

## Recent updates to the UAE Maritime Law: Ship Arrest

## The shipping news

This briefing note provides an overview of the key changes introduced by the New Maritime Law, with a specific focus on the provisions governing ship arrests, a critical aspect of maritime law that affects both local and international stakeholders, including creditors, shipowners, charterers and ports.

### Expanded definition of "maritime debt"

To initiate a precautionary arrest of a vessel, it is crucial to establish that the debt qualifies as a "maritime debt". The Old Maritime Law defined certain debts as maritime debts. While the New Maritime Law follows a similar approach, it expands the list of qualifying debts. Below are the newly recognised types of debts that now qualify as maritime debts under the New Maritime Law, in addition to those previously listed in Article 115 of the [Old Maritime Law](#):

1. Loss or damage caused by the vessel's operation.
2. The damage that the ship may cause to the environment, the coastal strip or the interests connected therewith, as well as the resulting expenses and costs in relation to avoiding, reducing or removing the damage.
3. The costs for raising a sunken, wrecked, stranded or abandoned ship and the expenses for transporting and restoring the same, stopping its harmful effects or destroying it.
4. Goods, provisions, bunkers and services provided for the vessel's operation or maintenance.
5. Fees for ports, canals, basins, harbours and other waterways.
6. The insurance premiums for the ship and its Takaful insurance contributions that are obligated to be paid by the shipowner or charterer of the bareboat or their representative.
7. Any commissions, brokerage or agency expenses payable by the shipowner, its charterer or their representative.
8. Any dispute arising from the ship sale contract.

in a ship arrest, in accordance with the international standards and legal principles, thereby clearing any ambiguities and enhancing creditor protections.

### Broadening the scope of vessel arrest

It is important to note that the New Maritime Law not only introduces new types of debts but also broadens the scope of certain debts that were previously listed under the Old Maritime Law. For instance, Article 115 of the Old Maritime Law specified that damage caused by the vessel, whether due to a collision or otherwise, would classify the resulting debt as maritime debt. However, the New Maritime Law expands the scope of this classification by including any loss or damage resulting from the vessel's operation, which shall include collisions, allisions and any other marine incidents.

This expansion signifies a comprehensive review and adjustment of the legal framework, extending the circumstances under which a creditor may exercise the right to arrest a vessel.

Furthermore, under the New Maritime Law, a creditor is empowered to arrest a sister vessel if, at the time of submitting the arrest application, said vessel is owned by the same debtor entity. This marks a departure from the Old Maritime Law, which only granted creditors the ability to arrest a sister vessel to the extent it was owned by the same debtor entity at the time the debt was originated.

Accordingly, the pool of assets (i.e. vessels) available to creditors for securing their maritime debt claims, in addition to the types of those debts, has been expanded.

### Express introduction of counter-security requirements

A further change introduced by the New Maritime Law is to clarify and address the previously inconsistent practice regarding the requirement for counter-security in ship arrest applications by the various courts across the UAE. Now, the arresting party must submit counter-security when applying for a precautionary arrest, to ensure fulfilment of the necessary needs for the safety and security of the ship and its crew during the period of arrest. Any amounts utilised or spent from this counter-security shall be considered as part of the judicial expenses

when distributing the proceeds of enforcement on the ship.

## Use of letters of undertaking (LOUs)

A significant improvement under the New Maritime Law is the recognition of Letters of Undertaking (LOUs) issued by Protection & Indemnity (P&I) Clubs or financial institutions. Once accepted by the Court, an LOU can be used to release a vessel from arrest. While the conditions for accepting LOUs and the suggested wording will be detailed in forthcoming executive regulations, this change aligns the UAE's practices with international standards, making the arrest and release process more efficient.

## Technological advancements in arrest procedures

Another modernisation introduced by the New Maritime Law is the use of technology to expedite the ship arrest process. Arrest orders can now be delivered electronically to the vessel's agent or master, provided the communication is clearly understood. In addition, when a foreign vessel is arrested, the Ministry of Energy and Infrastructure is required to notify the vessel's flag state, ensuring the arrest is duly recorded in its registry.

## Enquiries and contact details

If you have any enquiries regarding this update or the recent updates to the UAE Maritime Law, please contact Saif, Mahmoud, or your usual contact in the Middle East maritime, trade and offshore team at Stephenson Harwood.



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## Timeframes for filing substantive claims and appeals

The New Maritime Law introduces strict timelines for filing substantive claims following the issuance of a precautionary arrest of a vessel. Creditors must file the substantive case within five days of the arrest to maintain it. Otherwise, the arrest will be nullified. The court is then required to schedule a hearing within 15 days of issuing the arrest minutes, ensuring timely progression of the case. The law also clarifies that appeals must be filed within 15 days, resolving previous ambiguities where courts applied either a 30-day or 15-day appeal window.

## Conclusion

The New Maritime Law represents a significant effort in shifting the UAE's maritime legal landscape. The broadening of what qualifies as a maritime debt, the introduction of more strict timelines, and the recognition of LOUs, that all signal the UAE's commitment to expediting maritime case resolutions while adhering to international standards. These changes not only provide greater clarity and protection for creditors but also enhance the efficiency and predictability of ship arrest and ship release procedures in the UAE.

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