

USER GUIDE

1.0 Category of Users

The platform provides for three different categories of user forms:

1. Individuals;
2. Companies; and
3. Organisations.

2.0 Format of Forms

The forms are classified as follows:

- The first section consists of personal / corporate / organisational details of the claimant;
- The second section consists of the claim details;
- The third section consists of the bank details of the claimant; and
- The fourth section consists of declarations of the claimant and uploading of documents as documentary evidence. If there is more than one file, users are requested to compress/aggregate the files. The maximum size for attachments is 5 Mb.

3.0 Types of Claims

Extracts from the 2019 IOPC Claims Manual and other relevant documentation may be referred by claimants. Some relevant extracts are provided below.

The claims are regrouped into nine main categories, as follows:

1. Clean-up operations;
2. Preventive measures;
3. Property damage;
4. Economic loss in the fisheries, mariculture and fish processing sectors;
5. Economic loss in the tourism sector;
6. Costs of measures to prevent pure economic loss;
7. Environmental damage; and
8. Post-spill studies
9. Others

USER GUIDE

In general, claims must satisfy the following admissibility criteria:

- Claims will be paid for costs resulting from contamination by oil;
- There must be a close link between the contamination and the costs claimed;
- Claimants must prove how much they have spent and must provide information to support this;
- The expense must have been already and actually incurred. Claims for future anticipated costs may only be considered by the insurers if fully supported by documentary evidence;
- All claims should relate to measures that are reasonable and justified and will be assessed on a case-to-case basis, taking into account the particular circumstances of the incident and the location in which it occurs.
- Claims should include the nature, purpose, timing, target groups and detailed breakdown of costs.
- All claims should be substantiated by the necessary documentary evidence.

3.1 Clean-up operations

- Clean up operations must include reasonable measures taken to combat oil at sea, to protect resources vulnerable to oil, to clean shorelines and coastal installations and to dispose of collected oil and oily wastes.
- Claims for reasonable costs associated with the provision of local reception facilities appropriate to the scale of the problem, materials, medication and food may be submitted, as are reasonable food and accommodation costs of volunteers. If several special interest groups undertake cleaning and rehabilitation activities, these should be properly coordinated to avoid duplication of effort.

3.2 Preventive Measures:

- Claims for the costs of measures to prevent or minimise pollution damage are assessed by the insurer on the basis of the technical reasonableness of actions taken and the costs thereof, the facts available at the time of the decision to take the measures, and whether the calculation of claimed expenses is correct.
- Assessment is normally done on a case-to-case basis, taking into account the particular circumstances of the incident.

USER GUIDE

3.3 Damage to Property:

- Claims for compensation for reasonable costs of cleaning, repairing or replacing property that has been contaminated by oil are also assessed by the insurance company. This includes costs of cleaning the intakes, machinery and equipment of industrial installations that abstract seawater, such as power stations and desalination units. If it is not possible for the property to be cleaned or repaired, then replacement costs are accepted.
- Claimants are normally required to provide evidence of the extent of damage to their property and an explanation of how it occurred, invoices confirming that repairs, cleaning or replacement have been undertaken or quotations for the work to be carried out, and age of damaged items.

3.4 Claims for economic loss in the fisheries, mariculture and fish processing sectors:

- Submission of claims in the above sectors for loss of earnings may be made by the owners of property contaminated by oil (consequential loss).
- Claims for economic loss not resulting from property damage, for example from businesses that depend directly on the fisheries and mariculture activities (including suppliers of fuel and ice, fish porters, fish wholesalers and retailers), may also be submitted provided they substantiate that the loss was caused by contamination.
- Other factors include the geographic proximity of the claimant's business activity to the contaminated area, the degree to which a claimant's business is economically dependent on an affected resource and the extent to which a claimant had alternative sources of supply or business opportunities.
- Claims by fishermen and fishmongers should be made directly to the Fisheries Division of the Ministry of Blue Economy, Marine Resources, Fisheries and Shipping and should not be made through the electronic application for claims in order to avoid duplication.

3.5 Claims for economic loss in the tourism sector:

- This concerns claims against losses due to the oil pollution causing a reduction of tourism-related business revenues. The claimant must show

USER GUIDE

that he/she has suffered a financial loss due to the pollution and that this loss has a direct link to the contamination due to oil.

- A distinction is drawn between trade lost due to a decline in tourists and day visitors attracted by the affected sea, coast and beaches and other customers of tourism and day visitor businesses, such as local and business-related users.
- For businesses and organisations in the immediate vicinity of the affected area, claim submissions may be made on the basis of loss of gross margin (revenue less direct operating expenses) directly caused by the contamination.
- However, claims must be made by the owners or directors of those businesses and organisations and they should show their authority to do so, through submission of business permits and licenses they held at the time of the incident.
- While submitting the claims, the claimant should bear into account the present situation in respect of COVID-19 and the restrictions on air travel.

3.6 Claims for costs of measures to prevent pure economic loss:

- Claims may be submitted for the costs of measures to prevent or minimise pure economic loss and aiming at counteracting the negative impact of the pollution on the fishery and tourism sectors. The guiding principles are as follows:
 - The cost of the measures is reasonable and not disproportionate to the further damage or loss that they are intended to mitigate;
 - The measures should be appropriate and offer a reasonable prospect of being;
 - In the case of marketing campaigns, the measures should relate to actual targeted markets (for example, measures to counteract the negative effects on tourism in a particular area should normally be focused on the normal visitor client base of that area).

3.7 Claims for environmental damage:

- This relates to claims for the impairment of the environment based on loss of profit from such impairment and the costs of reasonable measures of reinstatement actually undertaken or to be undertaken.
- The aim of any reasonable measures of reinstatement should be to re-establish a biological community in which the organisms' characteristic of that community at the time of the incident are present and are functioning normally. In addition, the measures should:

USER GUIDE

- Seek to prevent further damage as a result of the incident.
- As far as possible, not result in the degradation of other habitats or in adverse consequences for other natural or economic resources.
- Be technically feasible.
- The costs of the measures should not be out of proportion to the extent and duration of the damage and the benefits likely to be achieved.

3.8 Post-Spill studies

- Studies are sometimes required to establish the nature and extent of environmental damage caused by an oil spill and to determine whether or not reinstatement measures are necessary and feasible. Such studies will normally be most appropriate in the case of major incidents where there is evidence of significant environmental impact.
- In order to qualify for compensation, it is essential that any such post-spill studies are likely to provide reliable and usable information. For this reason, the studies must be carried out with professionalism, scientific rigour, objectivity and balance.
- Post oil- spill studies may only be considered by the insurers when same is conducted under the aegis of a Government entity.

Disclaimer: This user guide must not be construed as a binding document. The information contained therein are intended to be used as an indicative guide and must not be relied upon as an exclusive representation of the requirements of the insurer.

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