

# Offshore & Renewable Energy



# Introduction



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West recognises the unique nature of risks faced by Members operating in the offshore sector and offers a tailor-made insurance product to cover these additional risks which sits alongside and augments the Member's normal P&I Rules cover.

## Unique risks

Members operating vessels in the Offshore and Renewable Energy industry face not only standard P&I risks but also other additional risks unique to these sectors such as contractual liabilities arising under certain indemnities which fall outside the Club's P&I Rules, or undertaking work of a specialist nature including well-stimulation, cable or pipe laying, construction, installation, maintenance work or dredging.

Club P&I Rules cover contractual liabilities on a knock-for-knock basis where the shipowner preserves their right to limit their liability. However, many offshore charter party contracts are often either amended industry standard forms for example BIMCO SUPPLYTIME or charterers company standard contracts, which do not apportion liabilities on a knock-for-knock basis and waive the shipowner's rights to limit liability.

## Contractual assistance

The Club's in-house legal specialists offer a bespoke contract review service to identify where and to what extent additional cover may be required. This input from the Club will assist Members when negotiating the contractual terms with the oil company charterers and so may assist in reducing the need for additional cover.



Who can be insured?



# Who can be insured?

Our custom-designed product meets the needs of those Members operating in the offshore sector or engaged in other specialist operations.

**We cover all vessel types used in the offshore and associated industries, such as:**

- Wind Turbine Installation Vessels
- Offshore Construction Vessels
- Platform Supply Vessels (PSVs)
- Anchor Handling Tug Supply (AHTS) Vessels
- Offshore Support Vessels (OSVs)
- Crew Transfer Vessels
- Dredgers
- Barges

- Accommodation Units
- Well Intervention Vessels
- Cable Laying Vessels
- Jack-Up Barges
- Utility Vessels
- Dive Support Vessels
- Crane/Pipelay Vessels
- Commissioning Service Operation Vessel (CSOV)



A photograph of offshore workers in orange safety gear and yellow helmets on a boat. In the foreground, a large orange cable spool is visible. In the background, another boat is moving through the water, leaving a white wake. The sky is blue with some clouds. A semi-transparent blue box is overlaid on the left side of the image, containing the text.

# Extended Contractual Liability Risks - Scope of Cover

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## What can be covered?

### **Waiver of right to limit liability**

A vessel owner usually has a legal right to limit liability. The Club's Rules require that where available at law, a Member must avail themselves of that right. However, some contracts require the owner to waive their right of limitation or increase their liabilities beyond the limitation limit. This would be a breach of normal P&I Rules cover and the Club is able to provide additional cover for such risks.

### **Contractual wreck removal**

Club cover will only respond to wreck removal following a compulsory order by a competent authority. However, many offshore contracts contain a contractual requirement to remove a wreck or any debris from the wreck upon the orders of the charterers. The Club is able to provide additional cover for such contractual wreck removal.

### **Property damage and knock for knock clauses**

Offshore contracts will usually contain a standard knock for knock clause apportioning liability between the respective parties in respect of property damage. However, where the knock for knock provisions are diluted resulting in the Member assuming greater liability than the Club's Offshore and Renewable Energy Cover will cover those additional risks.



## Personal Injury

Offshore vessels are often used by charterers to transport their own or third party personnel to and from the offshore fields. It is highly unlikely that these “passengers” will be subject to any effective visitors pass that exempts owners from liability. Normal P&I Rules cover will respond to common law liabilities but it is important that Members ensure sufficient contractual protection is in place similar to that found in Clause 14(a)(ii) SUPPLYTIME 2017 for example.

