



P&I Circulars

Göteborg: 13 December 2012

2552/2012

Entry into force of the Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 on the Liability of Carriers of Passengers by Sea in the Event of Accidents (the “PLR”) - Update

We refer Members to circulars issued on [26 September](#) and [4 December](#) on the PLR, that will apply in all European Union (EU) and European Economic Area (EEA) Member States from 31 December 2012. The Regulation essentially gives effect to the key provisions of the Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea, 1974 as amended by the 2002 Protocol (the “Convention”), together with the 2006 IMO Reservation and Guidelines for Implementation of the Convention covering war risks (the “Guidelines”).

Circulars have informed Members that article 7 of the PLR introduces an obligation on carriers and performing carriers to provide information to passengers, which explains their rights under the Regulation, and that the European Commission was due to publish a publicly accessible summary of the PLR, including a summary of the information to be promulgated by carriers and performing carriers. This has now been published by the European Commission. A copy is attached to this Circular and can also be found on the following webpage:

http://ec.europa.eu/transport/themes/passengers/maritime/index_en.htm

Members have previously been informed that ships covered by the Regulation are required to maintain insurance which meets the requirements of the PLR and will need to obtain a certificate issued by an EU/EEA Member State attesting that such insurance is in force.

Operators of vessels registered in an EU/EEA Member State should obtain their certificate from that State, which will then be accepted as evidence of insurance when calling at any port or terminal in an EU/EEA Member State.

In the case of vessels registered in a non EU/EEA State, the International Group has liaised closely with States and understands that Germany has agreed to



issue certificates to vessels registered in non-EU/EEA States if they are calling at any EU port, and not just German ports, and that a number of EU/EEA States will issue certificates to such vessels if calling at a port in their State after 31 December 2012, including the United Kingdom[1], France, Spain, Netherlands, Poland, Cyprus, Belgium[2] and Sweden[3].

The necessary contact information for the above-mentioned EU/EEA Member States can be obtained from the Club.

All Clubs in the International Group have issued similar circulars.

[1] The UK will give priority to applications submitted by UK registered vessels; then non-EU/EEA registered vessels calling at UK ports, and if the UK Maritime & Coastguard Agency has capacity to process any applications from non-EU/EEA registered vessels calling at any EU port then they will be handled, although it remains unclear if this will be the case for 31 December 2012.

[2] Provided that the owner or operator has residence or a company office in Belgium and a request has also been submitted for the vessel's registry.

[3] Applications by such vessels to Sweden should be made 30 days in advance of arrival.

Enclosed:
Circular 70/2012

Summary of provisions concerning the rights of passengers travelling by sea in the event of accidents.



REPUBLIC OF CYPRUS
MINISTRY
OF
COMMUNICATIONS AND WORKS



DEPARTMENT
OF
MERCHANT SHIPPING
LIMASSOL

Circular No. 70/2012

12 December 2012

TEN 5.13.09
TEN 4.2.08.1.01.81

To all Registered owners, Registered bareboat charterers, Managers and Representatives of ships flying the Cyprus flag

To all Owners, Managers, Representatives and Agents in Cyprus of Ships, irrespective of flag they are flying, calling at Cyprus ports

c/o Cyprus Shipping Chamber
c/o Cyprus Union of Shipowners
c/o Cyprus Shipping Association

Subject: Implementation of Regulation (EC) No. 392/2009 of the European Parliament and of the Council of 23 April 2009 on the liability of carriers of passengers by sea in the event of accidents

I refer to the above matter and in view of the application as from 31st December 2012 of *Regulation (EC) No. 392/2009 on the liability of carriers of passengers by sea in the event of accidents*, you are hereby informed as follows:

1. Regulation (EC) No. 392/2009

Regulation (EC) No. 392/2009 (hereinafter “the *Regulation*”), lays down the European Union regime relating to liability and insurance for the carriage of passengers by sea as set out in the relevant provisions of-

- (a) *the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974*, as amended by the Protocol of 2002 of the International Maritime Organization (read and interpreted together as “the *2002 Athens Convention*”); and
- (b) *the IMO Reservation and Guidelines for Implementation of the Athens Convention* adopted by the IMO Legal Committee on 19 October 2006 (“the *IMO Guidelines*”, these are set out in Annex II of the *Regulation*).



