**南京海事法院诉讼指南**

**（设立海事赔偿责任限制基金申请篇）**

**一、设立海事赔偿责任限制基金的有哪些申请条件？**

1、船舶所有人、承租人、经营人、救助人、保险人在发生海事事故后，依法申请责任限制的，可以向海事法院申请设立海事赔偿责任限制基金。

2、船舶造成油污损害的，船舶所有人及其责任保险人或者提供财务保证的其他人为取得法律规定的责任限制的权利，应当向海事法院设立油污损害的海事赔偿责任限制基金。

3、设立责任限制基金的申请可以在起诉前或者诉讼中提出，但最迟应当在一审判决作出前提出。

4、当事人在起诉前申请设立海事赔偿责任限制基金的，应当向事故发生地、合同履行地或者船舶扣押地海事法院提出。

**二、申请设立海事赔偿责任限制基金应提交的材料有什么？**

1、设立海事赔偿责任限制基金申请书及证据

申请书写明所涉海事事故的事实陈述、所涉船舶具体信息的事实陈述、申请设立海事赔偿责任限制基金的具体计算方式、标准及金额的陈述、申请设立海事赔偿责任限制基金的理由及法律依据。

2、申请人主体资格材料

申请人是自然人的，提交身份证明复印件；申请人是法人或者非法人组织的，提交营业执照或者组织机构代码证复印件、法定代表人或者主要负责人身份证明书。

3、授权委托书

代理人是律师的，提交授权委托书及律所公函；代理人是公司员工的，提交员工身份证复印件、授权委托书及劳动合同复印件并由公司盖章。

4、船舶的权属证书、国籍证书、吨位证书等船舶资料。

5、海事事故相关证据材料，例如海事声明、海事事故报告、航海日志等。

6、列明已知利害关系人的名称、地址和联系方式。

**Application guide for constituting a limitation fund for maritime claims liability**

**I. What are application requirements for constituting a limitation fund for maritime claims liability?**

1. Where limitation of liability is applied according to law after the occurrence of a maritime accident, the shipowner, charter, operator, salvor and insurer may apply to the maritime court to constitute a limitation fund for maritime claims liability.

2. Where any oil pollution damage is caused by a ship, the shipowner and the insurer of liability or other persons providing financial suretyship shall, for a purpose of obtaining the right to limitation of liability stipulated by law, constitute a limitation fund for maritime claims liability of oil pollution damage with the maritime court.

3. An application for constituting a limitation fund for liability may be submitted before bringing an action or during the proceedings, but it shall be submitted at least before the making of the judgment of first instance.

4. Where an application for constituting a limitation fund for maritime claims liability is to be submitted before bringing an action, the parties shall submit it to the maritime court of the place where the accident occurs, the place where the contract is performed or the place where the ship is arrested.

**II. What are files to be submitted for the application for constituting a limitation fund for maritime claims liability?**

1. Application and evidence of constituting a limitation fund for maritime claims liability

The application shall specify the facts of the maritime accident, the ship’s information details, the specific calculation method and standard, the quantity, the reasons and the legal resources of constituting a limitation fund for maritime claims liability.

2. Documents for the applicant’s subject qualification

If the applicant is a natural person, submit the copy of identification card; if the applicant is a legal person or other organization, submit the copy of business license or organization code certificate and the identity certificate of the legal representative or the person chiefly in charge.

3. Power of attorney

If the agent ad litem is a lawyer, submit the power of attorney and the letter of law firm; if the agent ad litem is a company employee, submit the copy of the employee’s identification card, power of attorney, the copy of labor contract and the aforesaid documents should be affixed with the company’s stamp.

4. The ship’s ownership certificate, nationality certificate, tonnage certificate and other information.

5. Evidence related to the maritime accident, such as maritime declarations, maritime accident reports, navigation logs, etc.

6. The application shall list the names, addresses and contact information of known stakeholders.