

Who is liable when property is damaged under offshore contracts?

An at-a-glance-guide

Damage to property, whether fixed or moveable, is a common risk during the operation of an offshore vessel. This risk can often result in a significant liability exposure for Members, as the damage may not be limited to their property, but also to property belonging either to their contractual counterparties, or third parties. In addition, in certain circumstances (e.g. towage by an insured vessel), P&I cover will only respond if the vessel's operation is subject to contractual terms approved by the Club.

In many incidents where property is damaged, the allocation of the parties' liability is governed by a contract. Although offshore contracts try to provide a straightforward framework for apportioning liability, different standard form contracts deal with these risks in a variety of ways, especially in respect of third party property.

The table below provides a summary of the parties generally responsible for property damage under the most popular standard offshore contracts (assuming they are unamended). By understanding where liability lies under these contracts, Members may ascertain which cover responds best to their overall liability exposure.

Contract	Liability
Supplytime (1989, 2005, 2017) & Windtime 2013	Claims by parties covered by the knock for knock flow to the Owner or Charterer respectively, including damage to their own property. In respect of claims from parties not covered by the knock for knock, the contract is silent, so these claims will lie where they fall, except where the damage is caused by or to the tow, in which case they are for the Charterers' account.
Towcon & Towhire (1985/2008)	The Tugowner is liable for any damage caused to the tug as well as to third party property contacted by the tug. Respectively, the Hirer is responsible for any damage caused to the tow and to third party property contacted by the tow.
UKSTC 1986	The Hirer is liable for any damage to third party property, the tow or the tug (provided the tug is seaworthy and the claims occur during towage).
Wreckhire/fixed/staged (1999/2010)	The wreck owner is liable for damage to their vessel and the Contractor is liable for damage to their vessels. The contract is silent on claims from third parties, so these will lie where they fall.
LOF 2020	The Contractors are contractually obliged not to unnecessarily damage, abandon or sacrifice any property on the vessel being salvaged. Otherwise, the contract is silent on liability for damage to the salvage tugs, salvaged vessel or third party property, so the normal rules on negligence (but with due consideration of the context) will apply to claims between the parties.
Bargehire (1994/2008)	The Charterers are obliged to repair any damage to the vessel occurring during the charterparty. They also indemnify the Owners against all damage to third party property caused by the barge. However, by default the insurance provisions require the owners to place H&M and P&I insurance, which the Charterers may be able to use to cover such claims (subject to bearing the deductible).
Projectcon 2006	The tug and barge owners are liable for any damage or loss caused to their vessels. They are also liable for any cargo on board of their vessels which is not the subject of the charter. The tug and barge charterers are liable for any damage, loss, delay and wreck removal of cargo which is the subject of the charter. They are also liable for any loss or damage caused to the property of their group members. In respect of claims from parties not covered by the knock for knock, the contract is silent, so these claims will lie where they fall.

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