

PANORAMIC

SHIPPING

United Arab Emirates



LEXOLOGY

Shipping

Contributing Editors

Bruce G Paulsen and Brian P Maloney

Seward & Kissel LLP

Generated on: July 3, 2024

The information contained in this report is indicative only. Law Business Research is not responsible for any actions (or lack thereof) taken as a result of relying on or in any way using information contained in this report and in no event shall be liable for any damages resulting from reliance on or use of this information. Copyright 2006 - 2024 Law Business Research

Contents

Shipping

NEWBUILDING CONTRACTS

- Transfer of title
- Refund guarantee
- Court-ordered delivery
- Defects

SHIP REGISTRATION AND MORTGAGES

- Eligibility for registration
- Documentary requirements
- Dual registration
- Mortgage register

LIMITATION OF LIABILITY

- Regime
- Procedure
- Break of limitation
- Passenger and luggage claims

PORT STATE CONTROL

- Authorities
- Sanctions
- Appeal

CLASSIFICATION SOCIETIES

- Approved classification societies
- Liability

COLLISION, SALVAGE, WRECK REMOVAL AND POLLUTION

- Wreck removal orders
- International conventions
- Salvage

SHIP ARREST

- International conventions
- Claims
- Maritime liens
- Wrongful arrest
- Bunker suppliers
- Security

Formalities
Ship maintenance
Proceedings on the merits
Injunctions and other forms of attachment
Delivery up and preservation orders
Bunker arrest and attachment

JUDICIAL SALE OF VESSELS

Eligible applicants
Procedure
Claim priority
Legal effects
Foreign sales
International conventions

CARRIAGE OF GOODS BY SEA AND BILLS OF LADING

International conventions
Multimodal carriage
Title to sue
Charter parties
Demise and identity of carrier clauses
Shipowner liability and defences
Deviation from route
Liens
Delivery without bill of lading
Shipper responsibilities and liabilities

SHIPPING EMISSIONS

Emission control areas
Sulphur cap

SHIP RECYCLING

Regulation and facilities

JURISDICTION AND DISPUTE RESOLUTION

Competent courts
Service of proceedings
Arbitration
Foreign judgments and arbitral awards
Asymmetric agreements
Breach of jurisdiction clause

LIMITATION PERIODS FOR LIABILITY

Time limits
Court-ordered extension

MISCELLANEOUS

Maritime Labour Convention

Relief from contractual obligations
Other noteworthy points

UPDATE AND TRENDS

Key developments of the past year

Contributors

United Arab Emirates

[Afridi & Angell](#)

Afridi
&Angell

[Chatura Randeniya](#)

crandeniya@afриди-angell.com

[Mevan Bandara](#)

mbandara@afриди-angell.com

NEWBUILDING CONTRACTS

Transfer of title

When does title in the ship pass from the shipbuilder to the shipowner?
Can the parties agree to change when title will pass?

Pursuant to article 10 of Federal Maritime Law No. 43 of 2023 (the Maritime Law), ownership of the vessel remains with the shipbuilder and may not be transferred to the shipowner until trials are concluded and delivery is accepted by the shipowner unless otherwise agreed. Where there is an agreement to transfer title to the shipowner while the vessel is under construction, the shipbuilder retains the right to retain possession of the vessel until the entire purchase price is paid.

A shipbuilding contract that is not in writing is void. Any variation to the shipbuilding contract must also be in writing.

Law stated - 17 June 2024

Refund guarantee

What formalities need to be complied with for the refund guarantee to be valid?

The guarantee by the shipbuilder is in respect of latent defects and is applicable notwithstanding disclaimers or delivery of the vessel. A refund guarantee ordinarily forms part of the shipbuilding contract. The Maritime Law does not refer to a refund guarantee or set out formalities, other than the fact that claims for latent defects must be made within one year from the discovery of the defect or two years from the delivery of the vessel, whichever occurs later.

Law stated - 17 June 2024

Court-ordered delivery

Are there any remedies available in local courts to compel delivery of the vessel when the yard refuses to do so?

Injunctive relief is generally not available in the onshore courts of the United Arab Emirates. Article 102 of Federal Law No. 50 of 2022 (the Commercial Code) provides that where (in the context of a commercial sale) the seller fails to deliver the specific item sold, the purchaser, after having granted the seller adequate time for performance, may petition the court for an order for specific performance. In practice, the onshore courts rarely grant orders for specific performance, and damages are the most common remedy.

Law stated - 17 June 2024

Defects

Where the vessel is defective and damage results, would a claim lie in contract or under product liability against the shipbuilder at the suit of the shipowner; a purchaser from the original shipowner; or a third party that has sustained damage?

By law, the shipbuilder will be liable for a latent defect provided that a claim for latent defects has been made within one year of the discovery of the defect or within two years of the delivery of the vessel, whichever occurs later. Claims for defects and damages may also lie in the contract.

