



Soaring hikes in liability limits a growing industry concern

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THE continuing trend for increased limits of liability remains the major worry for P&I clubs, according to one maritime law specialist.

Matt Illingworth, partner at DLA Piper Rudnick Gray Cary, says the clubs remain deeply concerned at the rising tide of legislation aimed at increasing liability limits.

He says: "Take for example the 1976 global limitation convention available to shipowners, based on a vessel's tonnage and providing a maximum financial limit in respect of all claims arising out of any one incident. The 1996 Protocol, which came into force in May last year, raised the limits by about 250% on average and in some cases by as much as 600%."

However, Mr Illingworth adds that cruiseships and passengerships also faced huge increases in liability limits when the latest protocol was enacted.

"The limits of liability for passenger and luggage claims on seagoing vessels pursuant to the Athens Convention, is a concern," he continues.

"The 2002 Protocol, although not yet in force, provides for much higher limits. It will make it compulsory for carriers to have insurance to cover their potential liabilities. The new limits for death or injury to a passenger will be up to 250,000 SDR per passenger on each distinct occasion on a strict liability basis.

"For claims above that level, the limit is 400,000 SDR, unless the carrier can prove the incident occurred without its fault or neglect."

Mr Illingworth adds that owners and the clubs are also concerned about the criminalisation of seafarers and the potential for increased exposure to criminal sanctions.

"The EC Directive on ship-source pollution has caused much debate as to the areas where this has gone beyond MARPOL, particularly in relation to accidental spills," he explains. "For example, the case that the increased risk of criminal charges against seafarers will adversely affect recruitment and in fact decrease safety at sea."

He adds: "Essentially, the outlook remains for the industry having to operate with increased limits and more 'blame culture'. Both owners and the clubs are rightly questioning whether this is justified in circumstances where shipping is already one of the most highly regulated businesses in the world."

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