



International Oil Pollution  
Compensation Funds

<b>Agenda Item 7</b>	IOPC/MAY23/7/1	
<b>Date</b>	4 May 2023	
<b>Original</b>	English	
<b>1992 Fund Assembly</b>	92AES27	●
<b>1992 Fund Executive Committee</b>	92EC80	
<b>Supplementary Fund Assembly</b>	SAES11	

## UNDERLEASE OF THE IOPC FUNDS OFFICES

### EXTRAORDINARY INCREASE TO THE 2023 SERVICE CHARGE

#### Note by the Secretariat

**Summary:**

At its October 2015 session, the 1992 Fund Administrative Council noted that the Secretary-General of the International Maritime Organization (IMO) had confirmed IMO's agreement to accommodate the IOPC Funds Secretariat in the IMO Headquarters building from June 2016 onwards (document IOPC/OCT15/11/1, paragraph 7.4.2).

On 15 February 2016, the terms of an underlease between IMO and the IOPC Funds were agreed, and the underlease was signed by the Secretary-General of IMO and the Director of the IOPC Funds. The underlease entered into force on 1 March 2016 and will expire on 25 October 2032.

Under the terms of the underlease, the IOPC Funds shall pay a service charge in proportion to the area it occupies, to cover common services provided by IMO. The service charge is calculated on a calendar-year basis and may be subject to annual increases in line with the United Kingdom (UK) Consumer Price Index (CPI) but may not exceed 3% in any year, unless the UK CPI remains at or above 3% for two or more consecutive years.

Due to the extraordinary increase in electricity and gas costs, and despite the terms of the underlease, IMO have requested that on an exceptional basis, the IOPC Funds share the forecasted 38% increase in the 2023 service charge costs. This represents an additional and unbudgeted £44 325 increase to the 2023 IOPC Funds service charge.

The Director has discussed this matter with the Audit Body and brings it to the attention of the 1992 Fund Assembly for its consideration.

**Action to be taken:** 1992 Fund Assembly

The 1992 Fund Assembly is invited to:

- (a) consider the request by IMO to pay an extraordinary increase to the 2023 service charge on an exceptional basis; and
- (b) decide whether to instruct the Director to make the payment of £44 325 from the Chapter 'Unforeseen expenditure' of the 2023 budget for the 1992 Fund.

## **1 Introduction**

### Underlease of IOPC Funds offices

- 1.1 On 15 February 2016, the Secretary-General of IMO and the Director of the IOPC Funds signed an agreement whereby IMO agreed to underlet office accommodation to the IOPC Funds on the first floor, rear wing, in its Headquarters building (the Agreement). The terms of the underlease (the superior lease being held between IMO and the United Kingdom (UK) Government) entered into effect on 1 March 2016 and will expire on 25 October 2032 (document IOPC/APR16/7/1).
- 1.2 The key conditions of the underlease are as follows:
- There shall be a rent-free period, during the fit-out of the offices, between 1 March and 31 August 2016;
  - Thereafter, the rent shall be fixed at £429.60/m<sup>2</sup>/year, exclusive of service charges as described below, for the period between 1 September 2016 and the break point (i.e. 31 October 2024) as defined in the Agreement;
  - The IOPC Funds shall be deemed to occupy 600.4 m<sup>2</sup>. The total annual rent until the break point shall be £258 000. Not less than one year before the break point, IMO and the IOPC Funds shall jointly commission an independent review of the rent and agree an annual rent for the period between 1 November 2024 and 25 October 2032. The revised rent shall be payable from 1 November 2024 unless notice of termination is given in accordance with the Agreement;
  - In addition to the rent, the IOPC Funds shall pay a service charge, in proportion to the area it occupies, to cover common services provided by IMO as itemised in the Agreement. The service charge is set, initially, at £102 000/year in accordance with the schedule annexed to the Agreement, and covers facilities and services to the IOPC Funds such as: utilities; use of conference rooms and the cafeteria; one reserved car parking space for the Director of the IOPC Funds; and access to the basement garage for IOPC Funds staff members' cars, motorcycles and bicycles on a first come, first served basis; and
  - In addition to the rent and service charge, the IOPC Funds shall pay a medical charge of £395/person/year for the use by IOPC Funds staff of IMO's Medical Unit.

## **2 Service charge increase**

- 2.1 In line with the underlease, the service charge for 2023 was calculated by IMO to be £116 559. However, due to the extraordinary increase in electricity and gas costs, IMO has forecast a 38% increase in the 2023 service charge and have asked the IOPC Funds, on an exceptional basis, to share this cost. This represents an increase of £44 325, increasing the contribution from the IOPC Funds to £160 884.
- 2.2 Under the terms of the underlease, the service charge may be subject to annual increases in line with the UK Consumer Price Index (CPI). This increase shall not exceed 3% in any year unless the UK CPI remains at or above 3% for two or more consecutive years. If this occurs, IMO and the IOPC Funds shall agree revised charges in line with UK CPI. IMO shall advise the IOPC Funds of any increase by 1 July of the preceding calendar year.
- 2.3 IMO did not advise the IOPC Funds of the extraordinary increase to the 2023 service charge by 1 July 2022 and, in addition, the increase requested by IMO exceeds the 3% cap in service charge increase, pursuant to the terms of the underlease. As the IOPC Funds were not advised of the extraordinary increase to the 2023 service charge by 1 July 2022, this expense was not included in the 2023 budget for the 1992 Fund which was presented at the October 2022 sessions of the governing bodies.

**3 Director's considerations**

- 3.1 The Director notes the request by IMO to pay the unbudgeted service charge increase on an exceptional basis.
- 3.2 The Director brings this request to the attention of the 1992 Fund Assembly for its consideration and, if it is decided that payment of the extraordinary increase to the 2023 service charge should be made, to instruct him accordingly.
- 3.3 If approved, the Director intends to make such payment from the Chapter 'Unforeseen expenditure' of the 2023 budget of the 1992 Fund.

**4 Action to be taken**

1992 Fund Assembly

The 1992 Fund Assembly is invited to:

- (a) consider the request by IMO to pay the extraordinary increase to the 2023 service charge on an exceptional basis; and
- (b) decide whether to instruct the Director to make the payment of £44 325 from the Chapter 'Unforeseen expenditure' of the 2023 budget for the 1992 Fund.
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