Law stated - 17 June 2024

SHIP REGISTRATION AND MORTGAGES

Eligibility for registration

**What vessels are eligible for registration under the flag of your country?
Is it possible to register vessels under construction under the flag of your country?**

Pursuant to article 13 of the Maritime Law, the following conditions must be met for registration:

- the vessel shall be ordinarily designated for navigation in the UAE (the state) waters, coastal navigation between the state's ports, or navigation on the high seas;
- the majority of the shares in the vessel shall be owned by physical persons or juristic persons holding the nationality of the state or the nationality of one of the Gulf Cooperation Council countries. Alternatively, ownership may belong to physical persons or juristic persons with a domicile, head office, or ship management office in the state;
- the vessel shall not exceed 20 years in age from the date its construction is completed as per the shipbuilding contract. Passenger vessels may not exceed 10 years;
- the vessel's drawings and specifications shall be approved by the UAE Ministry of Energy and Infrastructure (the Ministry) or its authorised representative following an inspection of the vessel; and
- the vessel shall possess valid international certificates, attesting to its suitability for maritime navigation, issued by one of the classification bodies licensed by the Ministry or whose certificates receive approval from the Ministry.

Shipbuilding contracts are registered in a 'Register of ships under construction' to be maintained separately by the Ministry. It is the shipbuilder's responsibility to register shipbuilding contracts in this register.

Law stated - 17 June 2024

Eligibility for registration

Who may apply to register a ship in your jurisdiction?

Ordinarily, a vessel may be registered in the United Arab Emirates only by the owner or the owner's representatives. The Maritime Law has liberalised the ownership regime to include juristic persons with a domicile, head office or ship management office in the state – see article 13(b) of the Maritime Law.

Law stated - 17 June 2024

Documentary requirements

What are the documentary requirements for registration?

The application for registration is expected to be set out in the Implementing Regulations, which are yet to be promulgated.

Law stated - 17 June 2024

Dual registration

Is dual registration and flagging out possible and what is the procedure?

Dual registration is not permitted in the UAE. However, the Ministry retains the right to grant a licence to the owner of a ship registered with the Ministry to fly the flag of another country if the owner intends to lease it unequipped to a charterer who seeks its registration abroad. An application is required to be made to the Ministry together with the bareboat charter and a letter issued by a foreign registry, confirming the approval of the charterer's country for the registration of the ship and the authorisation to fly its flag.

Law stated - 17 June 2024

Mortgage register

Who maintains the register of mortgages and what information does it contain?

These details are expected to be set out in the Implementing Regulations.

Law stated - 17 June 2024

LIMITATION OF LIABILITY

Regime

What limitation regime applies? What claims can be limited? Which parties can limit their liability?

Articles 80 to 86 of the Maritime Law provide for a limitation regime that allows an owner, charterer or operator to limit liability based on the tonnage of the vessel.

The United Arab Emirates is also a signatory to the Convention on Limitation of Liability for Maritime Claims 1976, which was ratified in 1997 without reservations. Pursuant to the Convention, shipowners and salvors may limit their liability. In 2020, the United Arab Emirates ratified the 1996 Protocol, which amended the limits of liability.

Law stated - 17 June 2024

Procedure

What is the procedure for establishing limitation?

Although the United Arab Emirates has ratified the Convention on Limitation of Liability for Maritime Claims 1976, there has been no instance in which a limitation fund has been constituted. However, the new Maritime Law contains provisions similar to the 1976 Convention, including the categories of limitable claims, excepted claims, conduct barring limitation, and the constitution of the fund. It is important to note that there are some key differences (for example, claims arising from wrecks and abandoned vessels are accepted claims under the Maritime Law). The Maritime Law is widely to facilitate a limitation fund being constituted.

Article 85 of the Maritime Law sets out the procedure for establishing a fund, which commences with a request to the court to be submitted in accordance with the requirements specified in the Implementing Regulations. Importantly, the request requires the provision of a guarantee and will result in the UAE courts being vested with exclusive jurisdiction.

Law stated - 17 June 2024

Break of limitation

In what circumstances can the limit be broken? Has limitation been broken in your jurisdiction?

Operators (defined to mean owners, charterers, corporate managers, or any person using the vessel for navigation and commercial purposes) may not limit liability for personal error, or a deliberate act of omission or a serious error. Masters and seafarers may limit liability of personal error, but may not limit liability where the damages arise as a result of a deliberate act or omission, whether done recklessly or with the intent of causing harm, where the individual was aware that damage could potentially occur.

Law stated - 17 June 2024

Passenger and luggage claims

What limitation regime applies in your jurisdiction in respect of passenger and luggage claims?

The United Arab Emirates is not a party to the Athens Convention. Articles 206 to 220 of the Maritime Law cover contracts of carriage of passengers.

Article 216 of the Maritime Law provides that a carrier's liability for a passenger's death or physical or psychological injury is limited to 250,000 Special Drawing Rights unless the damage arises from certain circumstances (such as international and civil laws, natural disasters etc), in which case the maximum compensation is 400,000 Special Drawing Rights.

A carrier's liability for the loss or damage of registered personal effects is limited to 3,375 Special Drawing Rights and limited to 2,250 Special Drawing Rights for the loss of unregistered personal effects.

This may be in addition to 'blood money' payments defined by Sharia law (usually 200,000 UAE dirhams per adult). The passenger may agree to limit the carrier's liability, but such limitation will not be applicable if it is established that the damage resulted from acts or omissions of the carrier (or its servants/agents) which were reckless or done to cause harm.

