

Cover in Respect of Visitors to Vessels

Introduction

Many different people may come and spend time on board an insured vessel either when it is moored or at anchor or in dry dock or during a sea passage. If they die or are injured or become ill as a result of coming or being on board the vessel, its owner or operator or charterer may be liable to pay compensation. This guide explains how such risks are covered by the Club.

Who are visitors?

For the purposes of this guide a visitor means anyone who comes and spends time on board an insured vessel with the permission of the owner, operator or master and who is not a passenger or a seaman of the vessel. A passenger is a person who is not engaged or employed in any capacity in connection with the business of an insured vessel and who is carried or intended to be carried on the vessel for reward. A seaman is a person who is engaged or employed in any capacity in connection with the business of an insured vessel as part of its normal complement. These definitions of a passenger and a seaman can be found in the Club's Class 1 Rules. The Club provides specific cover for passengers and seamen which is not included in this guide.

The term visitors includes stevedores, pilots, customs officers, representatives of port authorities and other state or public bodies, cargo superintendents, non-fare paying passengers, marine superintendents, spouses and partners and friends and families of seamen, riding and maintenance crews, familiarisation crews of prospective purchasers of the insured vessel, official or unofficial guests of the ship owner or operator or charterer, as well as surveyors and attorneys. This list is indicative and not exhaustive.

What liability to visitors is covered?

The cover insures against:

- a) The cost of diverting the insured vessel for the purpose of securing the necessary treatment ashore of a sick or injured visitor, or landing the visitor's body in the case of death.

- b) Liability to pay damages or compensation for personal injury, death or illness
- c) Liability to pay hospital, medical or funeral expenses in relation to such injury, death or illness

where such liability arises out of an act, neglect or default either a) on board the insured vessel or b) in relation to the insured vessel or c) in relation to the handling of the vessel's cargo from the time of receipt from the shipper until the time of its discharge or delivery to the consignee.

This type of liability usually arises from a breach of duty of care to the visitor or from a breach of a regulation or of a statutory requirement. Occasionally it may arise under the terms of a contract or an indemnity and in such case Club cover requires the contract or indemnity to:

- a) have been made or given by or on behalf of the insured Member, and
- b) be on terms approved in writing by the Club, and
- c) relate to services and facilities provided, or to be provided, in connection with the insured vessel.

Does the provision of cover require any action to be taken by the Member in respect of visitors?

The safety of visitors is a paramount consideration and the owner or operator of an insured vessel should ensure that the Safety Management System includes procedures to minimise the risk of visitors being injured while on board. More detailed recommendations are contained in the paragraph in this guide headed **"Visitor safety"**

If the visit is not made in the course of the ordinary day to day operation of the insured vessel, Club cover requires the Member to ensure that the visitor signs a "visitor's pass" which sets out the terms on which the visit is made and on which any compensation is payable if the visitor dies or is injured or becomes ill as a result of the visit.

The requirements of the visitor's pass are set out in the paragraph headed **"Visitor's pass"** below.



Special considerations apply to security personnel engaged by the owner or operator to protect the vessel in respect of piracy or terrorism and similar risks. They are more fully set out in the paragraph in this guide headed **“Security personnel”**

Visitor's pass

Under Rule 2 Section 2 of the Class 1 Rules it is a condition of the Club providing cover for visitors who are neither employees nor representatives of the company nor involved with the day to day operation of the vessel that they must sign a visitor's pass before they board. Such visitors may include:

- Non-fare paying passengers
- Supernumeraries
- Spouses, partners, children, friends and families of seamen
- Visitors taking part in organised tours of the vessel
- Riding gangs and maintenance crews if not employees of the Member
- Personnel from other companies visiting the vessel for training or familiarisation purposes
- Guests and/or representatives of the shipowner, ship manager, shippers, receivers or charterer if not employees of the Member
- Cargo superintendents if not employed by the Member
- Surveyors, and lawyers not engaged or employed by the Member or the Club

A visitor's pass is not required in the case of government officials and those whose visit is connected to the day-to-day operation of the vessel, such as:

- Pilots
- Immigration and customs officers
- Port officials
- Stevedores
- Port State Control inspectors
- Port agents
- Shore staff from the Member's office including superintendents
- Surveyors and lawyers appointed by the Member or the vessel's P&I Club

The terms of the visitor's pass are attached to this guide (see

Appendix 1) and are largely self-explanatory. References in the visitor's pass to the Athens Convention are designed to establish a compensation regime for death, injury or illness which aligns with the levels of compensation payable in many jurisdictions to a fare paying passenger.

