



# **Shipowner Liability and Insurance Requirements and Marine Liability Act Amendments**

25<sup>th</sup> BC Towboat Conference and Trade Show

May 2024

# Guiding Principles

- Polluter-pays principle
- Strict liability
- Direct action
- Compulsory insurance
- Limitation of liability
- Vessel registry
- Well-maintained ships
- Ship inspections



# When the System Breaks Down

## Incident in Trinidad and Tobago

~~Insurance~~

~~Known shipowner~~

~~Proper registry~~

~~Maintained~~

~~Inspected~~

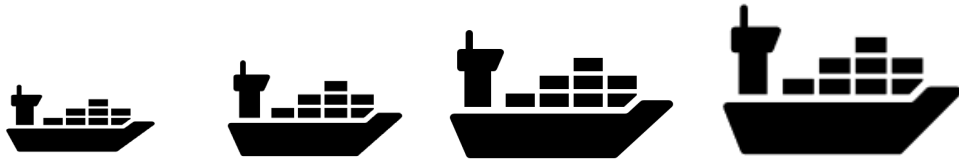


- ! Slow response
- ! Increased risk of damage
- ! Higher costs
- ! Slower compensation
- ! Liability is placed on others

# Limitation of Liability

Under the LLMC, shipowners can limit their liability based on the size of their ship for claims for personal injury and loss of life and for any other claims.

For ships of 300 gross tonnage or more for personal injury and loss of life:



**3.02 million SDR / \$5.45 million CAD**

Ships not exceeding 2,000 gross tonnage

**+1,208 SDR / \$1,086 CAD per tonne**

Ships between 2,001 and 30,000 gross tonnage

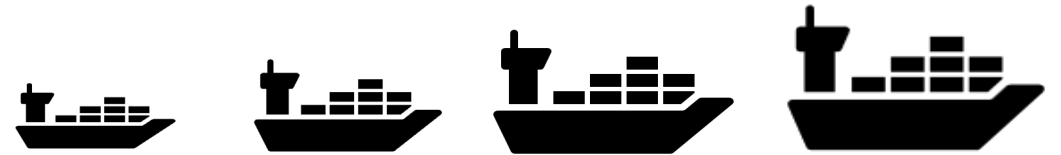
**+ 906 SDR / \$1,636 CAD per tonne**

Ships between 30,001 and 70,000 gross tonnage

**+ 604 SDR / \$1,090 CAD per tonne**

Ships above 70,000 gross tonnage

For ships of 300 gross tonnage or more for other damage:



**1.51 million SDR / \$2.72 million CAD**

Ships not exceeding 2,000 gross tonnage

**+604 SDR / \$1,086 CAD per tonne**

Ships between 2,001 and 30,000 gross tonnage

**+ 453 SDR / \$815 CAD per tonne**

Ships between 30,001 and 70,000 gross tonnage

**+ 302 SDR / \$543 CAD per tonne**

Ships above 70,000 gross tonnage



# Limitation of Liability

The LLMC allows states to set limits for vessels under 300 gross tonnage, which Canada has done in s. 29 of the *Marine Liability Act*. These limits were raised in June 2023.

Loss of Life and Personal Injury	
<del>\$1 million</del>	 \$1.5 million

Other Claims (e.g. property damage, pollution)	
<del>\$500,000</del>	 \$750,000






# Shipowner Strict Liability – Bunkers

## Bunkers Convention

- Shipowners are strictly liable for oil pollution damage from oil used to operate the ship.
- Non-seagoing ships are strictly liable and their insurers are subject to direct action as of June 2023.

NEW!

## Liability Limits

				
\$750,000 CAD	1.51 million SDR / \$2.72 million CAD	+604 SDR / \$1,086 CAD per tonne	+ 453 SDR / \$815 CAD per tonne	+ 302 SDR / \$543 CAD per tonne
Ships under 300 gross tonnage	Ships not exceeding 2,000 gross tonnage	Ships between 2,001 and 30,000 gross tonnage	Ships between 30,001 and 70,000 gross tonnage	Ships above 70,000 gross tonnage

## Losses and damage include:

- pollution prevention measures;
- clean-up costs;
- property damage;
- fisheries losses;
- tourism losses; and
- environmental remediation.



# Shipowner Strict Liability – CLC

## Civil Liability Convention

- Shipowners are strictly liable for oil pollution damage from:
  - oil carried as cargo in bulk;
  - or from the bunker fuel used to power a ship when it is carrying oil in bulk as cargo
- Insurers are subject to direct action.