Law stated - 17 June 2024

PORT STATE CONTROL

Authorities

Which body is the port state control agency? Under what authority does it operate?

The Maritime Inspection Department can carry out inspections of both national and foreign vessels in any UAE port.

Law stated - 17 June 2024

Sanctions

What sanctions may the port state control inspector impose?

The Maritime Inspection Department may:

- refuse to grant a navigation licence or a certificate of safety;
- prohibit a ship from sailing; and
- impose imprisonment or fines.

Law stated - 17 June 2024

Appeal

What is the appeal process against detention orders or fines?

An appeal may be filed to the minister in charge of the Federal Transport Authority within 10 days from the date of communication of the Maritime Inspection Department's decision. The minister must provide a decision within 10 days, failing which the appeal is deemed to be allowed.

Law stated - 17 June 2024

CLASSIFICATION SOCIETIES

Approved classification societies

Which are the approved classification societies?

The approved classification societies are:

- the American Bureau of Shipping;
- Bureau Veritas;
- the China Classification Society;
- DNV;
- Germanischer Lloyd;
- Lloyd's Register of Shipping;
- the Russian Maritime Register of Shipping;
- the Korean Register of Shipping;
- Emirates Classification Society (TASNEEF);
- Hellenic Register of Shipping LLC;
- Indian Register of Shipping;
- Oilfield Inspection Services Middle East LLC;
- Nippon Kaiji Kyokai; and
- RINA.

Law stated - 17 June 2024

Liability

In what circumstances can a classification society be held liable, if at all?

There have been no instances of a classification society being held liable.

Law stated - 17 June 2024

COLLISION, SALVAGE, WRECK REMOVAL AND POLLUTION

Wreck removal orders

Can the state or local authority order wreck removal?

The relevant maritime authority may order that a wreck be seized as security for the cost associated with removing it. The authority may conduct an administrative sale of the vessel by public auction and recover its debt out of the proceeds, in preference to the other creditors.

Law stated - 17 June 2024

International conventions

Which international conventions or protocols are in force in relation to collision, wreck removal, salvage and pollution?

Collision

The Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels 1910 has not been ratified by the United Arab Emirates. The United Arab Emirates has ratified the Convention on the International Regulations for Preventing Collisions at Sea 1972.

Salvage

The United Arab Emirates ratified the International Convention on Salvage 1989 in 1993.

Pollution

The United Arab Emirates is a signatory to:

- the International Convention for the Prevention of Pollution from Ships 1973 (as amended by the 1978 protocol);
- the International Convention on Civil Liability for Oil Pollution Damage 1992; and
- the Fund Convention 1992.

Wreck removal

The United Arab Emirates has not ratified the Nairobi International Convention on the Removal of Wrecks 2007.

Law stated - 17 June 2024

Salvage

Is there a mandatory local form of salvage agreement or is Lloyd's standard form of salvage agreement acceptable? Who may carry out salvage operations?

There is no mandatory local form of salvage agreement.

Law stated - 17 June 2024

SHIP ARREST

International conventions

Which international convention regarding the arrest of ships is in force in your jurisdiction?

Collision

The Convention for the Unification of Certain Rules of Law with respect to Collisions between Vessels 1910 has not been ratified by the United Arab Emirates. However, the Maritime Law provisions relating to collisions are largely based on the Convention. Articles 1 to 6 and article 8 of the Convention are mirrored in articles 318 to 326 of the Maritime Law. The collision provisions of the Maritime Law apply to all collisions between seagoing vessels. The United Arab Emirates has ratified the Convention on the International Regulations for Preventing Collisions at Sea 1972.

Salvage

The United Arab Emirates ratified the International Convention on Salvage 1989 in 1993.

Pollution

The United Arab Emirates is a signatory to:

- the International Convention for the Prevention of Pollution from Ships 1973 (as amended by the 1978 protocol);
- the International Convention on Civil Liability for Oil Pollution Damage 1992;
- the protocol of 1997 to amend the International Convention for the Prevention of Pollution from Ships (MARPOL)73/78;
- the Annex (VI) of the Convention on the Regulations of Prevention of Air Pollution from Ships;
- the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001; and
- the Fund Convention 1992.

Wreck removal

The United Arab Emirates has not ratified the Nairobi International Convention on the Removal of Wrecks 2007.

Claims

In respect of what claims can a vessel be arrested? In what circumstances may associated ships be arrested? Can a bareboat (demise) chartered vessel be arrested for a claim against the bareboat charterer? Can a time-chartered vessel be arrested for a claim against a time-charterer?