There will be occasions where a Member or broker may be uncertain whether a particular person should sign a visitor's pass, or there may be occasions where it may be impracticable to do so. In such cases the Members or broker should consult with the Managers beforehand to ascertain whether it may be possible for the requirement to be modified.

The terms of the visitor's pass are designed for use in a wide range of jurisdictions. The conditions may not always be wholly effective, but this will not prejudice a Member's cover provided that the pass has been signed. In some jurisdictions, such as the United States, it may be possible to use terms in a visitor's pass which provide greater protection than the Club's recommended version. Members who encounter such a situation should contact the Managers for advice regarding terms more suitable for that jurisdiction.

If a visitor boards an insured vessel at the request of a third party (typically his or her employer) it may be possible to obtain an indemnity from that third party on terms which provide greater protection to the Member than the pass itself. The suggested terms of an indemnity are attached in Appendix 2, although Club cover does not require such an indemnity to be obtained.

Visitor safety

Making sure a visitor is safe while on board is essential. As soon as they arrive the visitor should attend a safety briefing, carried out by a responsible member of the crew. Details of the safety briefing should be recorded in writing. A checklist designed for this purpose can be found in Appendix 3.

Other factors should also be taken into account including:

- The age and physical capability of the visitor
- The visitor's prior experience of attending a vessel
- The purpose and scope of the visit
- The activities which may be undertaken by the visitor while on board
- The activities of other people on board during the visit

¹ A guide and form to promote safe working by contractors on board is available separately from the Managers

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- The operations the vessel will perform during the visit
- The duration of the visit

Cover for liability to visitors does not depend on all these requirements being met, but Members need to be aware that cover may not be available if the arrangements made for receiving visitors on board are unduly hazardous or illegal or known by the Member to be unsafe.

Security Personnel

Separate requirements apply to privately contracted armed security personnel engaged to sail with the vessel. Please see Notice to Members No. 11 of 2012/13:

<http://www.westpandi.com/Publications/Notice-to-Members/Archive/Notice-to-Members-No-11-20122013/>

and Notice to Members No 4 of 2014/15:

<http://www.westpandi.com/Publications/Notice-to-Members/Notice-to-Members-No-4-20142015/>

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Appendix 1 – Visitor’s Pass Wording

Visitor’s Pass

Name

Home Address

Vessel

Voyage No

From

Towards

The person or persons presenting and/or using this pass or any person or child (including an unborn child) travelling with or in the care of such person (all the foregoing being hereinafter and in the above heading called collectively the "Visitor") by so doing agree as follows:-

1. The Visitor is allowed on the Vessel or premises of the Vessel stated above solely on the following conditions:-
2. This pass is not transferable and may be cancelled by the Carrier (which expression in this pass includes the owners or time chartered owners of the Vessel stated above, the line, charterers, managers, operators and Vessel as the case may be) at any time whether before or during the contemplated voyage or visit and at any place, and under any circumstances, without liability. In the event of any cancellation of this pass and whether or not the Carrier is obliged in the circumstances and under the terms of this pass to repay any money, the Carrier shall not be responsible for any loss, injury, delay, inconvenience, expense or damage whatsoever suffered or occasioned by the Visitor as a consequence of or arising out of such cancellation.
3. The Carrier shall not be liable for any loss of life or for any other loss, injury, delay, inconvenience, expense or damage whatsoever suffered by the Visitor, nor for any loss of or damage or delay to the Visitor's property whether such loss of life, loss, injury, delay, inconvenience, expense or damage arise from the act, default, neglect or error of judgement of the Master, officers, crew, managers, ship's husband, superintendent or other servant or agent of the

