

Recent updates to the UAE Maritime Law: Limiting Liability for Maritime Claims

The shipping news

The new UAE Federal Law No. 43 of 2023 on the issuance of the Maritime Law (the "**New Maritime Law**") that has come into effect since 28 March 2024 has significantly reshaped the regulatory framework governing maritime claims in the UAE.

This briefing note examines the scope, limitations and procedural aspects under the New Maritime Law, comparing them with the repealed Federal Law No. 26 of 1981 (the "**Old Maritime Law**") and international conventions like the LLMC 1996 Protocol.

Scope of applicability

Under the New Maritime Law, the limitation of liability applies to operators, including owners, bareboat charterers, managers and co-owners, as well as entities indirectly involved, such as freight forwarders, when liability arises from a vessel's unseaworthiness.

The New Maritime Law broadens the scope of claims qualified for liability limitation, aligning with the Convention on Limitation of Liability for Maritime Claims as amended by the Protocol of 1996 and its amendments (the "**LLMC**").

This includes:

- **Personal and property damage:** Claims for loss of life, injury or property damage, including to port facilities, docks and navigational aids, directly related to the ship's operations or salvage.
- **Delays:** Damages arising from delays in the transport of cargo or passengers.
- **Non-contractual damages:** Claims for damages resulting from non-contractual breaches caused by the ship's operations or salvage activities.
- **Dangerous goods:** Damages caused by the sacrifice, destruction or removal of hazardous goods aboard the ship.
- **Mitigation measures:** Costs or damages arising from measures taken by third parties to mitigate harm caused by the ship.

On the other hand, the New Maritime Law bars liability limitation in cases of:

- **Personal fault or gross negligence:** Liability cannot be limited if the incident arises from personal fault, deliberate actions or serious negligence by the ship's operator or their representative. Though, the burden is on the claimant to prove the fault. In most cases, the gross negligence can be established in the UAE if the person seeking to limit liability, or its personnel, is charged with a criminal liability, even if it is a fine, or in the event that a court appointed

expert has concluded in their final report that the incident occurred as a result of gross negligence.

- **Salvage and general average:** Obligations related to salvage operations, rescue or contributions to general average losses are exempt from liability limitations.
- **Crew wages:** Wages for the captain, seafarers and other ship staff (or their successors) associated with the vessel's service are not subject to liability limits.
- **Nuclear damage:** Debts resulting from nuclear damage are excluded from limitation provisions.
- **Wreck removal and dangerous cargo:** Damage caused by the recovery, removal, destruction or handling of hazards posed by a wrecked, sunk or abandoned ship (or its cargo) cannot be limited.

Basis of limitation

Under the Old Maritime Law, liability limits were based on fixed monetary values, whereas the New Maritime Law adopts Special Drawing Rights ("**SDRs**"), a global reserve currency used in international maritime conventions. For instance, for vessels under 2000 tons, compensation for loss of life is capped at 2million SDRs, with material damages capped at 1million SDRs.

Additional compensation is calculated for vessels exceeding this tonnage threshold.

The LLMC, however, prescribes higher limits, such as 3million SDRs for personal injury claims on vessels under 2000 tons. Thus, stakeholders must carefully consider the jurisdictional basis for asserting liability.

Limitation funds and court jurisdiction

The New Maritime Law introduces the concept of setting up a limitation fund, which may be established upon request of the disponent owners of the vessel to centralise claims related to a single incident. While the executive regulations are expected to provide comprehensive guidance on the mechanism for this defence, the New Maritime Law stipulates that once the fund is created and duly published, creditors must file their claims along with the supporting evidence within the jurisdiction of the said court. The court will appoint the relevant maritime and financial experts to verify all submitted claims. The creditors will have the right to review the expert's report and submit their comments and/or challenges to the report. The said courts will oversee the distribution of these funds, ensuring fair allocation to creditors and halting other legal proceedings.

Package limitation and freight forwarders' liabilities

The New Maritime Law provides specific guidelines for marine stakeholders, including freight forwarders, stevedores and cargo agents. Notably, freight forwarders now bear joint liability for cargo damage caused during transit, alongside the actual carrier. However, both parties may invoke limitation provisions.

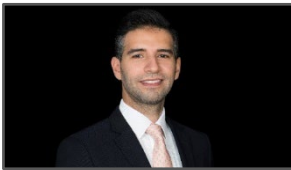
Carriers and shippers may agree on alternative liability limits, provided these exceed statutory minimums, reflecting greater flexibility under the New Maritime Law compared to its predecessor.

Time limits for cargo claims

The statute of limitations remains unchanged, with claims required to be filed within one year from the date of cargo delivery or the agreed delivery date.

Enquiries and contact details

If you have any enquiries regarding this update or the recent updates to the UAE Maritime Law, please contact Saif, Mazin, or your usual contact in the Middle East maritime, trade and offshore team at Stephenson Harwood.



Saif Almobideen
Partner

T: +971 4 407 3931
E: saif.almobideen@shlegal.com



Mazin El Amin
Managing Associate

T: +971 4 407 3935
E: mazin.elamin@shlegal.com

Conclusion

The New Maritime Law introduces a robust and comprehensive framework that better aligns with international standards, offering clarity on liability limits and the obligations of marine stakeholders. Although its practical application remains untested, the law is expected to streamline maritime operations in the UAE and mitigate risks for global shipping entities.

This enhanced legislative framework underscores the UAE's commitment to maintaining a competitive maritime industry while upholding the interests of claimants and operators alike.

© Stephenson Harwood LLP 2024. Any reference to Stephenson Harwood in this document means Stephenson Harwood LLP and/or its affiliated undertakings. The term partner is used to refer to a member of Stephenson Harwood LLP or a partner, employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Stephenson Harwood LLP's affiliated undertakings.

Full details of Stephenson Harwood LLP and or/its affiliated undertakings can be found at www.shlegal.com/legal-notices.

Information contained in this document is current as at the date of first publication and is for general information only. It is not intended to provide legal advice. The fibre used to produce this paper is sourced from sustainable plantation wood and is elemental chlorine free.