

Club News

Issue of Blue Cards under EU Regulation on the Liability of Carriers of Passengers by Sea in the Event of Accidents 2009 (EU PLR)

Some members and brokers have asked us to provide more information on how we will assist members in meeting the requirements of Regulation (EC) No 392/2009 of the European Parliament and Council of 23 April 2009 on the Liability of Carriers of Passengers by Sea in the Event of Accidents – known as the EU Passenger Liability Regulation (EU PLR) – which comes into force on 31 December 2012.

The detailed requirements and impact of the EU PLR were set out in the *club's circular of 24 September 2012*. In our report of the recent club board meeting in the *Standard Bulletin, October edition* we explained that the board was strongly supportive of the club providing evidence of insurance required under conventions and other legal regimes, and we have been working to secure a cost-effective and efficient system to help members meet all of their obligations under the Regulation.

We can confirm that we will be able to provide both of the blue cards required under the PLR.

Background

The EU PLR will require relevant passenger ships to carry a state certificate attesting that insurance is in place for that ship in accordance with the Regulation. This will be issued by the flag state (where the flag state is within the EU or the EEA States – Norway, Iceland and Liechtenstein) or by the port state where the ship is trading internationally into or out of the EU or EEA, but is flagged outside the EU or EEA. The state issuing authority will issue the state certificate when it is satisfied that the carrier has in place the necessary insurance to meet the requirements of the Regulation. The Regulation, mirroring the reservation and guidelines to the Athens Convention, makes provision for there to be two blue cards evidencing the necessary insurance requirements – one for normal P&I or 'non-war' risks, and one for the war risks. (It should be noted that there is no liability for claims caused by war itself under the Regulation, but there may be liability for claims caused by terrorism, which is classified as a war risk for insurance purposes, and it is for this risk that the war risks blue card is needed.)

Non-war blue cards

All clubs in the International Group have agreed that they will issue blue cards for the non-war risks. Like with other blue cards for other conventions, these will be addressed to the state authority but sent to the member. Unless we are advised otherwise, we will issue the documentation in the name of the owner. There has been some debate as to whether the documentation might be expected to be in the name of the passenger ticket provider. The entity required to maintain financial security is the 'carrier' who actually performs the whole or a part of the carriage. In order to ensure consistency with the blue cards already issued in respect of the Bunkers Convention and the 1992 CLC, the PLR Blue Cards will generally be issued in the name of the registered owner and not the bareboat charterer or other entity. Some members may want us to name other entities such as the passenger ticket provider. We will do so but there is a risk that local port authorities may delay a ship if there are different entities named on the relevant bunker and non-war blue cards.

There are particular issues relevant to larger passenger ships, as the potential liability under the Regulation may approach or potentially exceed the limit on cover provided under Rule 6.7 (US\$2bn). At this time, the club does not have any ships entered whose exposure under the regulations exceeds the limit on cover for passenger claims on current exchange rates, but for ships carrying more than 3,000 passengers the club may be exposed to guaranteeing claims under the blue card which over a period of time could exceed the limit on cover. We will need to ensure that the club is adequately protected and will liaise directly with the members concerned.

Our *website* will be updated daily to identify that a non-war blue card has been issued for relevant ships, naming the carrier as above.

Setting the Standard for Service and Security

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The Standard



War blue cards

There is a difference of approach by the clubs in the International Group to the provision of war blue cards. As explained in the *club circular of 24 September 2012*, the risk for which the war blue card is required is a risk that is only partially covered by the clubs, and some clubs have decided that they will not issue war blue cards.

The Standard Club has been working on obtaining additional reinsurance that will enable us to issue war blue cards for ships entered with the club at the request of the member. The necessary reinsurance contract has been completed satisfactorily and we believe that the club's provision of a war blue card will be an attractive choice for members. There is an application form to complete and the

member will be required to pay for the reinsurance that will enable the club to issue the war blue card. We are aware that members may prefer to obtain their war blue cards from a third-party provider other than the club, but if they choose to obtain the war blue card from the club, which is known by States' authorities as an experienced and acceptable insurer/guarantor, our website will be updated daily to identify that a war blue card has been issued for relevant ships, naming the carrier as above.

Members who would like the club's assistance should approach their usual club underwriter for more details.

Managing a major casualty



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Introduction

The Standard Club has been involved in some of the largest maritime casualties in recent years. As an insurance and risk manager, would you know what to do if one of your ships was involved in a major incident? In this article, we draw on our experience to set out key issues that members should consider in order to respond effectively.

Initial notification

The initial notification you receive may come from a number of sources – a panicked master, a colleague, your underwriters or perhaps professional salvors. In any event, you can expect to receive an enormous amount of information – some of it contradictory and some of it unreliable – in a very short space of time, and you will need to assimilate it quickly to build up as accurate a picture as you can of what is happening at the casualty site. Your aim should be to gain a clear understanding of the situation as quickly as possible so that you can react appropriately.

The anatomy of a major casualty

You will need to understand the anatomy of a major casualty to properly plan your response and determine the resources you will need. This involves having a clear understanding of the condition of the ship and how it might deteriorate, whether there is loss of life and/or pollution, the likely involvement of the authorities, what professional and media relations assistance you will need, the claims you are likely to face and the pitfalls you need to avoid in order to protect the shipowner's position.

You will also need to understand the interrelationship between insurance interests. This can be an acute issue in the context of a major casualty where an operation to salvage a stricken ship can become a wreck removal if salvage and repair ceases to be economically viable.

Major casualty response plan

You should have a good working knowledge of your company's casualty response plan. The plan should:

- define what is meant by a major casualty
- provide key information in relation to your fleet
- confirm the information you need to gather
- confirm who you need to notify and what you need to tell them
- identify your incident management team and clarify their responsibilities
- provide guidance in relation to preserving evidence
- set out key contacts (including authorities, salvors, pollution responders, underwriters, and technical and legal advisors)
- provide basic information in relation to salvage and wreck removal, and towage contracts.

It is best practice to have conducted drills at regular intervals using realistic scenarios involving your underwriters and advisors.

Building a team

Once you understand the anatomy of the casualty, you will be able to assemble the team you will need to resolve the situation. These are the people you will rely on most heavily in the days, weeks and months ahead.

In most major casualties, the team will include your underwriters, local correspondents and surveyors, salvors, technical experts and legal advisors specialising in casualty work. You may also need to draw on other experts, including in relation to pollution, fire, cargo handling and, increasingly, tax.