- Carrier or any other person whatsoever or from or consequent on unseaworthiness or unfitness of the Vessel or any launch, tender, or other craft or gangway, landing stage or land conveyance or from the unfitness of any food or drink supplied or from or consequent on any detention, delay, deviation, over carriage or omission to call or land or embark the Visitor or the Visitor's property at any port or from or consequent on any variation or omission of any part of the advertised programme of the voyage or otherwise howsoever and whether such act, default, neglect, error of judgement, unseaworthiness, unfitness, detention, delay, deviation, over carriage, omission, variation or other event occurs before or in the course of the voyage or before or in the course of embarkation at the beginning of the voyage or in the course of disembarkation at the end of the voyage or while the Visitor is proceeding from the Vessel to the shore or vice-versa at any intermediate port or is ashore at such port or during any trip or excursion whatsoever on land or sea (whether or not any charge or extra charge may be made in respect thereof) which may take place during or in connection with the voyage or at any time whatsoever during or prior to the voyage when the Carrier would, apart from this clause, be under a contractual statutory or other obligation to the Visitor.
4. In the event that it is adjudged by a competent court that the foregoing exclusions in Clause 3 above are invalid, the provisions of the Athens Convention relating to the carriage of passengers and their luggage by sea done at

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Athens on 13th December 1974, shall be deemed to apply to this pass as if this pass were a contract to which that Convention applies.

5. No servant or agent of the Carrier nor any independent contractor from time to time employed by the Carrier, shall in any circumstances whatsoever be under any liability whatsoever to the Visitor for any death, sickness, injury, loss, damage, delay or otherwise arising or resulting directly or indirectly from any act, neglect or default on the part of such servant, agent or independent contractor while acting in the course of or in connection with his employment and every condition, limitation, exception and liberty herein contained and every right, exemption from liability, defence and immunity of whatsoever nature applicable to the Carrier shall also be available and extend to protect every such servant, agent and independent contractor of the Carrier acting as aforesaid and for all the purposes of all the foregoing provisions of this clause the Carrier is contracting with the Visitor as agent of and trustee for such servants, agents and contractors who are deemed to be parties to this pass. The Carrier shall be entitled to be paid by the Visitor or his personal representatives on demand any sum recovered or recoverable by such Visitor or his personal representatives from such servant, agent or contractor of the Carrier for any such death, sickness, injury, loss, delay, damage or otherwise. In the event this pass be issued in the United States of America and covers transportation between a port in the United States of America and a foreign port, this clause shall not relieve the Master from liability for loss of life or bodily injury to the Visitor arising from negligence or fault for which the Master would otherwise be liable.
6. The Vessel may at any time whatsoever before or after embarkation, proceed by any route whatsoever in the Carrier's or Master's absolute discretion (whether or not such route is the nearest or most direct or customary or advertised route between the place of embarkation and the place of disembarkation) and may tow or to be towed, sail with or without pilots and/or tugs, adjust speed and course for suitable arrival in ports, sail at reduced speed for any purpose whatsoever and carry live animals and every description of cargo on or below deck, including contraband, explosives, munitions or warlike stores or dangerous cargo of every kind and may sail armed or unarmed and may proceed to or stay at any port of place whatsoever (although in a contrary direction to or out of or beyond the customary or intended or advertised route to

the port of disembarkation) once or more often in any order (backwards or forwards) for loading or discharging mails and/or cargo and/or stores and/or fuel (whether intended to be used or carried on this or any other voyage of the Vessel or any other Vessel or for storage or sale) embarking or disembarking passengers, pilots, officers, engineers or crew, towing or assisting Vessels in all situations, saving life or property or for inspection of or repairs to the Vessel or any part thereof, bunkering, for the convenience or entertainment of passengers or for the convenience or exigencies of the mail service (whether the foregoing purposes or any of them be for this or any other voyage) or for any other purpose whatsoever and may otherwise sail, proceed or stay in any manner or for any purposes whatsoever (even if making in substance another voyage or other voyages).

7. The Visitor agrees that should the Vessel render any salvage services, he or she shall not share in any award therefor.
8. The Visitor agrees that he or she will comply with all quarantine, passport and other regulations.
9. As a condition to the use of this pass, it is declared by the Visitor that he or she is not prohibited by law from receiving transportation and further that the pass will be lawfully used.
10. Any dispute arising under this pass shall be decided in the country where the Carrier has his principal place of business and the law of such country shall apply.
11. In case the Visitor is signed on as a member of the Vessel's crew, this is done purely for practical reasons, and the Visitor agrees that in such case, he or she is not entitled to any rights given to members of the Vessel's crew.
12. This pass will not be accepted by the Carrier unless signed in ink by the Visitor.