A vessel can be arrested as security for a maritime claim. A 'maritime debt' is defined in the Maritime Law as being a claim arising out of:

- loss or damage resulting from the operation of a vessel;
- loss of life or personal injury occasioned by the vessel and arising out of the use thereof;
- salvage operations or agreements including where the vessel or its cargo causes imminent damage to the environment;
- damage caused by the vessel to the environment or the coastal strip or the interests in connection thereto, and any costs or expenses arising from avoiding, mitigating or eliminating such damages;
- costs arising from salvaging a sunken, wrecked, stranded or abandoned vessel and the costs arising from its transportation, recovery, preventing its harmful effect or the destruction thereof;
- any contract relating to the use of a vessel under a charter party or other document;
- any contract relating to the carriage of goods or passengers onboard the vessel under a charter party, bill of lading, travel ticket or other document;
- loss or damage to goods or luggage transported by a vessel;
- general average;
- towing;
- piloting;
- supply of goods, materials, fuel, tools or containers and services necessary for the operation of the vessel, its management, preservation or maintenance;
- building, rebuilding, repairing, converting or equipping the vessel;
- port, canal, harbour and other waterway charges;
- wages and any other amounts due to the master and crew members on account of their work onboard the vessel, including their repatriation expenses and payable social insurance contributions;
- amounts paid on behalf of the owner of the vessel or its operator;
- insurance premiums of the vessel and its Takaful insurance contributions that are payable by the owner of the vessel, its charterer or their representative;
- any commissions, brokerage, or agency expenses payable by the owner of the vessel, charterer, or their representative;

- any dispute over ownership of the vessel or possession thereof;
- any dispute between joint owners of the vessel relating to its use and distribution of the profits thereof;
- maritime mortgage or any other real estate insurance over the vessel; and
- any dispute arising from a contract for the sale of a vessel.

Article 53 of the Maritime Law specifically provides that an order for provisional arrest of a vessel may only be made to settle a maritime debt.

Under the provisions of article 54 of the Maritime Law, a claimant may arrest not only the vessel to which the claim relates but also any other vessel owned by the defendant at the time of applying for a provisional arrest. The UAE courts are not generally inclined to lift the veil of corporate personality, therefore, sister ships owned by the subsidiaries of the defendant cannot be arrested.

However, there is no right to arrest other vessels owned by a defendant in the following circumstances (see articles 54 and 55):

- in a dispute regarding ownership or possession of a vessel;
- any dispute between joint owners of the vessel relating to its use and distribution of the profits thereof in a dispute between joint owners of the vessel, or relating to the use or the right to profits arising out of the use thereof;
- in a claim arising from a maritime mortgage or any other real estate insurance over the vessel;
- in a dispute arising from a contract for sale of a vessel; or
- where the vessel was chartered by the demise.

When a claim against a vessel is not created by the owner but solely by a demise-charterer (bareboat), the claimant may arrest either the chartered vessel or any other vessel owned by the demise-charterer. However, the claimant may not arrest any other vessel owned by the owner of the chartered vessel.

Law stated - 17 June 2024

Maritime liens

Does your country recognise the concept of maritime liens and, if so, what claims give rise to maritime liens?

The concept of the maritime lien (as understood in a common law jurisdiction) is not recognised in the United Arab Emirates. However, the Maritime Law identifies certain debts that follow the vessel in the hands of different owners. These debts are classified as priority debts and include:

- judicial costs incurred in the protection and sale of the vessel (including port charges);
- debts arising out of a contract for the employment of the master, crew and any other person employed by a contract of maritime employment on board the vessel;

- monies due for assistance and salvage;
- compensation due for collisions; and
- debts arising out of a contract made by the master and the ship agent on behalf of the owner.

Law stated - 17 June 2024

Wrongful arrest

What is the test for wrongful arrest?

An arrest will generally be regarded as wrongful if it is subsequently held by the court that the plaintiff obtained the arrest order maliciously, in bad faith and with the intention to cause damage to the defendant. The burden of proof in relation to these matters rests on the defendant who claims damages for wrongful arrest. The court may also use its discretion to compensate the defendant in the event that it determines that the arrest was wrongful.

Law stated - 17 June 2024

Bunker suppliers

Can a bunker supplier arrest a vessel in connection with a claim for the price of bunkers supplied to that vessel pursuant to a contract with the charterer, rather than with the owner, of that vessel?

The supply of bunkers may be considered a maritime debt since it relates to supplies necessary for the use or maintenance of a vessel. There has been at least one case in which a UAE court upheld the right of a bunker supplier to arrest a vessel for a claim for the supply of bunkers to the vessel, even though the supplier's contract was with the charterer.

Law stated - 17 June 2024

Security

Will the arresting party have to provide security and in what form and amount?

Under the Maritime Law, there is a requirement for a financial guarantee to be provided by the arresting party. The arrest order cannot be obtained unless the court accepts the financial guarantee in order to ensure the safety and security of the vessel and its crew during the arrest period. Any amounts used from the guarantee will be considered as 'judicial expenses' upon distribution of the proceeds of execution on the vessel. A protection and indemnity letter of undertaking may be accepted.

Law stated - 17 June 2024

Security

How is the amount of security the court will order the arrested party to provide calculated and can this amount be reviewed subsequently? In what form must the security be provided? Can the amount of security exceed the value of the ship?

The amount of security is determined at the court's discretion. The court will usually order that the arrest be vacated if security or other surety is offered and is sufficient to meet the claim. However, a vessel will not be automatically released from arrest if the arrest has been affected in connection with a dispute as to the ownership of the vessel, the co-ownership, possession or use of the vessel, or the right to the profits arising out of its use.

