



## UK GOVERNMENT TO ENACT ORDER INCREASING THE LIMITS OF LIABILITY UNDER THE 1996 PROTOCOL TO THE CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

**On 19 April 2012, the Legal Committee of the International Maritime Organization (IMO) agreed to amend the limits under the 1996 Protocol to the Convention on Limitation of Liability for Maritime Claims 1976 (LLMC 1976), and in many Contracting States the revised limits entered into force on 8 June 2015 under the tacit acceptance procedure. However, this was not the case in England.**

Section 185 of the Merchant Shipping Act 1995 (MSA 1995) incorporates the LLMC 1976 into English law. Under section 185(2)(c), “the Secretary of State may by order make such amendments of Parts I and II of Schedule 7 as appear to him to be appropriate for the purpose of giving effect to any amendment of a relevant limit which is adopted in accordance with Article 8 of the 1996 Protocol”. As a result a statutory instrument is required under English law before the revised limits will apply to claims subject to English law and jurisdiction.

Following a public consultation, a statutory instrument has been laid in Parliament and is scheduled to come into force on Wednesday 30 November 2016. Once enacted, the following limits will apply:

For property claims for ships not exceeding 2,000GT the new limit is 1.51 million SDRs (up from 1 million SDRs) with the following additional amounts for larger vessels:

- For each ton from 2,001 to 30,000 tons, 604 SDR's (up from 400 SDRs).
- For each ton from 30,001 to 70,000 tons, 453 SDR's (up from 300 SDRs).
- For each ton in excess of 70,000 tons, 302 SDR's (up from 200 SDRs).

For loss of life or personal injury claims the new limit for a ship not larger than 2,000GT is 3.02 million SDRs (up from 2 million SDRs), with the



following additional amounts for larger vessels:

- For each ton from 2,001 to 30,000 tons, 1,208 SDR's (up from 800 SDRs).
- For each ton from 30,001 to 70,000 tons, 906 SDR's (up from 600 SDRs).
- For each ton in excess of 70,000 tons, 604 SDR's (up from 400 SDRs).

These limits should apply to incidents occurring on or after 30 November 2016, but not in respect of incidents prior to that date, or indeed to the calculation of limitation funds constituted after 30 November 2016 in respect of earlier incidents. This is in line with section 185(2)(e) which provides *"no modification made by virtue of subsection (2)(a), (2)(b) or (2)(c) above shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the modification comes into force"*, and was confirmed in the government response to the consultation.

By way of example, based on an SDR rate of US\$ 1.3535 to 1 SDR (23/11/2016), the following new limits will apply for property and physical damage claims:

- A Panamax bulker (assuming a GT of 40,000) will have a limitation fund of 22,952,000 SDRs (up from 15,200,000 SDRs). At the current SDR/US\$ value, this means a monetary property damage fund of about US\$31,065,000 (as against US\$20,573,000).
- A VLCC of 160,000 GT will have a limitation fund of 63,722,000 SDRs (up from 42,200,000 SDRs). At the current SDR/US\$ value, this means



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a monetary property damage fund of about US\$86,247,000 (as against US\$57,117,000).

Owners and their insurers should therefore note their potential increased exposure in the event of a maritime claim or incident.

Of the other points which were subject to the consultation, it is also important to note:

1. As a matter of English law, and as confirmed by the consultation report, there will however be no increase to the limits under the 1996 Protocol in respect of vessels of less than 300GT. This is because section 5 of Part II of Schedule 7 of the MSA 1995 expressly amends the limits for ships under 300GT to 500,000 SDRs for property claims and 1,000,000 SDRs for loss of life and personal injury claims.
2. An ambulatory reference will be included in the Order meaning that any future increases adopted by the IMO will not require domestic

legislation to bring the same into force (no such increase can be considered until at least 2020).

3. The proposal to remove the ship-owners right to limit their liability under LLMC 1976 in the event of death or personal injury to passengers or the loss or damage to their luggage will not be taken forward at this time.

For further background, please see: [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/565420/maritime-legislation-consultation-final-outcome.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/565420/maritime-legislation-consultation-final-outcome.pdf) and a copy of Statutory Instrument 2016 No. 1061 at [http://www.legislation.gov.uk/ukxi/2016/1061/pdfs/ukxi\\_20161061\\_en.pdf](http://www.legislation.gov.uk/ukxi/2016/1061/pdfs/ukxi_20161061_en.pdf)



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