2. Scope of application

2.1. The *Regulation* applies to any international carriage¹ where:

(a) the ship is flying the flag of or is registered in an EU/EEA Member State²;
or

(b) the contract of carriage has been made in an EU/EEA Member State ; **or**

(c) the place of departure or destination, according to the contract of carriage, is in an EU/EEA Member State.

2.2. In accordance with the *Regulation*, the expression “*or is registered in a Member State*” encompasses ships whose flag State for the purposes of bareboat charter-out registration, is either an EU/EEA Member State or a contracting party to the 2002 Athens Convention (see recital (12) of the *Regulation*).

2.3. Furthermore, the *Regulation* applies to carriage by sea within a single Member State on board ships of **Classes A and B** under Article 4 of **Directive 98/18/EC**³. The *Regulation* (Article 11) grants to Member States the option to defer the application of the *Regulation* until 31 December 2016 with respect to **Class A ships**, and until 31 December 2018 with respect to **Class B ships**.

In this respect, the Cyprus Authorities hereby announce their decision to exercise the said option and to defer the application of the *Regulation* until 31 December 2016 with respect to **Class A ships** and until 31 December 2018 with respect to **Class B ships**. The deferment is effected in the following manner:

2.3.1. Deferment effected by the Republic of Cyprus as the host State: The deferment under Article 11 of the *Regulation* applies to all domestic seagoing voyages performed within the Republic of Cyprus by Class A and B ships of all nationalities (Cyprus or foreign ships). Notwithstanding the above deferment, in the case of a **foreign ship**, being an **EU /EEA ship** performing domestic voyages within the Republic of Cyprus whose Flag State has not exercised (by the 31st December 2012) the option to defer the application of the *Regulation* under Article 11, then for that specific **EU /EEA ship** the above deferment, as announced by the Republic of Cyprus, shall NOT apply and the *Regulation* shall be applied to the specific **EU /EEA ship** as from 31st December 2012.

¹ Article 1, point 9, of the 2002 Athens Convention defines “*international carriage*” as any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State.

² *Regulation (EC) No. 392/2009* is of European Economic Area relevance.

³ transposed by the *Merchant Shipping (Safety Rules and Standards for Passenger Ships) Laws of 2002 and 2004 (Law 58(I)/2002 as amended by Law 47(I)/2004)*.

2.3.2. Deferment effected by the Republic of Cyprus as the **Flag State** for Cyprus ships operating in domestic seagoing voyages within another EU/EEA Member State: The deferment under Article 11 of the *Regulation* applies to all domestic seagoing voyages performed by Class A and B **Cyprus ships** within another EU /EEA Member State. Notwithstanding the above deferment, in case the other EU /EEA Member State, in its capacity as host State, has not exercised (by 31st December 2012) the option to defer the application of the *Regulation* under Article 11, then for that specific **Cyprus ship** the above deferment, as announced by the Republic of Cyprus, shall NOT apply and the *Regulation* shall be applied to the specific **Cyprus ship** as from 31st December 2012.

2.4. It remains optional whether EU/EEA Member States shall extend the scope of application of the *Regulation* by applying it to all domestic seagoing voyages. The Cyprus Authorities have for the time being decided not to extend the scope of application of the *Regulation* to domestic seagoing voyages performed within the Republic of Cyprus by **Class C** and **Class D** ships.

2.5 The definition of the term “**passenger**” in Article 1 of the *2002 Athens Convention* encompasses any person carried in a ship under a contract of carriage or who with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract of carriage of goods not governed by the *2002 Athens Convention*.

This definition is quite wide and also covers situations such as for example when on board a **Ro/Ro cargo vessel** a number of **lorries** are transported. The **drivers** of these lorries when, collectively on each voyage are more than twelve, will be considered as **passengers**. Therefore, such vessels (Ro/Ro cargo vessels) will also be governed by the provisions of the *2002 Athens Convention* and the *Regulation* and will be required to have the necessary compulsory insurance in place, and to submit the blue cards in order to obtain the required State certificate (**see paragraph 5 below**).

