

EU Directive brings LLMC 1996 limits to all Member States

Thursday 5th January 2012

Whereas the EU Member States unanimously recognised the application of the 1996 Protocol to the 1976 Convention on Limitation of Liability for Maritime Claims, on the 23 April 2009 the European Parliament adopted Directive 2009/20/EC on the insurance of Shipowners for maritime claims.

The Directive, which applies to all ships of 300 gross tonnage or more, requires for Shipowners of sea going merchant vessels to provide adequate indemnity insurance up to the limits of the LLMC 1996. Although when the Directive was approved some EU States had not ratified the 1996 protocol, this has essentially been brought into force in all EU States as from the beginning of 2012.

Evidence of insurance, which is to be carried on board at all times, can be in the form of a Certificate of Insurance or similar document when arriving at an EU port. As per the Directive the certificates, issued by the insurance providers, shall include the following information in English, French or Spanish:

- a. Name of ship, its IMO number and port of registry;
- b. Shipowner's name and the principal place of business;
- c. Type and duration of the insurance;
- d. Name and principal place of business of the provider of the insurance and, where appropriate, the place of business where the insurance is established.

In order to comply with the Directive our Certificates of Insurance have been accordingly amended as from the beginning of this year to expressly refer to all relevant information. Moreover, appropriate Endorsements have been issued for Certificates still valid, thus ensuring information is complete.

In case of failure to carry the required certificate on board the competent authority of the particular State may issue an expulsion order for said ship. The result of this is that every Member State shall refuse entry of this ship into any of its ports until the certificate has been produced.

In addition, Member States are encouraged to lay down effective, proportionate and dissuasive penalties. Although details of how this will operate in practice will be determined at a State level, the fact is that once in place this Directive will have two immediate effects.

On the one hand it will require for all owners to be certain they are sufficiently insured. Even though by the 1996 Protocol figures the maximum liability for tonnage covered with RaetsMarine remains well within our maximum limits of liability, our Assureds should not fail to verify their individual cover is sufficient.

The other effect of the Directive will be to eliminate – at least among EU States- the appeal of 'jurisdiction shopping' following a marine claim in search of a lower limitation regime.

Because the implementation of the Directive may vary among Member States clients are encouraged to contact RaetsMarine in case of any problems. From Spain, for instance, we know that adequate insurance will need to be evidenced by way of an original certificate or authenticated copy on board. To authenticate copies it will not be necessary to have them notarised but a simple validation (signed and stamped) by the insurance provider shall suffice. A client trading to Spanish waters not wishing to provide the vessel with an original certificate should request an authenticated copy from our underwriting department.

For any queries on this topic, please do not hesitate to contact our Support Desk:

SupportDesk@RaetsMarine.com