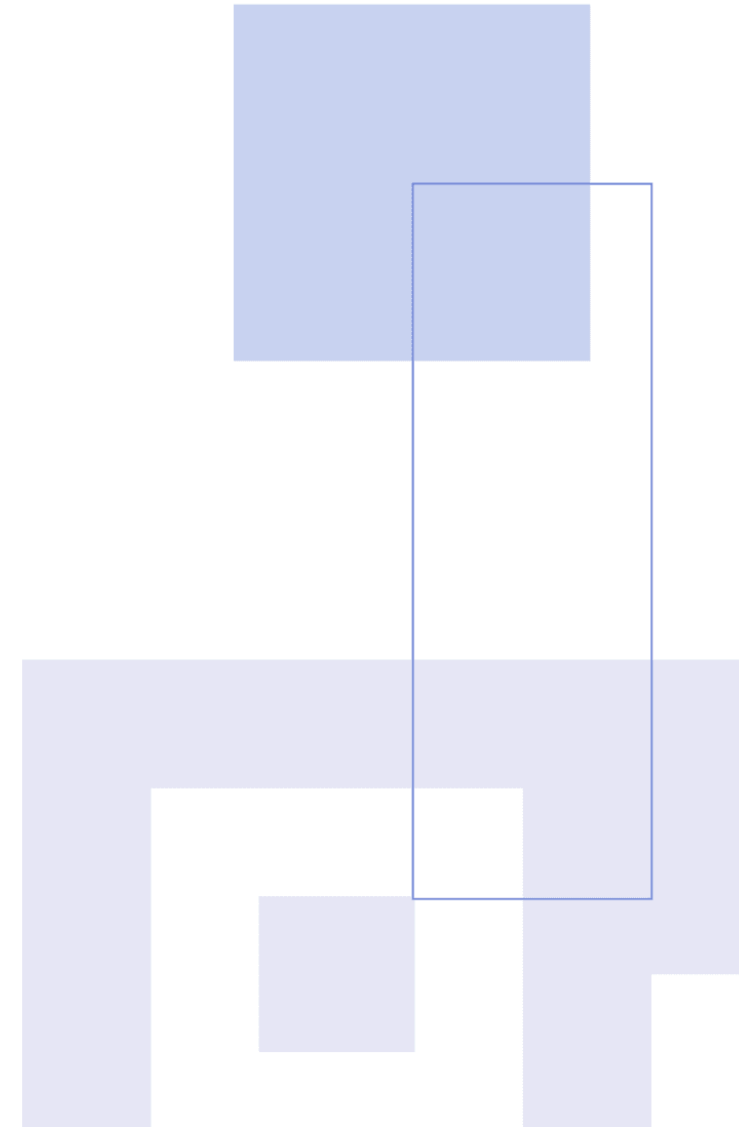
In the absence of such protective clauses Members may be exposed to additional liabilities to third party personnel and the Club’s Offshore and Renewable Energy Cover will cover these additional personal injury risks.

## Cargo

Offshore vessels will often be required to transport cargo and/or equipment and in most cases this cargo or equipment will be carried without a Bill of Lading or other contract of carriage being issued. Club Rules require the Member’s liability to cargo to be subject to the Hague-Visby Rules. Also,

charter parties will sometimes contain an undertaking by the Member to make the vessel seaworthy throughout the voyage and not just at the commencement of the voyage, so providing a commitment beyond that found in the Hague-Visby Rules.

In the absence of such a clause incorporating the Hague-Visby Rules or a suitably worded indemnity in favour of the Member, or where there is an on-going warranty of seaworthiness, then the Club’s Offshore and Renewable Energy Cover will cover the additional liabilities for cargo risks.



### **Pollution**

Normal P&I Rules cover will include pollution from the vessel when there is a liability at law, but care should always be taken to ensure that no additional contractual liability is accepted for pollution arising from the charterer's property. Where this is not possible the Club's Offshore Cover will provide protection against those additional liabilities.

### **Extended Towage**

Club cover will respond provided the towage is carried out in accordance with approved industry standard contracts which contain a knock for knock provision such as Towcon, Towhire or Supplytime. However, in the offshore and renewable energy sectors, particularly when towing within offshore fields, there will commonly either be no direct contract between the owner and the object being towed or the contract will be on terms more onerous than the standard knock for knock provisions to be found in the industry approved contracts.

It is important to ensure that all objects towed by the vessel are subject to knock for knock provisions in the contract and that this includes an indemnity in respect of the property and personnel of the charterer's contractors and subcontractors.

Where such knock for knock provisions cannot be negotiated or are diluted, the Club's Offshore and Renewable Energy Cover will protect against these additional tower's risks.



## Salvage

Many vessels engaged in offshore operations are capable of carrying out salvage operations.

Where a vessel engages in a salvage operation to save life at sea the vessel's normal P&I Rules cover is unaffected.

However, cover is generally excluded for liabilities, costs and expenses arising out of other salvage operations without the express agreement of the Club's Managers.

Many offshore contracts include an obligation on owners to provide salvage services to vessels or equipment owned by the charterers/charterers group but will often require owners to contractually waive any rights to claim for such salvage services. The Club's Offshore and Renewable Energy Cover will respond to those costs which fall outside of normal P&I Rules cover.