3. Additional novel provisions introduced by the Regulation

I. *Compensation in respect of mobility equipment or other specific equipment*

3.1. Article 4 of the *Regulation* provides that the carrier’s liability under Article 3(3) of the *2002 Athens Convention* shall apply in the event of loss of, or damage to, mobility equipment or other specific equipment used by a passenger with reduced mobility. The compensation shall correspond to the replacement value of the equipment, or where applicable, to the costs relating to repairs.

II. Advance payment

3.2. It should be borne in mind that Article 6 of the *Regulation* imposes upon a carrier who actually performs the whole or a part of the carriage the obligation to make an **advance payment** in the event of death or personal injury, caused by a shipping incident which occurred during the carriage. The advance payment shall be made by the said carrier to cover immediate economic needs on a basis proportionate to the damage suffered within 15 days of the identification of the person entitled to damages. It is noted that, in the event of death to a passenger, the payment shall not be less than EUR 21 000.

3.3. An advance payment does not constitute recognition of liability and may be offset against any subsequent sums paid on the basis of the *Regulation*.

III. Information to passengers

3.4. The carrier and /or performing carrier is, under Article 7 of the *Regulation*, required to provide passengers with appropriate and comprehensible information regarding their rights under the *Regulation*.

3.5. Where the contract of carriage is made in an EU/EEA Member State, this information shall be provided at all points of sale, including sale by telephone and via the Internet. Where the place of departure is in an EU/EEA Member State, that information shall be provided prior to departure whereas, in all other cases, it shall be provided at the latest on departure.

3.6. The European Commission is currently preparing with the intention to make public in the coming weeks a summary of the provisions of the *Regulation*. Compliance with the Article 7 information requirement entails that the carrier and performing carrier shall **at least** provide passengers the summary information to be prepared by the European Commission.

4. Liability

4.1. Liability Regime

The *Regulation* (Article 3) provides that the **liability regime** in respect of passengers, their luggage and vehicles shall be governed by the *Regulation*, certain provisions of the *2002 Athens Convention* as well as the *IMO Guidelines* on the matter which have become mandatory under the *Regulation* (and are annexed to it as Annex II).

For instance, the liability regime of the carrier for the **death of or personal injury** to a passenger is governed by Article 3 of the *2002 Athens Convention*, which in a nutshell distinguishes **three** separate situations:

- For loss caused by a **shipping incident**⁴, to the extent that such loss on each distinct occasion **does not exceed 250.000 SDR** (approximately 301.000 euro)⁵: The carrier is **strictly liable** subject to certain exceptions (result of an act of war, hostilities, civil war, insurrection, a natural phenomenon, or caused by an act or omission by a third party with intent) (Article 3(1) of *2002 Athens Convention*).
- For loss caused by a **shipping incident**, to the extent that such loss on each distinct occasion **exceeds 250.000 SDR** (approximately 301.000 euro): The carrier is further liable, unless the carrier proves (only for the part exceeding 250.000 SDR) that the incident which caused the loss occurred without his fault or neglect (Article 3(1) of *2002 Athens Convention*).
- For loss caused by a **non- shipping incident**: the carrier is liable if the incident which caused the loss was due to the fault or neglect of the carrier. The burden of proving fault or neglect lies with the claimant (Article 3(2) of *2002 Athens Convention*).

Article 3 of the *2002 Athens Convention* further provides for the liability regime for **loss of or damage to cabin luggage or to luggage other than cabin luggage**.

4.2. Limitation of liability

The relevant limits of liability for death or personal injury or for loss of or damage to luggage and vehicles are set out in Articles 7 and 8 of the *2002 Athens Convention*.

Global limitation of liability under national legislation implementing the *1996 Convention on Limitation of Liability for Maritime Claims 1976 as amended by its 1996 Protocol thereto (LLMC 96 Convention)*⁶ also applies (see Article 5 of *Regulation*).

⁴ “Shipping incident” for the purposes of the *Regulation* and the *2002 Athens Convention* means: shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship or defect in the ship. All other incidents in the course of the carriage for the purposes are “non-shipping” incidents.

⁵ “Special Drawing Rights SDR”, converted on a daily basis by the International Monetary Fund, see <http://www.imf.org/external/np/exr/facts/sdr.htm>. On 15 November 2012 1 EUR = 0.83 SDR.

