

NORWEGIAN MARINE INSURANCE PLAN 1996

EXTRACT

The Plan is divided into 2 main areas;

- I The general part – Rules common to all types of insurance, Chapter 1-9, and
- II The special part – Ocean Hull and related insurances, Chapter 10-16

Chapter 1 Introductory provisions

§ 1-1 Definitions

The assured means the party who is entitled to compensation.
There may also be Co Assureds, ref. Chapter 7-8.

§ 1-2 Policy

§ 1-3 Contracts entered into through a broker

In today's market, most insurance contracts will be entered into through brokers.
The broker will issue Cover Note to the client as the evidence of contract, and Insurance Bordereaux to the underwriters, on a back to back wording.

§ 1-4 Norwegian Jurisdiction and Law

§ 1-5 Insurance Period

The agreed insurance period runs from 0000 hours on date of attachment, until 2400 hours on expiry date, based on UTC

Chapter 2 General rules relating to scope of cover.

Section 1 Insurable Interest and Insurable value

§ 2-1 Insurance unrelated to any interest

It is a subject that the insurance relates to an economical interest.

§ 2-2 Assessed insurable value

The agreed insurable value which has been fixed between the parties, can only be set aside if the person effecting the insurance has given misleading information. The phrase "fixed and agreed" as may appear in English policies would thus be superfluous.

§ 2-3 Under-insurance

§ 2-4 Over-insurance

Under- and over – insurance has never been applied in Norwegian Marine Insurance.

Section 2 Perils insured against, causation and loss.

§ 2-8 Perils covered by an insurance against marine perils.

The Plan is an "All Risk Policy", i.e. all perils covered unless expressly excluded.

§ 2-9 Perils covered by an insurance against war perils.

War perils represent the first exception from the scope of marine.

It should be noted that Piracy is a war peril under the Plan, § 2-9 (d), whereas it is a marine peril under Institute Time Clauses (Hulls). (6.1.5) Consequently one should be aware in cases where the marine Policy is based on the Plan and war on ITC. (either of the two must include piracy)

§ 2-11 Causation. Incidence of loss

This paragraph represents – together with § 2-8 – one of the main principles of the Plan.

The insurer is liable for loss which has been caused by a peril insured against during the insurance period.

Peril : The peril must have struck

Insurance period: Within the insurance period

Caused by : Causation

Loss : Has resulted in an economical loss.

§ 2-12 Main rule relating to the burden of proof.

The insurer has the burden of proof that the loss has been caused by a peril not covered by the insurance

§ 2-13 Combination of perils

The main principle in a marine policy is that the loss shall be apportioned over the individual perils according to the influence each of them has had on the loss.

This principle applies only under Norwegian law, as for example English Law would follow the Proximate Cause, whereunder the dominant cause will carry 100% of the loss. If neither of the causes could be said to be dominant, the loss would be split 50/50.

§ 2-14 Combination of marine and war perils.

In this case, the Norwegian general principle is breached, insofar as the Proximate/Dominant cause shall apply.

Chapter 3 Duties of the person effecting the insurance and of the assured.

Section 1 Duty of disclosure of the person effecting the insurance.

To give all relevant information to the insurer to enable him to assess the risk.

Section 2 Alteration of the risk

If the risk which formed part of the contract between the assured and insurer alters, the assured shall give immediate notice to the insurer. If he fails to do so, the insurer may be free from liability subject to causation between the alteration of risk and the loss.

A change of the State of registration, or of the technical manager, shall be deemed to be such alteration.

§ 3-21 Loss of class or change of classification society

The vessel shall be entered with a classification society approved by the insurer.

§ 3-15 Trading limits

Ref. Appendix to the Plan

§ 3-21 Change of ownership

The insurance terminates, as the case with change of technical manager. (ref. § 3-8 alteration of risk)

Section 3 Seaworthiness. Safety regulations.

§ 3-22 Unseaworthiness

Should the assured have knowledge of the ship being unseaworthy, the insurer may be free from liability, depending on the degree of causation between the unseaworthiness and the loss.

§ 3-24 Safety regulations

§ 3-25 Infringement of safety regulations

Safety regulations are issued by public authorities, stipulated in the insurance contract or issued by the Classification society. They are rules concerning measures for prevention of loss.

If the assured is in breach of a safety regulation, the insurer may be free from liability, or limit his liability, subject to causation between the breach and the loss.

§ 3-29 Duty of the assured to notify the insurer of a casualty

The assured is required to notify the insurer of a casualty which has occurred, or threatens to occur, measures to be taken, salvage, etc.

Chapter 4 Liability of the insurer

Section 1 General rules relating to the liability of the insurer

Section 2. Cost of measures to avert or minimise the loss, including salvage and general average.

§ 4-8 General average

A general average loss means a sacrifice or an expenditure, extraordinary in nature, voluntarily and reasonably incurred, in time of general peril, for the common safety of the marine venture.

A general average adjustment will be drawn up by an appointed General Average Adjuster.