### **Insurance Clause - Naming of Charterer and Waiving of Subrogation**

The contract will frequently require the owners to provide a waiver of subrogation from their insurers in favour of the charterers and their contractors (charterers group) and to name them as co-assured - the so called "Name and Waive" requirement.

This is acceptable under Club P&I Rules where the name and waive is only to the extent that it covers those liabilities that are properly the responsibility of

Members under a knock for knock charter party such as Supplytime 2017, so not including those liabilities which are the responsibility of the charterer under the charterparty.

Under its Offshore and Renewable Energy Cover the Club can provide such cover to co-assureds on a "misdirected arrow basis" covering those claims / liabilities brought against the charterers which should properly be the responsibility of the owners.



# Specialist Operations & Other Risks - Scope of Cover



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What can be covered?

## Introduction

Specialist operations are contracted works undertaken by the Member that are of such a nature they fall beyond that usually carried out by traditional shipowners. Many specialist operations may result in the interference with the seabed and so potentially may cause damage to property or equipment located on or under the seabed including pipelines, cables and infrastructure such as undersea tunnels.

Rule 17 C of the Club's Rules sets out a definitive list of what are considered to be specialist operations:

*"Dredging, blasting, piledriving, well-intervention, cable or pipelaying, construction, installation or maintenance work, core sampling, depositing of spoil, power generation and decommissioning."*



### **Scope of Cover**

Under its Offshore and Renewable Energy Cover the Club offers additional insurance to Members for their liabilities which arise out of the specialist nature of these operations. The cover sits as an extension of the Member's normal P&I Rules cover.

Where required, this cover for specialist operations can be integrated with the cover for Extended Contractual Liabilities, so providing a single combined offshore insurance package up to an agreed limit tailored to the individual Member's contractual needs.

### **The following example illustrates how the Specialist Operations Cover operates alongside normal P&I Rules cover:**

Where a vessel is engaged in dredging and becomes involved in a collision caused by an error in navigation then the claim would fall under normal P&I Rules Cover for RDC risks. However, if the incident occurred because the vessel was unable to adequately manoeuvre to avoid the collision due to the dredging operation then the incident would fall under a specialist operations exclusion as the incident was materially caused by the specialist operation. Any claim would then fall under the Specialist Operations cover.



## Divers

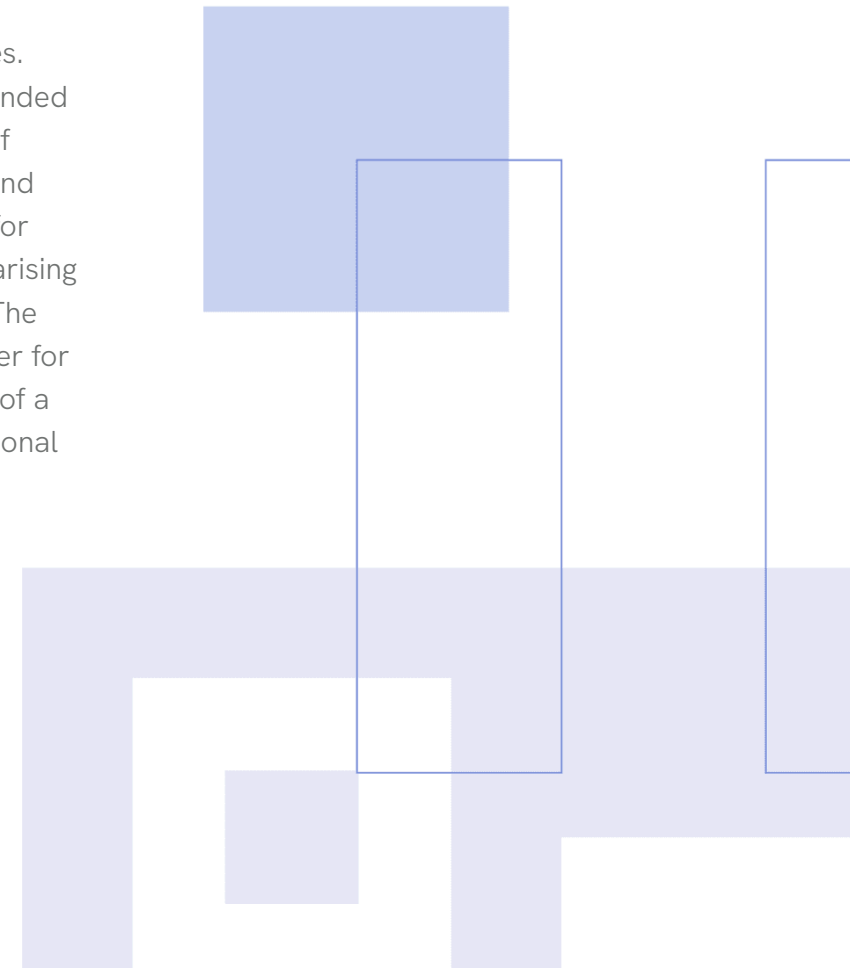
Diving operations are similar to specialist operations and so Members who are responsible for the activities of commercial divers from their vessels will require an extended cover, as liabilities from and to divers are excluded risks under normal P&I Rules cover.