⁶ See Ratification Law 20(III)/2005 and Law 14(I)/2012 transposing relevant Directive 2009/20/EC . Relevant are also DMS Circulars No. 43/2011 and No. 15/2012.

5. Compulsory Insurance

In cases of application of the *Regulation*, carriers of **ships licensed to carry more than 12 passengers** are required to maintain **compulsory insurance** or other financial security⁷ to cover liability under the *2002 Athens Convention* in respect of the death of and personal injury to passengers. The limit of the compulsory insurance or other financial security shall not be less than 250.000 SDR per passenger on each distinct occasion (see Article 4bis of the *2002 Athens Convention*).

Ships are to be issued with a **Certificate** from their **Flag State** attesting that insurance or other financial security is in force.

Compulsory insurance will be required in the case of Ro /Ro cargo vessels transporting **lorries** and where the number of **lorry drivers** exceeds 12 on each voyage as, in such instance, such lorry drivers will be considered as **passengers (see paragraph 2.5 above)**.

6. Insurance Undertakings (Blue Cards) and State Certificates

6.1. As aforementioned, the *IMO Guidelines* adopted by the IMO Legal Committee on 19 October 2006 are binding under the *Regulation*. Paragraph 2 of the *IMO Guidelines* provides that State Parties should issue insurance certificates on the basis of one undertaking from an insurer covering war risks, and another insurer covering non war risks. Each insurer should only be liable for its part. An example of a set of insurance undertakings (Blue Cards) reflecting these guidelines, as included in Appendix B to the *IMO Guidelines* is attached hereto for your perusal (**ANNEX I**).

6.2. Furthermore, an example of a Certificate to be issued by a State upon production of the insurance undertakings (Blue Cards), also included in Appendix B to the *IMO Guidelines*, is attached to this Circular (**ANNEX II**).

7. Certification of ships according to Regulation (EC) No. 392/2009

7.1 The Model Application Form used primarily for the certification of all ships under the Cyprus flag according to *Regulation (EC) No. 392/2009* has been developed and is attached to this Circular (**ANNEX III**).

The payable fee for the issuing of the Certificate amounts to **60 Euro** for Cyprus ships and **150 Euro** for foreign ships calling at ports of the Republic of Cyprus.

⁷ Such as the guarantee of a bank or similar financial institution.

7.2. All Cyprus ships should apply to our Department in order to obtain the Certificate required under the *Regulation* submitting the Insurance Undertakings (Blue Cards) or proof of other financial security and remitting the fee. It is recalled that all Cyprus ships, should have the original Certificate on board by 31st December 2012.

Therefore, registered owners, registered bareboat charterers, managers and representatives of Cyprus ships are prompted to immediately apply to our Department for the issuance of the relevant Certificate. Applications may be submitted also by email at the address bunkersclic@dms.gov.cy.

7.3. As from 31st December 2012 :

- **Cyprus ships** licensed to carry more than 12 passengers **wherever these are around the globe** falling within the scope of application of the *Regulation (Article 2 of the Regulation)*, shall not be allowed to perform voyages / shall be detained, unless they hold a valid Certificate under the *Regulation*.
- **Foreign ships** licensed to carry more than 12 passengers falling within the scope of application of the *Regulation (Article 2 of the Regulation)*, calling ports in the Republic of Cyprus, shall not be allowed to enter or leave such a port unless they hold a valid Certificate under the *Regulation*.

It is recalled that such powers to control /and or verify compliance of ships with the requirements of the *Regulation* and to prohibit the performance of voyages/ and or to detain the vessels, may be exercised by our Department under the relevant provisions of the ***Implementation of Community Regulations and Community Decisions Law of 2007 (Law 78(I)/2007*** , see particularly section 8).

8. Clarifications received from the International Group of P& I Clubs

The International Group of P& I Clubs (IG Clubs) recently provided our Department with the following relevant clarifications:

8.1. General Clarifications

- *The IG Clubs would issue **non war risk blue cards** with regard to Regulation (EC) No 392/2009;*
- *The IG also stated that they would, exceptionally, provide a **one-off undertaking** that the IG Clubs will provide insurance cover for the **replacement of mobility equipment** as set out in Article 4 of the Regulation and will facilitate the provision of **advance***

payments to cover the immediate economic needs of passengers as envisaged by Article 6 of the Regulation.