The loss will be apportioned over the interests involved, ship, cargo and freight, and the respective insurers are liable for general average contributions apportioned on the various interests.

Section 3. Liability of the assured to the third parties.

Section 4. The sum insured is the limit of the liability of the insurer.

The sum insured is the limit of the insurer's liability for each of the following;

Physical loss or damage to the vessel,

Liability toward third party following collision and

Sue and Labour

In theory, therefore, the maximum liability may amount to 3 times the sum insured.

The Maritime Law also contains rules for limitations of ship owners' liability, (§§ 184, 280)

Chapter 5 Settlement of claims

Section 1. Claims, adjustments, interest, payments on account etc.

The assured will forward to the insurer a general account, containing all invoices related to the casualty.

The insurer (claims leading underwriter) will issue his claims adjustment based on these together with survey reports.

§ 5-4 Interest on compensation

The assured may claim interest on his disbursements in relation to repairs.

The Norwegian Plan is the only international conditions containing such right.

§ 5-7 Duty of the insurer to make a payment on account.

The assured is entitled to an appropriate payment on account

Section 2. Liability of the assured to third parties.

§ 5-12 Provision of security

The insurer has no obligation to provide such security, but there is a practice that leading underwriter offers this service, against a counter guarantee from co insurers for their participations.

Chapter 6. Premium

§ 6-2 Right of the insurer to cancel the insurance in case of non-payment of premium.

The insurer may cancel the insurance giving 14 days' notice.

This is the only reaction given to the insurer in case of non-payment.

§ 6-3 Premium in the event of total loss
The insurer is entitled to the entire agreed premium

§ 6-6 Reduction in premium when the vessel is laid up.
Contrary to the 1964 Plan with Cefor Forms, where return premium rates were stipulated, return premium will now be negotiated in each case.

Chapter 7. Co-insurance of mortgagees

§ 7-1 Rights of the mortgagees against the insurers
The mortgagee is automatically co assured, but depending on the assured being covered., i.e. the same protection as the assured and rules of identification will apply.

§ 7-4 Payment of compensation
Loss payable clause – hull & machinery – up to 5% of sum insured may be paid to assured upon received invoices for repairs, without consent of the mortgagee.
It should be noted that compensation in relation to loss of hire, would always need such consent.

Chapter 8. Co-insurance of third parties

Generally, third parties like technical managers etc., would require to be co assured.
They will be protected on same terms as the assured, so that the rules of identification will also apply here.

§ 8-4 Co-insurance of third parties. Extended cover.
This paragraph is new and gives the third party, e.g. mortgagee, an independent cover, along the same lines as Mortgagees' Interest Insurance.

Chapter 9. Relation between the claims leader and the co –insurers

§ 9-2 The right of the claims leader to act on behalf of co-insurers
The claims leader is entitled to take steps which are binding on the co- insurers, in relation to Lay-up, Notification of a casualty, Salvage, Removal and repairs, Provisions of security, Disputes with third parties, Claims adjustments - §§ 9-3 to 9-9, as long as his decisions are in accordance with the insurance conditions.

Part II. HULL INSURANCE and related insurances

Chapter 10. General rules relating to the scope of the hull insurance.

§ 10-1 Objects insured.
The vessel with onboard equipment as specified.

§ 10-4 Insurance “on full conditions”
Generally, a h&m policy would be insured on full conditions. (All Risk Policy).
The alternative for old tonnage, which cannot obtain full cover, would be insurance “on stranding terms”, § 10-8, which would exclude machinery claims, unless resulting from grounding or collision.

Chapter 11. Total Loss

§ 11-3 Condemnation

The vessel may claim compensation for a total loss when the cost of repairs will amount to at least 80% of the insurable value (h&m value), or of the market value of the ship after repairs, if the latter being higher. In addition to the hull value, hull interest and freight interest insurances will then be paid.

It is essential to bear in mind that the total of hull and hull interest must (at least) equal the market value.(split 80/20)

Should the vessel be insured for (hull) less than 80% of market value, following situation may arise; The damage exceeds the hull value, but does not reach 80% of the market value. Hull insurance will compensate only up to insured value, and as the provision for condemnation has not been met, the hull-freight interest insurances will not be payable.

Chapter 12. Damage

§ 12-1 Main rule concerning liability of the insurer

The insurer is liable for the costs of repairing the damage in such manner that the ship is restored to its condition prior to the damage.

§ 12-2 Compensation for unrepaired damage.

The assured may claim compensation for unrepaired damage in the case of sale of the ship. In such case, the reduction in sales price resulting from the damage, should be clearly shown in the MOA.

§ 12-3 Inadequate maintenance etc.

The insurer is not liable for costs of repairing parts which has not been adequately maintained.

§ 12-4 Error in design

If the damage is a result of error in design or faulty material, the insurer will be liable as long as the part or parts have been approved by the classification society.

The scope of cover hereunder, exceeds the ITC clauses, unless the Policy includes Liner Negligence Clause.

