



MARITIME CIRCULAR • JANUARY 2024



# Maritime Responsibility, Liability, and Compensation According to the New UAE Maritime Law 43 of 2023

In our ongoing commitment to providing insightful legal perspectives, we present this comprehensive analysis of the legal provisions concerning maritime liability and compensation within the specified legal framework.

In the context of ship ownership, the law presumes the shipowner to be its operator unless there is evidence of exploitation transfer. The liability provisions related to a ship's unsuitability for sea navigation designate specific individuals, such as the Director of the Maritime Commonality, the ship's manager assigned by the operator, the goods relay before the shipper, and the commission agent for sea transport before the principal, as operators.

The legal framework emphasizes the operator's responsibility to ensure the ship's seaworthiness before and during the cruise. The Ministry is tasked with determining the requirements for equipping the ship in accordance with international agreements and maritime customs.

- I. Regarding liability, the operator is liable for personal mistakes, especially in cases of non-compliance with ship safety provisions. Civil liability is imposed for errors of ship personnel during their duties, with the operator having recourse against the responsible party. The operator is also liable for obligations arising from contracts concluded by the ship's agent or captain within prescribed limits.
- II. The operator or a person acting in its judgment is obligated to uphold responsibility for errors and obligations. This includes events such as deaths, bodily injury, loss, or damage to funds directly related to the ship's operation, damage caused by delays in maritime carriage, and damages arising from the removal of dangerous goods on the ship. The operator is required to uphold responsibility against all creditors, whether federal or local entities, but adherence to liability determination does not imply acknowledgment.
- III. Limitations on invoking liability arise in specific cases, such as personal mistakes of the operator, obligations from assistance, rescue, or joint maritime losses, and the rights of

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ship personnel and their successors. The operator or its representative cannot invoke liability limitations for debts arising from Nuclear Damage or damage resulting from salvage, removal, destruction, or removal if the ship is sunken, wrecked, or drifting.

- IV. Subordinates, including pilots and seafarers, have the right to invoke liability determination for personal faults. However, this right is restricted if the damage arises from intentional acts or recklessness.
- V. The liability of the operator or its subordinates for damages resulting from a single accident is determined based on compensation limits for death, physical, organic, and psychological damage, considering the ship's load. The ship's tonnage is a crucial factor in calculating the maximum compensation limit, with provisions for the Council of Ministers to amend values if necessary.

In cases where the maximum limit for compensation for deaths and physical injuries is insufficient, the remaining amount is shared with debts for other damages. The court may temporarily retain part of the allocated amounts to satisfy unclaimed debts. Creditors cannot take action against the supplier's funds if the amounts allocated for compensation have already been provided or if a guarantee from a recognized bank is in place.

In situations involving multiple debts from a single accident, the operator or its subordinate may request the establishment of a compensation fund. The court, upon receiving the request, must establish the fund immediately, gaining exclusive jurisdiction over claims related to debts for which no valid judgments have been issued. The court also has exclusive jurisdiction over precautionary or executive measures related to those claims. When establishing the fund, the court determines the accepted compensations and guidelines for their distribution.

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.

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