8.2 Non War Risk Blue Cards

- *The Clubs will be issuing **non war risk blue cards** in advance of 31 December 2012. The non war risk blue cards issued by Clubs will be based on a wording, which is in accordance with the reservation and guidelines adopted by the IMO Legal Committee in 2006;*
- *For information, non war risk blue cards will be issued for the entry into force of the Regulation on 31 December 2012 and those blue cards will have a duration period until Noon GMT 20 February 2013 since that is the start date of the new P&I policy year. **New blue cards** will then be issued for the period Noon GMT 20 February 2013 to Noon GMT 20 February 2014, and new **State certificates** will be needed accordingly (this is similar to the situation when the 2001 Bunkers Convention entered into force, but arises from the entry into force of the Regulation being only 7 weeks prior to the start of the next P&I policy year);*
- *The understanding of the International Group of P& I Clubs is that States will not enforce the insurance provisions of the 2002 Protocol to the Convention by means of the Regulation on non-EU/EEA registered vessels operating outside EU/EEA waters and not therefore calling at an EU/EEA port, but with passengers on board with a contract of carriage made in the EU/EEA, since it will be impossible to enforce the certification requirements on such vessels; **(Cyprus agrees with this interpretation)**;*
- *All IG Clubs will ensure that the issue of **non war risk blue cards** for the Regulation will appear against each entered vessel on the Clubs' websites that has been issued with such a blue card, in the same manner as is the case at present for Bunker Convention and CLC blue cards.*

8.3 War Risk

- *Some P&I Clubs of the International Group intend to provide the guarantees for **terrorism risks** under the Regulation (EC) No 392/2009 in reliance of alternative insurance schemes /arrangements⁸. Some International Group Clubs will not provide the guarantees for terrorism risks under the Regulation though, and the operators of vessels entered for P& I cover with such Clubs and that are subject to the Regulation will therefore need **alternative arrangements** to be put in place. Operators should therefore contact their P& I Clubs to ensure that they are in a position to comply with the Regulation requirements.*

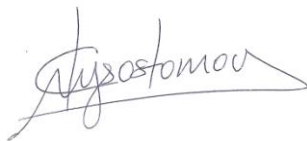
⁸ Presently the following 7 International Group P&I Clubs have decided to issue war risk Blue Cards: UK Club; Skuld; Steamship; the Standard Club; Shipowners Club; West of England; the Swedish Club.

As per recent developments in the insurance market and relevant State practice, the Cyprus Maritime Authorities hereby confirm that they will accept **war – risk Blue cards** issued by **Safeguard Guarantee Company Ltd**, as well as those issued by **Shoreline Insurance Managers** .

9. Penalties

Violation by any person of any of the obligations imposed pursuant to the provisions of **Regulation (EC) No. 392/2009**, may expose that person to penalties as provided by the Cyprus legislation currently in force.

The recipients of this Circular are advised to strictly abide by this Circular and the provisions of Regulation (EC) No. 392/2009 which is binding in its entirety and directly applicable in all Member States of the European Union/European Economic Area.



Andreas Chrysostomou
Acting Director
Department of Merchant Shipping

cc: **Permanent Secretary, Ministry of Communications and Works**
Permanent Secretary, Ministry of Foreign Affairs
Attorney General of the Republic
Diplomatic Missions and Honorary Consular Officers of the Republic
Maritime Offices of the Department of Merchant Shipping abroad
General Manager, Cyprus Ports Authority
Inspectors of Cyprus ships
Cyprus Bar Association
Cyprus Shipping Chamber
Cyprus Union of Shipowners
Cyprus Shipping Association
International Group of Protection & Indemnity Clubs, London
Pancyprian Association of Owners of Professional Tourist Vessel

Examples of insurance undertakings (Blue Cards) referred to in guideline 3

Blue Card issued by War Insurer

Certificate furnished as evidence of insurance pursuant to article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

Name of Ship:

IMO Ship Identification Number:

Port of registry:

Name and Address of owner:

This is to certify that there is in force in respect of the above named ship while in the above ownership a policy of insurance satisfying the requirements of article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002, ***subject to all exceptions and limitations allowed for compulsory war insurance under the Convention and the implementation guidelines adopted by the Legal Committee of the International Maritime Organization in October 2006, including in particular the following clauses: [Here the text of the Convention and the guidelines with appendices can be inserted to the extent desirable]***

Period of insurance from: to:

Provided always that the insurer may cancel this certificate by giving three months 30 days written notice to the above Authority whereupon the liability of the insurer hereunder shall cease as from the date of the expiry of the said period of notice but only as regards incidents arising thereafter.