## Liability Limits



**4.51 million SDR/8,13 million CAD**

Ships of less than 5,000 gross tonnage

**+ 613 SDR / 1 104.88 CAD** per additional unit of tonnage

Ships of more than 5,000 gross tonnage and less than 140,000 gross tonnage



**Max. Limit 89.77 million SDR /161.80 million CAD**

Ships with more than 140,000 gross tonnage

## Losses and damage include:

- pollution prevention measures;
- clean-up costs;
- property damage;
- fisheries losses;
- tourism losses; and
- environmental remediation.



# Shipowner Strict Liability – Wreck

✓ The shipowner has unlimited liability.

## Wreck Removal Convention

- Shipowners are strictly liable for the costs of locating, marking and removing a wreck, which includes lost objects from onboard the ship, such as containers.
- Insurers are subject to direct action.

Insurers can limit their liability for these claims based on the limits set out in the LLMC or s. 29.



<b>\$750,000 CAD</b>	<b>1.51 million SDR / \$2.72 million CAD</b>	<b>+604 SDR / \$1,086 CAD per tonne</b>	<b>+ 453 SDR / \$815 CAD per tonne</b>	<b>+ 302 SDR / \$543 CAD per tonne</b>
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# Shipowner Strict Liability – Pollutants

## Marine Liability Act, Part 6, Division 2

- Shipowners are strictly liable for spills of pollutants.

## Liability Limits

				
<b>\$750,000 CAD</b>	<b>1.51 million SDR / \$2.72 million CAD</b>	<b>+604 SDR / \$1,086 CAD per tonne</b>	<b>+ 453 SDR / \$815 CAD per tonne</b>	<b>+ 302 SDR / \$543 CAD per tonne</b>
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## Losses and damage include:

- measures that are necessary to repair, remedy, minimize or prevent pollution damage from pollutants.



# Shipowner Liability – Passengers

## Part 4 of the *Marine Liability Act*

- Shipowners are liable for death or personal injury to passengers as a result of a shipwreck, collision, stranding, explosion, fire and any defect of the ship.

### Liability Limits

Approximately \$314,000 CAD per passenger



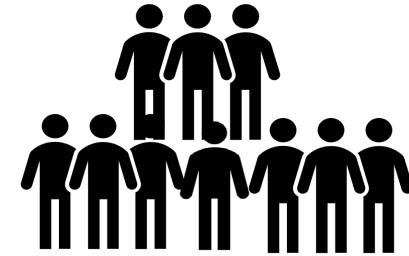
\$314,000

Ships carrying up to a passenger



\$942,000

Ships carrying up to 3 passengers



\$3,140,000

Ships carrying up to 10 passengers



# Shipowner Insurance and Certification Requirements

In certain cases, shipowners must have insurance or other financial security to cover their liability and must have an insurance certificate as proof of insurance

## Bunkers Convention

- Ships of 1,000 gross tonnage or more.
- Including non-seagoing ships as of June 2023.
- Up to their limits of liability.
- Bunkers Convention certificate.



## Civil Liability Convention

- Ships carrying more than 2,000 tons of oil in bulk as cargo.
- Up to their limits of liability.
- Civil Liability Convention certificate.



## Wreck Removal Convention

- Ships of 300 gross tonnage or more.
- Up to the limits of liability under the LLMC or s.29.
- Wreck Removal Convention certificate.



## Ships Carrying Passengers

- Ships that carry passengers between two points in Canada.
- \$250,000 of insurance per passenger.
- Certificate issued by their insurance company.



NEW!

# Other Amendments to the MLA

In certain cases, shipowners must have insurance or other financial security to cover their liability and must have an insurance certificate as proof of insurance

## Indigenous Focus



- Clarified that shipowners are liable for economic loss related to fishing, hunting, trapping, or harvesting

## Interim Payments



- Allowed the amount of a limitation fund to be reduced if the shipowner has paid out claims related to an oil spill before the limitation fund is created

## Hovercraft



- Established liability limits for air cushioned vehicles
- Applied Part 4 of the MLA, Liability for Carriage of Passengers by Water

## Public Notice



- Provided for modernized public notice requirements relating to the constitution of limitation funds



# Resources

## **International Maritime Organization's Bunkers Claims Manual**

Claims Manual for the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001 (imo.org)

## **International Maritime Organizations' Liability and Insurance Pamphlets**

Liability and compensation (imo.org)

## **Marine Insurance Unit**

Get a marine insurance certificate (canada.ca)

## **Liability and Compensation Websites**

Expanding Liability and Compensation for Marine Incidents (canada.ca)



# Contact

- Thank you for your time!
- Should you want to discuss further, you can contact us at [MarineLiability-ResponsabiliteMaritime@tc.gc.ca](mailto:MarineLiability-ResponsabiliteMaritime@tc.gc.ca)

