



MARITIME CIRCULAR • JANUARY 2024



Navigating the New UAE Federal Maritime Law 43 of 2023: Guidance for Protection and Indemnity Clubs

In the dynamic landscape of the maritime and shipping industry, the recently enacted UAE Maritime Law No. 43 of 2023 stands as a significant regulatory update. This law specifically addresses the functions and responsibilities of Protection and Indemnity (P&I) clubs, recognizing their crucial role in offering financial protection and indemnification to ship owners. **The new law aims to fortify the position and functions of P&I clubs in key aspects outlined below:**

I. Provisional Seizure and Guarantee (LOU) for Maritime Debts

Provisional seizure is a legal measure often employed to secure maritime debts. It serves to restrict a ship's travel, preventing it from leaving a particular jurisdiction until the outstanding debts are resolved, or adequate security is provided. The court, as per its authority, can lift the provisional seizure under certain conditions. This typically occurs upon the presentation of sufficient bail or guarantee, ensuring that the interests of the parties involved are adequately protected. Guarantee letters issued by Protection and Indemnity (P&I) clubs or approved financial institutions are recognized as satisfactory means of providing security for maritime debts. This provision was inserted in the new law with the help of Tarek Saad that the P&I clubs can activate the ability to issue the letter of undertaking (LOU) as a Guarantee against the provisional arrest not to interrupt the commercial activity of the vessel while waiting for the court decision to be rendered. The acceptance criteria for such guaranteed letters are typically outlined in executive regulations. Requests for lifting the seizure or providing bail/guarantee are explicitly stated not to be construed as an admission of liability. This provision protects the party making the request from having such actions used against them in legal proceedings.

II. Facilitating Cooperative Insurance Entities

Entities such as P&I clubs are permitted to establish branches in the country. This reflects a regulatory framework that encourages the presence of reputable insurance entities, enhancing the availability of insurance services within the jurisdiction. The minister has the authority to specify accredited entities authorized to issue letters guaranteeing the payment

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of maritime debts. This regulatory oversight ensures that only reliable and authorized entities are involved in providing financial guarantees related to maritime transactions.

III. Ensuring Compliance with Mandatory Liability Insurance

Ships within state ports or waters are legally obligated to carry insurance documents covering liability for maritime risks. This requirement ensures that potential liabilities arising from maritime activities are adequately covered. Liability insurance for ships includes coverage for the wages of captains and sailors. This inclusion recognizes the comprehensive nature of liability coverage, encompassing not only property and vessel-related risks but also personnel-related liabilities (Seafarers, Pilots, and others). The law also indicates liability due to the abandonment of the ship by the shipowners. Vessels flying the state's flag are required to obtain insurance covering liability for all their voyages. This mandate extends the scope of insurance to all journeys undertaken by such ships, regardless of the specific route or destination. The ministry has the legal authority to define the covered risks under mandatory liability insurance and assumes supervisory authority over the enforcement of these requirements. This ensures uniformity and compliance within the maritime sector.

IV. Mandatory Liability Insurance for Passenger Transport Ships

Operators of passenger transport ships are legally obligated to maintain liability insurance, and specific guidelines established by the ministry dictate the terms and conditions of this coverage. This requirement is designed to protect passengers and other stakeholders in the event of unforeseen incidents.

This circular has been developed by the Maritime, Shipping, and Logistics department at BLK Partners, headed by Tarek Saad (Partner). Tarek spearheaded the maritime law project and actively contributed to the drafting and amendment of the law in collaboration with the Federal Transportation Authority in the UAE.

Should you have any queries or require further clarification, please do not hesitate to reach out to our team at: Tarek.saad@blkpartners.com; Elias.elmurr@blkpartners.com.

This circular can also be accessed at www.blkpartners.com

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