Date:

This certificate has been issued by:

War Risks, Inc.
[Address]
As agent only for ***War Risks, Inc.***

.....
Signature of insurer

Blue Card issued by Non-War Insurer

Certificate furnished as evidence of insurance pursuant to article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

Name of Ship:

IMO Ship Identification Number:

Port of registry:

Name and Address of owner:

This is to certify that there is in force in respect of the above named ship while in the above ownership a policy of insurance satisfying the requirements of article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002, ***subject to all exceptions and limitations allowed for non-war insurers under the Convention and the implementation guidelines adopted by the Legal Committee of the International Maritime Organization in October 2006, including in particular the following clauses: [Here the text of the Convention and the Guidelines with appendices can be inserted to the extent desirable].***

Period of insurance from: to:

Provided always that the insurer may cancel this certificate by giving three months written notice to the above Authority whereupon the liability of the insurer hereunder shall cease as from the date of the expiry of the said period of notice but only as regards incidents arising thereafter.

Date:

This certificate has been issued by:

PANDI P&I
[Address]
As agent only for **PANDI P&I**

.....
Signature of insurer

Model of certificate of insurance referred to in guideline 3

CERTIFICATE OF INSURANCE OR OTHER FINANCIAL SECURITY IN RESPECT OF LIABILITY FOR THE DEATH OF AND PERSONAL INJURY TO PASSENGERS

Issued in accordance with the provisions of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002

NAME OF SHIP	DISTINCTIVE NUMBER OR LETTERS	IMO SHIP IDENTIFICATION NUMBER	PORT OF REGISTRY	NAME AND ADDRESS OF CARRIER WHO ACTUALLY PERFORMS THE CARRIAGE

This is to certify that there is in force in respect of the abovenamed ship a policy of insurance or other financial security satisfying the requirements of Article 4bis of the Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 2002.

Type of Security

.....
.....

Duration of Security

.....
.....

Name and address of the insurer(s) and/or guarantor(s)

The insurance cover hereby certified is split in one war insurance part and one non-war insurance part, pursuant to the implementation guidelines adopted by the Legal Committee of the International Maritime Organisation in October 2006. Each of these parts of the insurance cover is subject to all exceptions and limitations allowed under the Convention and the implementation guidelines. The insurers are not jointly and severally liable. The insurers are:

For war risks: War Risks, Inc., [address]

For non-war risks: Pandi P&I, [address]

This certificate is valid until

Issued or certified by the Government of

(Full designation of the State)

OR

The following text should be used when a State Party avails itself of Article 4*bis*, paragraph 3:

The present certificate is issued under the authority of the Government of

.....

(full designation of the State) by (name of institution or organization)

At On

(Place)

(Date)

.....
(Signature and title of issuing or certifying official)

Explanatory Notes:

1. If desired, the designation of the State may include a reference to the competent public authority of the country where the certificate is issued.
2. If the total amount of security has been furnished by more than one source, the amount of each of them should be indicated.
3. If security is furnished in several forms, these should be enumerated.
4. The entry "Duration of Security" must stipulate the date on which such security takes effect.
5. The entry "Address" of the insurer(s) and/or guarantor(s) must indicate the principal place of business of the insurer(s) and/or guarantor(s). If appropriate, the place of business where the insurance or other security is established shall be indicated.