Such responsibility would arise where the Member is the employer of the divers, engages a third party to undertake the works on the Member's behalf or has agreed an indemnity under a contract that assumes

liability for the activities of the divers. If the Member is not responsible for the activities of the divers - for example where the vessel is chartered out and is merely used as a dive platform and the charterer or diving contractor is responsible for the activities of the divers - then normal P&I Rules cover remains in place and additional cover for divers is usually not required.

Members should ensure they have an indemnity from the charterer in respect of liabilities

arising from diving activities. The Club can provide extended insurance for the liability of divers under its Offshore and Renewable Energy Cover for their third party liabilities arising from the diving activities. The Club can also provide cover for liabilities to divers as part of a bespoke package of additional cover.



### **Mini-submarines, Diving Bells, Saturation Diving Habitats and RoVs**

Members will require additional cover for the operation of the above craft, as normal P&I Rules cover excludes liabilities arising from the operation of mini-submarines, diving bells, saturation diving habitats and remotely operated vessels (ROV). This exclusion applies where the Member is actually carrying out the operation of or is responsible for the operation of ROVs or similar underwater equipment. If the vessel is merely providing a platform for such operations and the underwater operation is being

conducted by and at the risk of others then normal P&I Rules cover continues in place and generally no additional cover is required.

If the Member is using their own underwater equipment or is responsible for conducting the underwater operations, then the Club can provide an extension of cover for such activities under our Offshore and Renewable Energy Cover, including any legal obligation to remove the wreck of any lost equipment.



### **Accommodation units**

Accommodation vessels can be covered under normal P&I Rules cover, but it should be noted that under Rule 17 (e) there is no cover for non-crew personnel accommodated on any vessel providing accommodation to an oil or gas facility where either such vessel is located on or about an oil or gas production facility, where there has not been a contractual allocation of risk between the Member and the employer of the personnel on terms approved by the Managers.

Where these criteria are not met then the Club's Offshore and Renewable Energy Cover can provide protection against the Member's liability to these non-crew personnel.

It should be noted that a variety of offshore vessels can be used for accommodating personnel and not just accommodation units; the test is whether the entered vessel is actually providing accommodation on or about an oil or gas facility.



## Loss of or damage to Contract Works

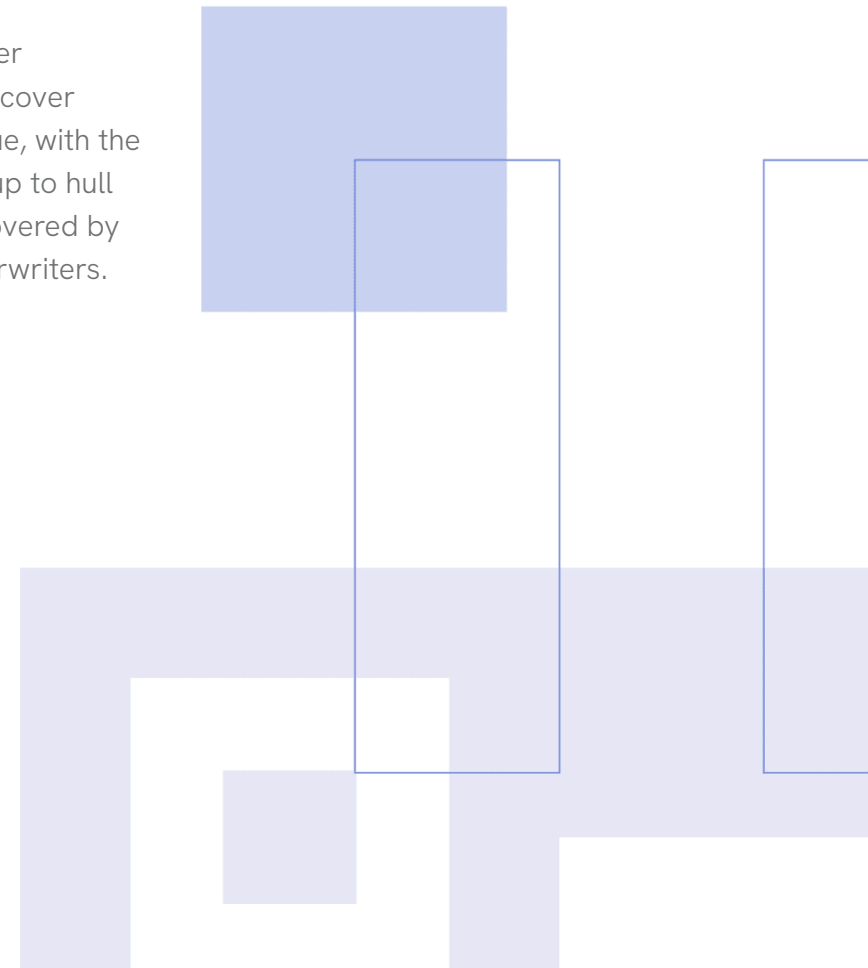
Contract Works includes the plant, equipment and materials that an owner is contracted to construct or work on. The Club Rules (Rule 17 (c)) exclude claims in respect of loss of or damage to contract works brought by any party for whom the specialist operations are performed. Such damage to contract works is also a standard exclusion under Specialist Operations cover.

