

Circular From Charterers**Date: 26 July 2017****New Zealand's New Biofouling Standards****Introduction**

New Zealand is introducing a new industry standard requiring all vessels to have a clean hull on arrival in the country's waters from May 2018.

Background

New Zealand is taking steps to minimise the introduction of harmful marine organisms into its territorial waters by bringing in new biofouling standards in mid 2018.

Under the New Zealand Biosecurity Act 1993 ("the Act"), the Ministry for Primary Industries ("MPI") is tasked with the effective management of risks associated with vessels entering New Zealand and is empowered to create standards that vessels must comply with.

MPI has issued a new standard for biofouling, called the Craft Risk Management Standard for Biofouling on Vessels Arriving into New Zealand ("CRMS"), which will apply to any vessel entering New Zealand.

The CRMS requires that a vessel must arrive in New Zealand with a "clean hull". The hull will be considered clean when no biofouling of live organisms is present, except within defined thresholds. If that standard is not met, an MPI inspector may direct that the vessel take steps to mitigate the breach or, if there is no available approved facility or in-water system for managing the biofouling risk, to move the vessel from New Zealand's territorial waters within a period of 24 hours (or as otherwise specified by the inspector).

Prior to the CRMS coming into effect in May 2018, MPI has requested that vessel operators become compliant voluntarily. In the interim, MPI retains the power under section 33 of the Act to take action where a vessel's biofouling is considered to be a severe risk to New Zealand's marine environment.

A recent example saw MPI order the bulk carrier DL Marigold to leave New Zealand waters during discharge operations. MPI personnel had inspected the vessel and determined that her hull had excessive biofouling. The ship was subsequently also declined permission to enter Fiji for hull cleaning and ultimately a team of divers undertook hull cleaning in international waters off the coast of Fiji.

Given the potential costs and reputational risk associated with an order to either undertake emergency hull clearing or to leave New Zealand, it is recommended that Club assureds who are chartering or operating any vessel coming to New Zealand, before or after the CRMS comes into force, ensure that their vessel complies with the new "clean hull" standard.

Assureds should check that charterparties include clauses that clearly set out the obligations for complying with the new standard and responsibility for any failure to do so; suggested clauses for time and voyage charterparties are attached below.

Further Information

For more information and to view the hull cleanliness thresholds, see the CRMS found [here](#)
Further guidance from the MPI can be found [here](#)

Suggested Charterparty rider Clauses

The following clauses might be useful.

Under a **Voyage Charter**:

NEW ZEALAND BIOFOULING CLAUSE

Owners acknowledge they are familiar with biofouling rules and requirements currently in force and/or due to be enforced in the territory of New Zealand. Owners further warrant that any vessel nominated under this charterparty will not pose a biofouling risk that may prompt local authorities to act against the vessel including issuing directions to deny entry or order the vessel to leave New Zealand waters.

Any claim, loss, damage (including delay) or expense of whatsoever nature and howsoever arising resulting from a breach of this clause will be exclusively for Owners' account.

Under a **Time Charter or Time Charter Trip**:

NEW ZEALAND BIOFOULING CLAUSE

Owners acknowledge they are familiar with biofouling rules and requirements currently in force and/or due to be enforced in the territory of New Zealand. Owners further warrant that the vessel will not pose a biofouling risk and that at all times she will be fit in all respects including hull condition for calling in New Zealand waters in accordance with said rules and requirements.

In the event that the vessel is denied entry, required to comply with directions, orders or requests of the New Zealand authorities, detained or ejected from New Zealand's territorial Sea the vessel shall be immediately off hire from the commencement of any loss of time until she is again ready and in an efficient state to resume her service from a position not less favourable to Charterers than that at which such loss of time commenced. Owners will be responsible for the use of fuel during any off hire period.

Owners will be responsible for any claim, loss, damage (including delay) or expense of whatsoever nature

resulting from a breach of this Clause including without limitation losses that Charterers may incur in relation to any party to which they have contracted with and have been unable to perform including delayed performance.

Source of Information: The Charterers P&I Club

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