**MODEL APPLICATION FOR ISSUING A CERTIFICATE UNDER
REGULATION (EC) 392/2009**

**to be submitted, as the case may be, either by the Authorised Legal
Representative of the shipowner/ or by an empowered Officer of the
Shipowning Company/ or by an empowered Officer of the Shipmanagement
Company/ or by the Bareboat Charterer**

[Letterhead of the Applicant*]

[Date]

Director
Department of Merchant Shipping
Limassol

Dear Sir,

**Subject: Issue of a Certificate of Insurance or other Financial Security in
respect of Liability for the Death of and Personal Injury to
Passengers with regard to [Vessel's Name],[Call Sign], [RCS
Number, if known]**

1. We wish to refer to the provisions of the European Union *Regulation (EC) No. 392/2009 on the liability of carriers of passengers by sea in the event of accidents* and to Article 4bis of the *2002 Athens Convention Relating to the Carriage of Passengers and their Luggage by Sea* ("the 2002 Athens Convention") and to request on behalf of [Enter Name of Company in whose ownership the vessel is registered] (hereinafter referred as the "Company"), the issue of a Certificate of Insurance or other Financial Security for the Death of and Personal Injury to Passengers (*hereinafter referred to as the "Certificate"*) in respect of the subject vessel duly registered [in the Register of Cyprus Ships] [under the Cyprus flag], [under the flag of] in the ownership of the said Company.
2. For this purpose, in accordance with the relevant *IMO Reservations and Guidelines of 19 October 2006* which have become binding under *Regulation (EC) No. 392/2009* we enclose herewith:

* To be printed on the official letterhead of the Applicant.

- (a) A Certificate Furnished as Evidence of Insurance Pursuant to Article 4bis of the 2002 Athens Convention covering **war risks** issued by [Enter the name of the Assurance Association issuing the certificate] on the [date of issue of the Evidence], attesting that there is in force in respect of the subject vessel a policy of insurance covering war risks for the period between [Cover commencement date] and [Cover expiry date];
- (b) A Certificate Furnished as Evidence of Insurance Pursuant to Article 4bis of the 2002 Athens Convention covering **non war risks** issued by [Enter the name of the Assurance Association issuing the certificate] on the [date of issue of the Evidence], attesting that there is in force in respect of the subject vessel a policy of insurance covering non war risks for the period between [Cover commencement date] and [Cover expiry date];
- (c) [The amount of **Euro 60** for the issuing of the Certificate for **Cyprus ships**].

[The amount of **Euro 150** for the issuing of the Certificate for **foreign ships** calling at ports of the Republic of Cyprus].

- 3. We have been instructed to declare on behalf of the said Company that it undertakes to immediately notify you in the event of any changes, alterations or other reasons whatsoever which may cancel, cause or constitute the Evidence null and void and that it further understands that the Certificate will cease to be valid as from the time the Evidence ceases to be in force. In such eventuality the Company undertakes to forthwith return to you the Certificate.
- 4. Furthermore, the Company undertakes to return, within 15 days, the Certificate to you or deposit it with the nearest Diplomatic Mission or Honorary Consular Officer of the Republic of Cyprus, for onwards transmission to you, in case:
 - (a) the subject vessel ceases to be registered in the ownership of the Company;
 - (b) the Certificate has been terminated.

Yours faithfully,

Summary of provisions concerning the rights of passengers travelling by sea in the event of accidents¹

[The carrier shall provide at least this information to the passengers prior to or on departure to the extent this Regulation applies to their carriage. This summary has no legal value]

Regulation (EC) No 392/2009 on the liability of carriers of passengers in the event of accidents becomes applicable in the EU and EEA States² on 31 December 2012. It incorporates certain provisions of the 1974 Athens Convention (as amended by the 2002 Protocol) relating to the carriage of passengers and their luggage by sea.

The Regulation applies to all carriers in international carriage, including carriage between EU Member States, and certain types of domestic carriage, provided that:

- the ship is flying the flag of a Member State or is registered in a Member State, or
- the contract of carriage has been made in a Member State, or
- the place of departure or destination or both, according to the contract of carriage, are in a Member State.

It covers liability of the carrier in respect of passengers, their luggage and their vehicles, as well as mobility equipment, in the event of accidents.

This Regulation does not affect the right of carriers to limit their liability for accidents in accordance with the International Convention on Limitation of Liability for Maritime Claims of 1976, as amended by the 1996 Protocol in its up to date form.

Accidents under the Regulation include both 'shipping'³ and 'non-shipping' incidents in the course of the carriage.

