

P&I passenger liability blow may be closer than clubs feared

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RADICAL changes to passenger liability claims, which could provide a hammer blow to P&I clubs, may come into effect as early as February 2005, a leading P&I figure has warned.

Adopted last November by the IMO Diplomatic Conference, the latest protocol to the Athens Convention will come into force 12 months after it has been ratified by 10 states and could raise passenger liability claims to SDR400,000 from the current SDR46,666 rate.

According to Graham Barnes, director of BankServe Insurance, the European Union has put a priority on ratifying the new protocol for passenger liability and believes the regime may be in force as early as 2005 to meet the P&I renewals deadline.

"The European Commission feels that the protocol meets all the criteria set out by the commission after such disasters as the Estonia and Express Samina and will try to make sure that all 15 member states will provide ratification as soon as possible," he said.

"The current liability regime has proved 'politically embarrassing' and member states are becoming increasing hostile towards all shipowners limitation of liability conventions," he added.

The Athens protocol has also been purposefully designed to allow states to opt out and implement their own limits on liability.

"The protocol was specifically designed to attract the US to ratify the protocol," said Mr Barnes.

But with the cruise industry holding such a dominant position in the market, Mr Barnes feels that any attempt to ratify the process by the US will be met with stiff resistance and lobbying from the American cruise giants.

Mr Barnes believes that P&I Clubs are starting to feel the pressure from members over the adoption of the new regime.

"The 95% majority of club members do not operate passenger vessels and are fearful of overspill claims in a higher passenger liability limit regime, particularly when companies are operating in the US market," he said. But cruise companies and ferry operators are looking to their P&I clubs to provide the cover they have by law at the minimum cost.

"P&I clubs will be holding a number discussions over the coming months, which could have potential ramifications not just for members, but also for banks," he said.

Mr Barnes estimates that approximately \$400m will be required to cover the cost of liabilities under the new protocol.

But he believes that possible solutions to meet the increased cost can be found if the P&I clubs follow the lead of reinsurance programmes established under the OPA 90 act, when clubs declined to assist their shipowner members in finding a solution.

"One possible solution is to have a specific reinsurance programme for passenger liability, separate from their general reinsurance programme. The premium cost of this programme can be paid by vessel operators to the limits each club member requires."

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