

Greece enacts new Code of Private Maritime Law



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The Club's Piraeus legal correspondents, Deucalion Rediadis LP, have advised that there has been a comprehensive revision of the Greek Code of Private Maritime Law, which will come into effect from 1 May 2023. There are some welcome additions which bring the legal framework up to date. A summary of the main provisions is as follows:

- The distinction between ships and other floating craft is being replaced with that between ships and 'static' craft, depending on whether the vessel is usually motile or stationary, without regard to size.
- Certain provisions on ship mortgages previously reserved for vessels over 1,500 g.r.t. have been extended to other classes of Greek-flag ships and craft.
- Finance leases for ships have been permitted; however, a bareboat charterer may not register a Greek-flag ship with a foreign registry.
- The buyer of a ship in a transaction with a close connection to Greece will no longer be liable for third-party claims against the selling shipowner, unless these are secured by maritime lien.
- Liability for wrongful arrest has been extended to cover also detention of a ship by way of a provisional order issued in anticipation of a judgment for her conservative seizure, where such order has been applied for in bad faith and has subsequently been discontinued by the said judgment.
- Express powers to auction off liened cargoes are being provided, with claims for freight and other amounts due under the charter taking priority and, also, benefiting from a statutory lien over the ship's bunkers. A right to refuse to enter port, or to proceed with loading or discharging cargo, is also provided for expressly.
- Owners may, under certain conditions, claim against sub-charterers directly for freight due under the head charter, up to the amount due by the sub-charterer to the charterer.
- Provision is made for bills of lading, other cargo documents and charterparties to be issued electronically.
- The Hague-Visby Rules will apply across the board, i.e. to international carriage in liner trades irrespective of whether a bill of lading or 'equivalent' document has been issued; to other international carriage where a bill of lading or 'equivalent' document has been issued; and to domestic carriage under any circumstances, including between any geographical positions within Greek territorial waters (thus covering shipments following STS transfer). Unless otherwise agreed, the Rules are to govern also cargo liabilities under charterparty contracts.
- Claims for delay are limited to three times the freight payable. Where the delay has caused loss or damage to cargo, the limits of the Hague-Visby Rules will apply.

- Stevedore damage will not be imputed on the carrier where the latter was under a statutory obligation to use the particular stevedore.
- Without prejudice to EU Regulation 1215/2012, jurisdiction clauses hindering a claimant's recourse to justice, or leading to a jurisdiction where the carrier's liability is materially lessened compared to the Hague-Visby Rules, will not be given effect to.
- Provision is made for combined carriage and freight forwarding, where a sea leg is involved. General average is to be dealt with under the York-Antwerp Rules 2016.
- A single set of procedural rules for limiting liability has been enacted, to apply for all conventions in force in Greece (LLMC, CLC-FUND, Bunkers and, eventually, HNS).
- P&I Club letters may henceforth be used to set up a limitation fund, in addition to cash deposits or bank letters of guarantee.
- It is made clear that all types of charges, dues and fines imposed by the Greek State or other entities in relation to claims subject to limitation are limitable, with the exception of fines for marine pollution.
- Limits of liability in respect of ships below 300 gt have been introduced for LLMC Art. 6(1) claims, at SDR1,000,000 for loss of life/personal injury, and at SDR500,000 for other claims.
- Interest on the SDR amount of the LLMC limitation fund till the latter is being constituted in national currency will accrue at the special rate of Euribor plus 4%.
- A limitation petition produces effect as from the time of its filing. Challenging the right to limit is open for two months thereafter and all relevant disputes will be consolidated in a single set of proceedings. A judgment on the right to limit issued at the level of the Court of Appeal will be binding vis-à-vis the world at large.
- In line with IMO's unified interpretation of the test for breaking the right to limit under the liability and compensation conventions, it is made clear that the conduct required to deprive of the right to limit needs to be personal to the party seeking to limit, and that fault on the part of the ship's master or crew does not amount to personal fault of her owner or operator.
- Provision is made for the recognition, under certain conditions, of the effects of setting up a limitation fund in a contracting State other than Greece.
- Priority conferred by maritime liens has expressly been provided not to apply when distributing a limitation fund.
- The Code makes provision for the implementation of the HNS Convention once it comes into force internationally.
- Time bar extensions are now permitted, without prejudice to the provisions of applicable international conventions.

The new Code, bearing Act No. 5020/2023, was published in the Government Gazette of the Hellenic Republic on 15 February 2023 with effect from 1 May 2023, except for certain provisions relating to the registration of ships and other craft, which will come into force on 1 November 2023.

Further information or specific advice may be obtained by contacting Deucalion Rediadis LP (mail@rediadis.gr).