RIGHTS OF PASSENGERS

Right to compensation for death or personal injury

Shipping incident: the passenger has a right to compensation from the carrier or the carrier's insurance provider of up to 250.000 SDR⁴ in any event, with the exception of circumstances beyond the carrier's control (i.e. act of war, natural disaster, act of a third party). Compensation can go up to 400.000 SDR unless the carrier proves that the incident occurred without his fault or neglect.

Non-shipping incident: the passenger has a right to compensation from the carrier or the carrier's insurance provider of up to 400.000 SDR, if he/she proves that the incident was the result of the carrier's fault or neglect.

Right to compensation for loss of or damage to cabin luggage

Shipping incident: the passenger has a right to compensation from the carrier of up to 2.250 SDR, unless the carrier proves that the incident occurred without his fault or neglect.

Non-shipping incident: the passenger has a right to compensation from the carrier of up to 2.250 SDR, if he/she proves that the incident was the result of the carrier's fault or neglect.

¹ Summary drafted in accordance with article 7 of Regulation (EC) No 392/2009 of the European Parliament and of the Council of 23 April 2009 (OJ L 131, 28.5.2009, p. 24) on the liability of carriers of passengers by sea in the event of accidents.

² The Regulation will become applicable to EEA States in accordance with the Decision of the EEA Joint Committee No 17/2011 (OJ L 171, 30.6.2011, p. 15) following the relevant notifications by EEA States concerned.

³ 'Shipping incident' for the purposes of this Regulation include: shipwreck, capsizing, collision or stranding of the ship, explosion or fire in the ship or defect in the ship. All other incidents in the course of the carriage for the purposes of this summary are 'non-shipping' incidents.

⁴ Loss or damage suffered as a result of an accident are calculated on the basis of "units of account", which are "Special Drawing Rights" (SDR) for Member States parties to the International Monetary Fund (all EU Member States). Information and conversion rates for SDR can be found on: <http://www.imf.org/external/np/exr/facts/sdr.htm>. On 26 November 2012 1 SDR = 1.18 EUR.

Right to compensation for loss of or damage to luggage other than cabin luggage

The passenger has a right to compensation from the carrier of up to 12.700 SDR (vehicles, including luggage carried in or on the vehicle) or 3.375 SDR (other luggage), unless the carrier proves that the incident occurred without his fault or neglect.

Right to compensation for loss of or damage to valuables

The passenger has a right to compensation from the carrier of up to 3.375 SDR for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments and works of art, only when these have been deposited with the carrier for the agreed purpose of safe-keeping.

Right of a passenger with reduced mobility to compensation for loss of or damage to mobility equipment or other specific equipment

Shipping incident: the passenger has a right to compensation from the carrier corresponding to the replacement value or the repair costs of the equipment concerned, unless the carrier proves that the incident occurred without his fault or neglect.

Non-shipping incident: the passenger has a right to compensation from the carrier corresponding to the replacement value or the repair costs of the equipment concerned, if he/she proves that the incident was the result of the carrier's fault or neglect.

Right to an advance payment in the event of a shipping incident

In case of death or personal injury, the passenger or other person entitled to damages has a right to an advance payment to cover immediate economic needs. The payment shall be calculated on the basis of the damage suffered, shall be made within 15 days and shall not be less than 21.000 EUR in the event of death.

ELEMENTS OF PROCEDURE & OTHER MATTERS**Written notice**

In case of damage to cabin or other luggage, the passenger must give timely⁵ written notice to the carrier. Failure to do so will result in the passenger losing his/her right to compensation.

Time limits for exercise of the passenger's rights

In general, any action for damages before a competent court must be introduced within a period of 2 years. The starting point of this limitation period may differ depending on the nature of the loss.

Exemptions concerning liability

Liability of the carrier can be reduced if he proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger.

The limits on the different amounts for compensation will not apply if it is proved that the damage resulted from an act of the carrier, or a servant or agent of the carrier or of the performing carrier, done with the intent to cause such damage or with knowledge that such damage would probably result.

⁵ In cases of apparent damage, written notice must be given before or at disembarkation for cabin luggage, and before or at re-delivery for other luggage. In cases of non-apparent damage to or loss of luggage, written notice must be given within 15 days from disembarkation or re-delivery (or scheduled re-delivery in the event of loss).