This exclusion exists because damage to contract works risks is generally covered by a separate construction risk insurance purchased by the head contracting operator (for whom the Member will be working) - called Contractors All Risks (CAR) Insurance.

It has become the practice of the main contracting operators to pass onto Members the risk for loss of or damage to contract works up to the limit of their CAR deductible. In response to this, the Club can provide cover where the Member is held liable for such risks under the charter party.

## War Risks

Normal P&I Rules cover provides P&I war risk cover excess of the hull value, with the primary P&I war risk up to hull value being usually covered by the Hull P&I war underwriters.



# Offshore and Renewable Energy Cover - General Exclusions



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## Performance and Contract Works

Offshore Cover is subject to the following standard exclusions relating to performance of the work undertaken:

- Failure to perform services (including specialist operations) under a contract.
- Fitness for purpose and quality of the Member's work, products and/or services,
- Loss of or damage to contract works (unless a special extension of cover has been purchased by the member).

## Pollution from Well or Hole

Offshore Cover excludes those liabilities, costs and expenses arising out of any pollution, including any clean-up costs, from the hole or well or reservoir which is or was being serviced by the entered vessel or is in the care, custody and control of the Member.

This exposure is generally covered by the operator of the well. Pollution arising from the normal operation of the vessel would however still be covered under standard cover.



## Gross Negligence & Wilful Misconduct

Increasingly contractors are amending standard knock for knock contracts by inserting an exception to the operation of the clause where the liabilities and indemnities do not apply for claims that arise out of the gross negligence or wilful misconduct of a party causing loss.

The clause may further seek to exclude any contractual liability limits including those for consequential losses.

What amounts to gross negligence and wilful misconduct is often not defined and will be a matter of judgement (ultimately by a court) of the actions of the offending party and possibly the state of mind of the individuals concerned.

Ideally a contract should contain wording that clearly differentiates what conduct amounts to gross negligence from ordinary negligence.

Wilful misconduct by a controlling mind of the assured would be excluded from Offshore and Renewable Energy Cover pursuant to the Marine Insurance Act 1906.

## Consequential Loss

Consequential losses such as loss of market unless such loss is recoverable at law and forms part of a covered claim.



Why West?



# Why West?

West is a leading insurance provider to the global shipping industry, combining financial strength with outstanding service to help its Members meet the continually evolving liability environment in which shipowners, operators and charterers operate.

We also safeguard and promote our Members' interests in many other areas of their business. We believe that protection for our Members is as important as the indemnity insurance we offer. To provide both we are responsive to our Members' needs and proactive in looking after their interests, enabling them to more easily achieve their business goals.

## Our strengths

- An international Club with a global membership
- A worldwide office network providing dedicated underwriting, claims and loss prevention service to our Members
- Rated A- by AM Best
- A Member of the International Group of P&I Clubs



# Office locations

Providing localised services to the world-wide membership.



## Registered office

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## Dubai

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Thank you for reading

# West Offshore & Renewable Energy