In such cases, the court may permit the person in possession of the vessel to use it if they provide sufficient security and use their discretion to charge a person with the management of the vessel during the period of the arrest.

An application for the release of a vessel under the foregoing provisions will not be construed as an admission or acknowledgement of the claim.

Law stated - 17 June 2024

Formalities

What formalities are required for the appointment of a lawyer to make the arrest application? Must a power of attorney or other documents be provided to the court? If so, what formalities must be followed with regard to these documents?

An arrest application can only be filed before onshore UAE Courts. Therefore, lawyers who are licensed to practise in the UAE courts must be retained to institute proceedings in court and a notarised power of attorney is required in all UAE jurisdictions. If the power of attorney is executed outside the United Arab Emirates, it must be legalised and consularised at the UAE consulate in the country of execution. The power of attorney must then be legalised through the UAE Ministry of Justice.

Arabic is the official language of the United Arab Emirates and its courts. All proceedings are conducted in Arabic and all documents filed must be translated into Arabic by a translator licensed by the Ministry of Justice. Consequently, all underlying documents supporting the arrest must be translated into Arabic. Actions cannot be filed without a power of attorney and the translated supporting documents, which may be filed electronically.

Law stated - 17 June 2024

Ship maintenance

Who is responsible for the maintenance of the vessel while under arrest?

The claimant must provide an undertaking that it will maintain the vessel while under arrest. This undertaking includes the payment of port fees.

Law stated - 17 June 2024

Proceedings on the merits

Must the arresting party pursue the claim on its merits in the courts of your country or is it possible to arrest simply to obtain security and then pursue proceedings on the merits elsewhere?

It is possible to arrest a vessel in the UAE and pursue the merits elsewhere, depending on the circumstances.

Under article 250 of the Civil Procedure Code (CPC), if a substantive suit is not filed within eight days of a provisional order being granted, the provisional order is cancelled. Until relatively recently, the practice of the UAE courts was to follow the provisions of the CPC with respect to the arrest of vessels, notwithstanding that a specific procedure is set out under the Maritime Law. Consequently, as a matter of practice and out of an abundance of caution, applications for arrest are now commonly made with reference to both the provisions of the CPC and the Maritime Law.

Nonetheless, the Maritime Law provides that a substantive suit must be filed within five days by the successful applicants. In circumstances where the underlying contract contains an arbitration clause, evidence that arbitration proceedings in relation to the substantive dispute have been commenced within eight days by the successful applicants is often produced notwithstanding that it is not strictly required following the enactment of the Federal Arbitration Law No. 6 of 2018.

Law stated - 17 June 2024

Injunctions and other forms of attachment

Apart from ship arrest, are there other forms of attachment order or injunctions available to obtain security?

Attachment orders may be issued at the court's discretion pursuant to Article 252 of the CPC. Article 252 of the CPC provides that a court may issue an attachment order in the following circumstances:

- the debtor has no permanent residence in the United Arab Emirates;
- the creditor fears that the debtor will escape or conceal its assets; or
- the creditor holds a formal or informal unconditional deed of debt.

Additionally, the Federal Arbitration Law (which applies to UAE-seated arbitrations, except for the DIFC and ADGM Financial Free Zones) provides that the Chief Justice of the Court of Appeal may, upon application of a party or an arbitral tribunal, order such interim or conservatory measures as he may consider necessary in respect of existing or potential arbitration proceedings before or after the commencement of an arbitration. The Federal Arbitration Law also empowers an arbitral tribunal to grant the following interim or conservatory measures:

- an order to preserve the evidence that may be relevant to the dispute;
-

take necessary measures to preserve goods that constitute part of the subject matter of the dispute;

- preserving assets and funds out of which a subsequent award may be satisfied;
- maintaining the status quo; or
- an order to take action that would prevent or refrain from taking action that is likely to cause harm.

Law stated - 17 June 2024

Delivery up and preservation orders

Are orders for delivery up or preservation of evidence or property available?

While article 35 of the Evidence Law provides for the disclosure of documents and evidence, in practice, we have yet to see a UAE court issue orders on the disclosure of documents or evidence.

Law stated - 17 June 2024

Bunker arrest and attachment

Is it possible to arrest bunkers in your jurisdiction or to obtain an attachment order or injunction in respect of bunkers?

The Maritime Law defines the term 'vessel' to mean any seagoing watercraft operating or intended to be operated for maritime navigational purposes, even if it does not aim to make a profit. All accessories of the ship shall be deemed part of the ship.

A 'watercraft' is defined as any seagoing or marine craft operating or intended to be operated in the territorial waters and water streams in the Emirate, whether for personal, commercial, sports or tourism purposes, and of whatever type or form.

A vessel that is not self-propelled may not be considered a 'vessel'. Therefore, petroleum installations may not be viewed as vessels and may not be arrested.

However, an attachment over bunkers may be sought under the Civil Procedure Code.

Law stated - 17 June 2024

JUDICIAL SALE OF VESSELS

Eligible applicants

Who can apply for judicial sale of an arrested vessel?

