIFFERENCES** amended to read:

subject to General Rule 42, if any difference or dispute shall arise between a Member and the Association out of or in connection with the Rules or any contract between them or as to the rights and obligations of the Association or the Member thereunder or in connection therewith, such difference or dispute shall in the first instance be referred to and adjudicated upon by the Directors. Such reference and adjudication shall be on written submissions only.

If the Member concerned does not accept the decision of the Directors or if the Directors fail to make any decision within three months of the reference to them of the difference or the dispute, it shall be referred to arbitration in Auckland or London, at the discretion of the Directors. The parties shall endeavour to agree on a sole arbitrator. If they cannot agree on a sole arbitrator within 14 days of an invitation to agree a sole arbitrator, then the dispute shall be referred to two arbitrators (one to be appointed by each of the parties) and an umpire to be appointed by the arbitrators. No Member or Director of the Association nor the Managers nor any employee of the Managers shall act as arbitrator or umpire.

Without prejudice to any other provisions of these Rules and without waiving any of the Association's rights hereunder, if the Member wishes to refer a dispute or difference to arbitration under these rules, it must do so within three months of a decision of the Directors following a reference of the difference or dispute to the Directors under this rule or, as the case may be, within six months of a reference of any dispute or difference to the Directors hereunder if the Directors have failed to make any decision upon the reference to them of

the difference or dispute. In the event that arbitration is not commenced by these time limits, the claim shall be barred and wholly extinguished.

The Tribunal may conduct its proceedings in a mercantile manner without strict regard for legal technicalities regarding evidence. The Tribunal may, if a point of law arises, obtain the opinion thereon of such counsel or solicitor as it may think fit, and may act upon any such opinion. Unless the Tribunal otherwise directs, the cost of and incidental to its proceedings shall form part of the costs of the award. The cost of and incidental to any such reference and award shall be in the discretion of the Tribunal which may determine the amount thereof, or direct the same to be taxed as between solicitor and client or otherwise, and may decide by whom and to whom and in what manner the same shall be borne and paid.

The submission to arbitration and all connected proceedings shall otherwise be subject to the provisions of the New Zealand Arbitration Act, 1996 or any statutory modification or reenactment thereof or, should the Directors exercise their discretion in favour of London arbitration, to the English Arbitration Act 1996 or any statutory modification or re-enactment thereof. No Member shall be entitled to maintain any action, suit or other legal proceedings against the Association otherwise than in accordance with the procedures laid down in this Rule. A Member may only commence proceedings, other than the arbitration above, in order to enforce an award under such arbitration and then only for such sum, if any, as the award may direct to be paid by the Association.

Notwithstanding any other matter set out in this Rule 44 any difference or dispute arising between a Member and the Association out of or in connection with a claim arising under Rule 4.1(v) and (vi) of Class 1 Protection and Indemnity and Rule 4.1(v) and (vi) of Class 6 Charterer's Liability shall be determined by a single arbitrator acting as an expert appointed in default of agreement by the President for the time being of the Medical Council of New Zealand whose decision shall be final and binding on all parties.

The Board of Directors  
Maritime Mutual Insurance Association (NZ) Limited