Date _____

Place _____

(Signature of Visitor) _____



Appendix 2 – Indemnity Wording

Date:

In consideration of your permitting [name of visitor] (“the Visitor”) to come on board and be on board the MV [vessel’s name] we hereby agree:

1. To indemnify you, your servants, agents and sub contractors and hold you and them harmless without limitation in respect of any and all claims, demands, actions, suits, losses, costs, charges, expenses, damages and liabilities of whatsoever nature and howsoever arising by reason of or in connection with the Visitor coming on board and being on board the above-mentioned vessel, including, but not limited to all costs and expenses (including legal expenses) which you or they may incur in connection with any such claims, demands, actions, suits, losses, costs, charges, expenses, damages and liabilities.
2. In the event of any proceedings being commenced against you or any of your servants or agents in connection with the Visitor coming on board and being on board the above mentioned vessel, to provide you or them on demand with sufficient funds to defend the same.
3. If, in connection with the Visitor coming on board and being on board the above mentioned vessel, the vessel, or any other vessel or property in the same or associated ownership, management or control, should be arrested or detained or should the arrest or detention thereof be threatened, or should there be any interference in the use or trading of the vessel (whether by virtue of a caveat being entered on the ship’s registry or otherwise howsoever), to provide on demand such bail or other security as may be required to prevent such arrest or detention or to secure the release of such vessel or property or to remove such interference and to indemnify you in respect of any liability, loss, damage or expense caused by such arrest or detention or threatened arrest or detention or such interference, whether or not such arrest or detention or threatened arrest or detention or such interference may be justified.
4. The liability of each and every person under this indemnity shall be joint and several and shall not be conditional upon your proceeding first against any person, whether or not such person is party to or liable under this indemnity.

5. This indemnity shall be governed by and construed in accordance with English law and each and every person liable under this indemnity shall at your request submit to the jurisdiction of the High Court of Justice of England.

Yours faithfully,

Signed: _____

State name and capacity of signatory.

NOTE: This indemnity should be printed on company headed paper and signed by an authorised signatory.

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Appendix 3 – Visitors Safety Briefing Checklist

Visitors who are neither employees or representatives of the company nor involved with the day to day operation of the vessel shall be given a safety briefing when they board using this checklist. Such visitors may include spouses, partners, children and friends of crewmembers, supernumeraries, non-fare paying passengers, company guests, shippers, receivers, charterers, cargo superintendents (other than company employees), personnel from other companies attending for training or familiarisation purposes, visitors taking part in organised tours of the vessel, riding gangs and maintenance contractors (other than company employees), and surveyors and lawyers appointed by anyone other than the company or the vessel's P&I Club.

A safety briefing is not required in the case of visitors such as pilots, immigration and customs officers, port officials, stevedores, Port State Control inspectors, port agents, shore staff from the company's office including superintendents, and surveyors and lawyers appointed or employed by the company or the vessel's P&I Club.

If you are unsure whether or not a particular visitor should undergo a safety briefing, the company should be contacted for advice.

Important: This checklist does not replace any existing safety familiarisation provisions for visitors that may be required by the STCW Convention, the STCW Code and/or the SMS.

Name of vessel:

Date:

Name of visitor:

Port:

Type of visitor:

Purpose of visit:

Anticipated length of visit:

No.	Check	Completed
01	Visitor's pass signed	
02	Visitor's details recorded and visitors logbook signed	
03	Suitable clothing and footwear worn	
04	PPE provided as appropriate and instructions given regarding correct use	
05	Orientation of vessel and/or workplace carried out under supervision	
06	Prohibited areas discussed	
07	Emergency signals explained together with action to be taken if heard	
08	Muster station(s) assigned and location(s) visited	
09	Location of lifejackets discussed and donning instructions given	
10	Visitor informed who to contact on board in the event of injury, illness or safety concerns	
11	Use of alarms and shipboard communication systems discussed	
12	Basic safety advice provided (eg safety signs, safe movement, doors and ladders)	
13	Potential hazards discussed (eg mooring lines, slippery decks, enclosed spaces)	
14	Drug, alcohol, smoking, garbage disposal and mobile phone ¹ policies explained	
15	Permit to work obtained (if appropriate) and conditions discussed and understood	

¹ In some instances it may be advisable to retain mobile phones and other electronic devices for safe keeping, particularly in the case of tankers if such equipment is not confirmed as being intrinsically safe.

Briefing officer (signature) _____ Visitor (signature) _____