The claimant may apply for an order for a judicial sale of an arrested vessel. An order for the sale of a vessel is made when a final judgment has been rendered against the vessel and

an order for the arrest of that vessel has been confirmed. The order stipulates the price at which the vessel will be sold, as well as the date on which the sale will take place.

Law stated - 17 June 2024

Procedure

What is the procedure for initiating and conducting judicial sale of a vessel? How long on average does it take for the judicial sale to be concluded following an application for sale? What are the court costs associated with the judicial sale? How are these costs calculated?

The court will appoint an expert to value the vessel. This value will constitute the reserve price in an auction for the sale of the vessel.

If the court orders a vessel to be sold, it will provide:

- the price of the vessel;
- the conditions of sale; and
- the date on which the public auction will take place.

The sale is advertised in one of the widely circulated local newspapers – usually an Arabic daily. The notice of sale is also served on the Registrar of Ships and at any other place specified by the court.

The notice of sale must specify:

- the name and domicile of the person arresting the vessel;
- the legal instrument in accordance with which the implementation of the arrest order will be carried out;
- the amount of the claim for which the arrest was made;
- an address for service of the arresting party within the area of the court in which the vessel lies;
- the name and domicile of the owner of the vessel;
- the name and domicile of the defendant against which the arrest order was affected;
- a description of the vessel and its port of registration;
- the name of the master;
- the place in which the vessel is located;
- the basic price and the conditions of sale; and
- the day, place and time at which the sale will take place.

Law stated - 17 June 2024

Claim priority

What is the order of priority of claims against the proceeds of sale?

Articles 29 and 40 of the Maritime Law broadly stipulate the priorities according to which sale proceeds must be distributed. The order is as follows:

- the statutory dues, court expenses and expenses relating to the sale of the vessel;
- crew wages;
- general average claims;
- marine casualties and physical injuries sustained by the passengers and crew, other than compensation due for loss or damage sustained by the goods and luggage;
- debts arising from the contracts concluded by the ship agent on behalf of the owner or concluded by the captain outside the ship's port of registration within the limits of its legal authorities;
- debts arising from loading, unloading, pilotage and towing operations;
- mortgages;
- malfunction and damage that require compensation for the ship's charterers; and
- insurance premiums.

The court usually determines the priority rights of claimants. In cases involving complicated accounts, Dubai courts often appoint an expert to determine the order of priority in which the sale proceeds are to be distributed. The expert may be a person who is not qualified in law.

Law stated - 17 June 2024

Legal effects

What are the legal effects or consequences of judicial sale of a vessel?

All priority rights are extinguished on the sale of a vessel consequent to a judicial sale.

Law stated - 17 June 2024

Foreign sales

Will judicial sale of a vessel in a foreign jurisdiction be recognised?

The judicial sale of a vessel and subsequent change of ownership in a foreign jurisdiction will be recognized in the United Arab Emirates.

Law stated - 17 June 2024

International conventions

Is your country a signatory to the International Convention on Maritime Liens and Mortgages 1993?

No.

Law stated - 17 June 2024

CARRIAGE OF GOODS BY SEA AND BILLS OF LADING

International conventions

Are the Hague Rules, Hague-Visby Rules, Hamburg Rules or some variation in force and have they been ratified or implemented without ratification? Has your state ratified, accepted, approved or acceded to the UN Convention on Contracts for the International Carriage of Goods Wholly or Partly by Sea? When does carriage at sea begin and end for the purpose of application of such rules?

The Hague Rules, Hague-Visby Rules, Hamburg Rules and the Rotterdam Rules have not been ratified by the United Arab Emirates.

Although the United Arab Emirates is not a signatory to the Hague-Visby Rules, the relevant provisions of the Maritime Law are largely based on these rules.

Under the Maritime Law, carriage of goods at sea begins when the carrier of goods (or its representative) takes delivery of the goods and ends at the time that the goods are delivered.

Law stated - 17 June 2024

Multimodal carriage

Are there conventions or domestic laws in force in respect of road, rail or air transport that apply to stages of the transport other than by sea under a combined transport or multimodal bill of lading?

Articles 188 to 198 of the Maritime Law make provisions with respect to multi-modal transport contracts, as do articles 280 to 320 of the Commercial Code. They set out, among others, the rights, obligations and responsibilities of the carrier.

Law stated - 17 June 2024

Title to sue

Who has title to sue on a bill of lading?

The following have the right to sue on a bill of lading:

- the party named in the bill of lading;
- the party that takes lawful delivery of the goods; and
- a party that has had the bill of lading endorsed or assigned.

Law stated - 17 June 2024

Charter parties

To what extent can the terms in a charter party be incorporated into the bill of lading? Is a jurisdiction or arbitration clause in a charter party, the terms of which are incorporated in the bill, binding on a third-party holder or endorsee of the bill?

The charter party may be expressly incorporated into the bill of lading.

A jurisdiction clause or arbitration clause in a charter party will ordinarily be considered to be binding on a third-party holder or endorsee of the bill. A third-party holder or endorsee will be considered to have agreed to the terms incorporated.

The Arbitration Law provides that an arbitration agreement should be in writing and may be contained in a document signed by parties or in exchange of correspondence or referenced in any document containing an arbitration clause. The practice of the court has been to require a clear identification of the arbitration clause when a reference is made.