§ 12-5 Losses that are not recoverable

Attention should particularly be drawn to paragraph (f), lubricating oil, cooling water or feed water becoming contaminated, where the master and chief engineer will be identified with the assured..

§ 12-7 Temporary repairs

The insurer is liable for necessary temporary repairs.

§ 12-8 Costs incurred in expediting repairs.

The insurer will compensate for costs incurred to limit the loss of time, up to 20% of hull value pro rate for the time saved.

§12-12 Choice of repair yard

The assured decides which yard shall be used, but the insurer's liability is limited to cost of the lowest adjusted tender (cost of repairs + removal), with addition of 20% p.a. of the hull value for the time the assured has saved by not choosing that tender.

§ 12-15 Ice damage deductions

Ice damages shall be compensated with the deduction of one fourth. (unless otherwise stated in policy)

§ 12-16 Machinery damage deductions

An additional machinery damage deductible (AMD) shall apply subject an amount hereunder has been stated in the policy.

§ 12-18 Deductible

For each casualty falling under this chapter 12 – Damage – shall be deducted an amount as stated in the policy.

Chapter 13. Liability of the assured arising from collision or striking

§ 13-1 Scope of liability to the insurer

The insurer is liable for damage caused by collision and striking, subject to limitations as specified hereunder.

§ 13-3 Maximum liability of the insurer in respect of any one casualty

The maximum liability is limited to sum insured.

§13-4 Deductible

A separate deductible for liability damages will normally be agreed and stated in the policy

PART THREE – OTHER INSURANCES FOR OCEAN-GOING SHIPS

Chapter 14. Separate insurances against total loss

§ 14-1 Insurance against total loss and excess collision liability - Hull Interest insurance.

Together with Hull, the Hull interest protects the capital of the insured object.
In addition to being a total loss insurance, it also covers excess collision liability up to sum insured, subject the liability amount exceeds the hull policy.limit.

§ 14-2 Insurance against loss of long term freight income – Freight Interest

Freight interest is a pure total loss insurance to protect future freight income.
Loss of Hire Insurance, which will be dealt with under chapter 16, will thus exclude total loss.

Chapter 15. War Risk insurance

§ 15-1 Perils covered

War risk has been excluded from the marine as per § 2-8, and separately dealt with in § 2-9.
War risk is not covered unless specifically agreed.

Chapter 16. Loss of Hire insurance

§ 16-1 Main rules regarding the liability of the insurer

The insurance covers loss due to the ship being wholly or partially deprived from income due to a damage which is recoverable under the hull insurance, even if the damage does not exceed the deductible in the hull policy.

§16-2 Total Loss

The insurance excludes total loss. Ref. Freight Interest.

§ 16-3 Main rule for calculating compensation.

The compensation shall be determined on the basis of loss of time and the daily amount.

§ 16-4 Calculation of the loss of time

The loss of time shall be stipulated in days, hours and minutes.
“Partially deprived from income”, for example slow steaming, shall be converted into corresponding time with total loss of income.

§ 16-5 The daily amount

The daily amount shall be fixed at the equivalent of existing freight contracts, or average market freight rates for the particular type, size and age of the vessel.

§ 16-6 Assessed daily amount

The fixed daily amount shall be regarded as an assessed amount, and will be the basis for compensation. The phrase “fixed and agreed” as often used in English policies, should not be used. Note, however, § 16-14, repairs carried out after expiry of the insurance period.

§ 16-7 Deductible period

Shall be calculated according to the rules in § 16-4.

§ 16-9 Choice of repair yard

The assured shall decide which yard to use, but the insurer’s liability is limited to the least loss of time amongst the tenders the assured would have been able to claim compensation under the hull policy. This rule is new, and the loss of hire underwriter will now follow the hull in respect of choice of yard. It should be noted, however, that when the hull policy has been covered on other conditions than the Plan, the old rule (1972 conditions) will apply, whereunder the loss of hire insurer would pay the least loss of time among the tenders, plus 50% of additional time for choosing another yard.

§ 16-10 Removal to repair yard etc.

Loss of time during removal to repair yard shall be attributed to the class of repairs that necessitated the repairs. Should more than one class of repairs be involved, the loss of time should be apportioned between them, excess of deductible period

§ 16-11 Extra costs incurred in order to save time

The insurer will be liable up to an amount he would have incurred had the measures not been taken.

§ 16-12 Simultaneous repairs

It regularly happens that owner’s work is carried out simultaneous with damage repairs. (ref. (a)-(c)). The insurer will in such cases compensate 50% of the common time excess of deductible. It could further be the case that a second damage relating to another loss of hire policy is being repaired during same time, in which case each of the loss of hire policies will pay 25% of the common time, and owners would carry 50%.

§ 16-13 Loss of time after completion of repairs

The compensation would be limited to the rules in litra (a)-(d).

§ 16-14 Repairs carried out after expiry of the insurance period

Repairs must commence within two years after expiry of the loss of hire policy. The daily indemnity amount will be subject to the rules in § 16-5

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