



**REPUBLIC OF MAURITIUS**

Ministry of Blue Economy, Marine Resources, Fisheries and Shipping  
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20 Edith Cavell Street  
Port-Louis

**MERCHANT SHIPPING NOTICE Ref: 3 of 2024**

**Title: Entry into force of the Merchant Shipping (LIABILITY AND  
COMPENSATION FOR OIL POLLUTION DAMAGE) Act 2024.**

Notice to: **Ship Owners/Operators/Masters/Skippers/Ship's Agents/Law Enforcement  
Agencies and the Maritime Community**

***The objective of this Merchant Shipping Notice is to inform all those concerned  
of the entry into force the Merchant Shipping (LIABILITY AND COMPENSATION  
FOR OIL POLLUTION DAMAGE) Act 2024***

1. The Merchant Shipping (Liability and Compensation for Oil Pollution Damage) Act 2024 came into force in the Republic of Mauritius on the 09 July 2024.  
It revoked an obsolete legislation, namely the Merchant Shipping (Civil Liability for Oil Pollution Damage and International Fund for Compensation for Oil Pollution Damage) Regulations 1996. The latter regulations, in fact, domesticate two IMO Conventions which are no more in force and have been denounced by Mauritius since 06 December 1999:
  - (a) International Convention on Civil Liability for Oil Pollution Damage, 1969; and
  - (b) International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1971.
  
2. The aforesaid two Conventions have been replaced internationally by the IMO by the following Conventions and Protocol:
  - (a) International Convention on Civil Liability for Oil Pollution Damage, 1992 (CLC 1992).
  - (b) International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (Fund 1992); and
  - (c) Protocol of 2003 to the International Convention on the Establishment of an International Fund for Compensation for Oil Pollution Damage, 1992 (Supplementary Fund 2003).

3. Mauritius has been a party to the Convention at paragraph 2(a) and (b) since 06 December 1999 and on 09 April 2024, Mauritius acceded to the Protocol at paragraph 2(c). Presently, there is no legislation giving force of law to any one of these three Conventions and Protocol in Mauritius. Their incorporation into the national laws of Mauritius is now completed through this new Merchant Shipping (Liability and Compensation for Oil Pollution Damage) Act 2024.
4. The key features of the Merchant Shipping (Liability and Compensation for Oil Pollution Damage) Act 2024 can be summarised as below:
  - (a) The CLC 1992 requires the registered owners of ships carrying more than 2000 tons of oil in bulk as cargo should maintain insurance or other financial security up to the limits established by the Convention. This has been encapsulated in section 5 and 6 of the Act which applies to vessels flying Mauritius flag as well as foreign vessels entering or leaving a port in Mauritius or an offshore terminal in the territorial sea of Mauritius.
  - (b) There is a strict liability for pollution damage on the shipowner under CLC 1992. Under the previous regime, the shipowner could not limit his liability solely if the incident occurred as a result of the owner's personal fault. Under the present liability regime and the Act, a shipowner cannot limit liability if it is proved that the pollution damage resulted from the shipowner's personal act or omission, committed with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
  - (c) The existing legislation covers only pollution damage occurring in the territorial sea of Mauritius whereas the application of this Act extends to cover pollution damage caused in the exclusive economic zone (EEZ) of Mauritius in line with the CLC 1992.
  - (d) The present regulations apply solely to damage caused or measures taken after oil has escaped or discharged. Costs of preventive measures are thus not covered. Under this Act, compensation is not only limited to pollution damage and instead, pollution damage has been defined in a wider manner. Compensation will, thus, be available for costs incurred for reasonable measures to reinstate the contaminated environment. It also allows expenses incurred for preventive measures to be recovered even when no spill of oil occurs, provided there was grave and imminent threat of pollution damage.
  - (e) Under the existing legislation, oil spills from tankers navigating in ballast conditions (i.e. without cargo) are not covered. Under this new legislation and in line with CLC 1992, spills of cargo oil or bunker oil from tankers, whether laden or unladen, will be covered.

- (f) Through this Act, Mauritius will have a right of direct Billion against the insurer or provider of financial security. This will ensure that the recovery of compensation can be made directly from the insurer in an efficient and cost-effective manner, instead of suing the insured (i.e. the shipowner) to establish liability, and thereafter claiming an indemnity against the insurer under the policy.
- (g) Under the CLC 1992, the limits of liability under this new regime will be much higher than those catered under the previous regulations. The limit of the shipowner's liability under the regulations presently in force is the lower of 13 Special Drawing Rights (SDR) per ton of the ship's tonnage or 41 million SDR. Under the CLC 1992, as domesticated by the Act, the limits of compensation recoverable from the shipowner or insurer will be as follows:
- (i) for a ship not exceeding 5000 units of gross tonnage, 4.51 million SDR;
  - (ii) for a ship with a tonnage between 5 000 and 140 000 units of tonnage, liability is limited to 4.51 million SDR plus 631 SDR for each additional gross tonne over 5,000;
  - (iii) for a ship of 140 000 units of tonnage or over: liability is limited to 89.77 million SDR
- (h) The Fund 1992 and Supplementary Fund 2003 are financed by contributions levied on any person/entity who has received more than 150 000 tonnes of crude oil and fuel oil in a calendar year. The levy of contribution is calculated based on reports of oil receipts in respect of contributors. There is an obligation to submit oil reports on Mauritius. This obligation, in respect of Fund 1992, is already being fulfilled and contributions are already being made to the Fund 1992 by importers/receivers of oil in Mauritius. The Act therefore will fill the legal vacuum for the implementation of this duty, thus ensuring that there is a legal obligation on oil importers/receivers to make the requisite contributions to both Funds.
- (i) Since Mauritius is already a party to the Fund 1992, in case of oil pollution by a tanker, Mauritius (including victims of such oil pollution) has access to a maximum of compensation payable by the Fund 1992 to the tune of SDR 203 million (approx. GBP 220 million/Rs 11 Billion). Where the cost of the oil pollution incident exceeds the threshold of the Fund 1992, Mauritius now has access to the Supplementary Fund 2003 with a maximum limit of SDR 750 million (approx. GBP 812 million/Rs 43 Billion). This Act therefore formalises the above by identifying the obligations of the Fund 1992 and Supplementary Fund 2003 under national laws of Mauritius. The Act also allows for the institution of proceedings against the two aforesaid funds in a Court in Mauritius.

**Director of Shipping**

**Shipping Division**

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**23 August 23, 2024**

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## ANNEX 1