Law stated - 17 June 2024

Demise and identity of carrier clauses

Is the 'demise' clause or identity of carrier clause recognised and binding?

There is no express provision in the law recognising or prohibiting the demise clause. UAE law recognises freedom of contract. Therefore, if the parties have agreed to the demise clause, it would usually be recognised and binding on the parties.

Law stated - 17 June 2024

Shipowner liability and defences

Are shipowners liable for cargo damage where they are not the contractual carrier and what defences can they raise against such liability? In particular, can they rely on the terms of the bill of lading even though they are not contractual carriers?

Shipowners are not liable under UAE law for cargo damage if they are not the contractual carrier unless such damage is due to a fault in the vessel. However, it is not unknown for vessels to be arrested even in situations where the shipowner is not the contractual owner.

Law stated - 17 June 2024

Deviation from route

What is the effect of deviation from a vessel's route on contractual defences?

Where there is an unjustifiable deviation, the shipowner will be liable to the charterer for the losses, unless the navigational management of the vessel is transferred to the charterer.

Law stated - 17 June 2024

Liens

What liens can be exercised?

Articles 19 to 40 of the Maritime Law recognise the concept of 'privileged debts', which follow the vessel in the hands of different owners. Eight categories of privileged debts are recognised in the Maritime Law, including expenses incurred for the preservation and sale of the ship, loading charges, port fees and claims arising out of employment on a vessel.

Law stated - 17 June 2024

Delivery without bill of lading

What liability do carriers incur for delivery of cargo without production of the bill of lading and can they limit such liability?

Article 166 of the Maritime Law requires the carrier to deliver the cargo to the person entitled to receive the cargo, or her representative, on the production of the bill of lading. The delivery of cargo without the production of the bill of lading may result in the carrier being liable for the value of the cargo.

Law stated - 17 June 2024

Shipper responsibilities and liabilities

What are the responsibilities and liabilities of the shipper?

The shipper is required to:

- make timely delivery of the goods to the carrier at the agreed time and location specified in the Bill of Lading or as required by prevailing custom at the shipping port in the absence of a specific agreement;
- prepare the goods in a manner suitable for sea carriage, ensuring they do not pose a threat to persons or property providing accurate information on the goods to be shipped and placed in the bill of lading;
- assume liability for any damage incurred by the vessel, the goods being transported or third parties, arising from his or her actions, the actions of his or her representative, or defects in the goods providing the carrier with the characteristics, quantity and weight of the goods; and
- pay the agreed freight.

Law stated - 17 June 2024

SHIPPING EMISSIONS

Emission control areas

Is there an emission control area (ECA) in force in your domestic territorial waters?

No.

Law stated - 17 June 2024

Sulphur cap

What is the cap on the sulphur content of fuel oil used in your domestic territorial waters? How do the authorities enforce the regulatory requirements relating to low-sulphur fuel? What sanctions are available for non-compliance?

The UAE ratified the MARPOL protocol (Annex VI) on 20 February 2019 (effect on 20 May 2019) and, therefore, the provisions of the MARPOL protocol (Annex VI) will apply to the sulphur content of fuel oil.

Law stated - 17 June 2024

SHIP RECYCLING

Regulation and facilities

What domestic or international ship recycling regulations apply in your jurisdiction? Are there any ship recycling facilities in your jurisdiction?

There are no domestic or international ship recycling regulations that apply in the United Arab Emirates. However, there are a number of ship recycling companies in the territory.

Law stated - 17 June 2024

JURISDICTION AND DISPUTE RESOLUTION

Competent courts

Which courts exercise jurisdiction over maritime disputes?

There are no specialised maritime courts in the United Arab Emirates. Therefore, the civil courts exercise jurisdiction over maritime matters. Action is first initiated before the court of first instance and appeals are permitted to the court of appeal and thereafter to the court of cassation on a matter of law and subject to financial thresholds being met.

Law stated - 17 June 2024

Service of proceedings

In brief, what rules govern service of court proceedings on a defendant located out of the jurisdiction?

Service on parties domiciled abroad may, on occasion, be effected through email or facsimile and if service cannot be so effected, process will be served through diplomatic channels. Service is deemed to be effected on the date of sending the email or facsimile message and on the date on which a voice or video call was made. Only process served by facsimile is deemed to have been served on the date of receipt.

Law stated - 17 June 2024

Arbitration

Is there a domestic arbitral institution with a panel of maritime arbitrators specialising in maritime arbitration?

Until 20 September 2021, Dubai had a domestic arbitration institute (the Emirates Maritime Arbitration Centre (EMAC)) that specialised in maritime arbitrations. However, by Dubai Decree No. 34 of 2021, with effect from 20 September 2021, EMAC was abolished and all its assets and liabilities were transferred to the Dubai International Arbitration Centre.

Law stated - 17 June 2024

Foreign judgments and arbitral awards

What rules govern recognition and enforcement of foreign judgments and arbitral awards?

The United Arab Emirates is a party to the New York Convention and has ratified the convention without reservation. Therefore, a foreign arbitral award rendered in a member country will be recognised and enforced in the United Arab Emirates, subject to the terms of the Convention.

