

Statutory Liability up 50 percent for Vessel Owners and Operators under 300 GT

By Shelley Chapelski and Andrew Stainer

This past summer, Canada increased the statutory limits of liability of vessel owners and operators by 50 percent for incidents involving vessels under 300 GT operating in Canadian waters.

Claims for property damage are now limited to \$750,000 and claims for personal injury or death are now limited to \$1.5 million. These increases are intended to reflect the inflation that has occurred since the original limits were set more than 20 years ago. The limits are considered virtually unbreakable.¹

These amendments to section 29 of Canada's *Marine Liability Act*² (MLA) were buried in Canada's 2023 budget Bill C-47 (along with other significant changes to Canadian maritime law).

The MLA governs the civil liability of vessel owners and operators for loss of life, personal injury, damage to property (including loss or damage to cargo), and damage to the environment. Canada applies the limits of liability contained in numerous international conventions to all vessels in Canadian waters.

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The MLA also contains a separate statutory limit for personal injury, death or property damage that is applied to vessels under 300 GT. It applies such limits to all vessels (including pleasure vessels) operating in Canadian waters, which include Canada's many navigable lakes and rivers.

Prior to these increases, most small craft owners were adequately insured with liability policies of \$2 million to cover a serious casualty involving both property damage and personal injury or death. Given that these increased limits now total \$2.25 million (plus interest), owners of pleasure craft under 300 GT should have at least \$2.5 million, if not \$3 million in liability insurance coverage if they want to have enough

insurance to respond to claims up to the relevant limits, and those that are not subject to limitation.³

The above liability limits do not include interest or, in many cases, recoverable legal costs, which may be payable to a claimant.

More importantly, claims for wreck removal of a vessel are not subject to limitation. Commercial vessel salvage efforts can be complex and costly and readily run \$1 million for vessels under 300 GT.

It is worth noting that the MLA incorporates a separate set of liability limits for commercial vessels carrying passengers provided that the Athens Convention⁴ applies.

The vast majority of Canadian vessels, excluding barges, are under 300 GT. However, in addition to barges, newer and larger ship-docking and offshore tugs can now commonly exceed 300 GT.

The increase in the limits of liability for vessel owners and operators underscores the importance of vessel owners reviewing their insurance needs with their insurance brokers. ►

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Footnotes

1. To break limitation of liability, the party must prove that the wrongdoing party acted intentionally or recklessly knowing that such loss would probably result.
2. S.C. 2001, c.6.
3. Owners of commercial vessels under 300 GT will likely want higher limits depending on what the vessels carry, the potential costs of salvage if they sink and any contractual obligations they have to carry higher minimum levels of insurance.
4. The Athens Convention relating to the Carriage of Passengers and their Luggage by Sea, 1974, as amended by the Protocol of 1990.