Foreign judgments will be enforced in the United Arab Emirates on the basis of reciprocity. Therefore, a party attempting to enforce a foreign judgment must provide evidence that a UAE judgment has been enforced in that jurisdiction. Reciprocity is usually evidenced by the existence of a bilateral treaty for the enforcement and recognition of judgments.

Law stated - 17 June 2024

Asymmetric agreements

Are asymmetric jurisdiction and arbitration agreements valid and enforceable in your jurisdiction?

In theory, asymmetric jurisdiction and arbitration agreements are valid and enforceable in the United Arab Emirates and are frequently incorporated in agreements, particularly by banks. The Arbitration Law is silent on the application of asymmetric jurisdiction and arbitration agreements. However, there are no reported cases of the UAE courts having recognised the validity or enforceability of such clauses.

Law stated - 17 June 2024

Breach of jurisdiction clause

What remedies are available if the claimants, in breach of a jurisdiction clause, issue proceedings elsewhere?

If the parties have agreed to arbitration, a UAE court will refuse to hear the case provided that the defendant has objected to the court hearing the dispute before it submitted its defence on the merits of the case.

If the parties have agreed to a foreign court having jurisdiction to hear the dispute, unless the parties agree otherwise, a UAE court will disregard such an agreement and proceed to hear the case if it is satisfied that it has jurisdiction under the law. Under UAE law, a court is permitted to assume jurisdiction in the following circumstances:

- the defendant is registered or domiciled in the United Arab Emirates;
- the claim relates to an asset which is located in the United Arab Emirates;
- the claim relates to a contract that was executed or performed (even partially) in the United Arab Emirates; or
- the claim relates to payments that were made from or to the United Arab Emirates.

Law stated - 17 June 2024

Breach of jurisdiction clause

What remedies are there for the defendant to stop domestic proceedings that breach a clause providing for a foreign court or arbitral tribunal to have jurisdiction?

If the contract contains an arbitration agreement and court proceedings are initiated, the court will refuse to hear the dispute if the defendant objects to the court hearing the dispute before it submitted its defence on the merits.

In the event of a foreign jurisdiction clause, there are no remedies available in the United Arab Emirates. A defendant may attempt to obtain an anti-suit injunction from a foreign court that has jurisdiction. However, the enforcement of such an injunction may not be possible in the United Arab Emirates, on the grounds that it will be contrary to public policy.

Law stated - 17 June 2024

LIMITATION PERIODS FOR LIABILITY

Time limits

What time limits apply to claims? Is it possible to extend the time limit by agreement?

The following limitation periods apply to maritime claims:

- three years for claims in tort;
- one year for charter party and cargo claims and 90 days for third-party recourse actions;
- two years for salvage and collision claims;
- two years for marine insurance claims;
- two years for passenger claims relating to death or personal injury;
- one year for claims for the carriage of luggage;
- two years for compensation claims arising out of collisions; and
- one year for rights of recourse of a defendant ship against another ship for settled claims for death or personal injury.

Law stated - 17 June 2024

Court-ordered extension

May courts or arbitral tribunals extend the time limits?

No. Time limits set by law cannot be extended by agreement, the courts or the tribunals.

Law stated - 17 June 2024

MISCELLANEOUS

Maritime Labour Convention

How does the Maritime Labour Convention apply in your jurisdiction and to vessels flying the flag of your jurisdiction?

The Maritime Labour Convention is not ratified in the United Arab Emirates. However, the convention is unofficially recognised in the Emirates and many of its provisions are adopted and integrated into the UAE legislative and regulatory systems – for example, in recognition of the ship owners' liability towards seafarers, the Federal Transport Authority issued Circular No. (6) of 2018 pertaining to compulsory insurance requirements of the ship owners' liabilities towards the seafarers and is widely based on MLC 2006 Regulation 2.5, Standard A2.5.2 and guidelines B2.5.

Law stated - 17 June 2024

Relief from contractual obligations

Is it possible to seek relief from the strict enforcement of the legal rights and liabilities of the parties to a shipping contract where economic conditions have made contractual obligations more onerous to perform?

Article 249 of the Civil Code provides that in the event of an 'exceptional event of a public nature', the courts may excuse the performance of an obligation or reduce the onerous obligations to a reasonable level. Therefore, in theory, if the economic conditions can be considered an exceptional event of a public nature, a party may use article 249 to seek relief from the strict enforcement of a shipping contract.

That being said, the Dubai courts have held that the 2011 global financial crisis and the 2020 covid-19 pandemic did not constitute an 'exceptional event of a public nature' and refused to apply article 249 of the Civil Code.

Law stated - 17 June 2024

Other noteworthy points

Are there any other noteworthy points relating to shipping in your jurisdiction not covered by any of the above?

No.

Law stated - 17 June 2024

UPDATE AND TRENDS

Key developments of the past year

Are there any emerging trends or hot topics that may affect shipping law and regulation in your jurisdiction in the foreseeable future?

The Implementing Regulations are expected to have a significant impact on the understanding and operation of the Maritime Law.

Law stated - 17 June 2024