

**THE INTERNATIONAL CONVENTION ON CIVIL LIABILITY FOR BUNKER OIL
POLLUTION DAMAGE OF 2001 (RATIFICATION) AND FOR MATTERS
CONNECTED THEREWITH LAW OF 2004 ¹**

LAW NO 19 (III) OF 2004

For the purposes of harmonisation with Community act titled Decision 2002/762/EC of the Council of 19 September 2002 authorising the Member States, in the interest of the Community, to sign, ratify or accede to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001,

The House of Representatives enacts as follows:

Short title. **1.** This Law shall be cited as the International Convention on Civil Liability for Bunker Oil Pollution Damage of 2001 (Ratification) and for Matters Connected Therewith Law of 2004.

Interpretation. **2.** In this Law unless the context otherwise requires—

“Community Rules” means the rules laid down in Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters, as this Regulation is amended;

“Convention” means the International Convention on Civil Liability for Bunker Oil Pollution Damage signed at London on 23 March 2001;

“Decision 2002/762/EC” means the Community act titled Decision 2002/762/EC of the Council of 19 September 2002 authorising the Member States, in the interest of the Community, to sign, ratify or accede to the International Convention on Civil Liability for Bunker Oil Pollution Damage, 2001, as this Decision is amended;

“Member State” means a Member State of the European Union other than Denmark;

“Minister” means the Minister of Communications and Works and any person generally or specially authorized by him for each case;

“Republic” means the Republic of Cyprus;

¹ Editorial Note: *This Law was published in the Greek language in the Official Gazette of the Republic of Cyprus No. 3850, dated 30.04.2004, Supplement III(I). This is an “unofficial” translation into English prepared by the Department of Merchant Shipping and does not intend to replace any translation prepared by the Law Commissioner’s Office.*

*According to Article 3 of the Constitution of the Republic of Cyprus, the official languages of the Republic of Cyprus are Greek and Turkish and therefore the present translation into English is **not the authentic version. The authentic and therefore legally binding version, is the Greek version of this Law.***

Disclaimer: This translated document is intended for use as a documentation tool and the Department of Merchant Shipping of the Republic of Cyprus does not assume any liability for its content.

“shipowner” means the natural or legal person who owns the ship and is the registered shipowner in the Register of the flag State of the ship;

Ratification of Convention.

3. The Convention, the text of which is set out in the English original in Part I of the Schedule and in translation in Greek in Part II of the Schedule, is hereby ratified².

Schedule. Part I Part II.

Provided that in case of conflict between the text in Part I and that in Part II of the Schedule, the text set out in Part I shall prevail.

Competent Authority.

4. Competent Authority for the implementation of the provisions of the Convention, this Law and the Regulations made there under is the Minister.

Scope of application.

5. —(1) The provisions of the Convention, this Law and the Regulations made there under shall apply:

(a) to Cyprus ships of a gross tonnage greater than 1000, wherever these are ;

(b) to foreign ships of a gross tonnage greater than 1000 units when they sail into Cyprus ports or otherwise when they are within the territorial waters of the Republic or within its exclusive economic zone, as the latter is established by virtue of the Exclusive Economic Zone Law of 2004, irrespective of whether the countries whose flag they fly, are contracting parties or not to the Convention.

64(I) of 2004.

(2) The term “Cyprus ship” means a ship registered in the Register of Cyprus Ships and flying the flag of the Republic, by virtue of the provisions of the Merchant Shipping (Registration of Ships, Sales and Mortgages) Laws 1963 to 2003;

*45 of 1963
32 of 1965
82 of 1968
62 of 1973
102 of 1973
45 of 1974
42 of 1979
25 of 1980
14 of 1982
57 of 1986
64 of 1987
28(I) of 1995
37 (I) of 1996
38(I) of 2003.*

Provisions in connection with the certificates.

6. —(1) At any time after the issue or certification of the certificate envisaged in Article 7 of the Convention, the Competent Authority may cancel any certificate issued or certified by it when it is ascertained following a lawful procedure that:

(a) the certificate has been secured by fraud, false declaration or concealment of a material fact; or

² **Editorial Note:** The present translated text does not include the *Schedule*, i.e the full text of the Convention obtainable from the International Maritime Organization (IMO) publications .

- (b) the insurance or other equivalent financial security are or have been cancelled during the validity of the certificate; or
- (c) emerged during the validity of the certificate any questions or matters in connection with the insurer or the insurers which influence or may influence the effectiveness of the furnished insurance or other financial security.

(2) Any person who submits, for the issuance of the certificate provided under Article 7 of the Convention, information resulting from fraud, false declaration or concealment of a material fact, commits an offence and if convicted, is subject to imprisonment not exceeding two years or a fine not exceeding eight thousand five hundred and forty three euro³ (€8. 543) or to both such sentences.

(3) Irrespective of the date mentioned on the certificate for the expiry of its validity, the validity of the certificate ceases *de jure* from the moment when the person in the name of whom the certificate was issued ceases to be the registered shipowner of the particular ship.

(4) Every person, in the possession or the control of whom there is any certificate which was cancelled or ceased to be valid in accordance with subsections (1) and (3), shall, as soon as informed of this fact, surrender the certificate to the Competent Authority.

(5) Any person who contravenes subsection (4) of this section is guilty of an offence and if convicted, is subject to imprisonment not exceeding two years or a fine not exceeding eight thousand five hundred and forty three euro⁴ (€8. 543) or to both such sentences.

(6) For the issuance of the certificate shall be paid by the interested person a fee to be prescribed from time to time by an Order of the Minister⁵.

Prohibition of arrival, sailing or performance of voyage without a certificate.

7. —(1) The arrival at, or the sailing from, the ports, installations or the territorial waters of the Republic —

- (a) of a Cyprus ship, or of a ship of another contracting State, which has a duty under the Convention to be furnished with a certificate, as long as it has not been issued or there is no in force in connection with the said ship such certificate;

³ Editorial Note: Amount originally provided in Cyprus Pounds and converted in EURO in accordance with *Notification P.I. 312/2007* (Gazette No. 4210, Supplement III(I), dated 20.07.2007) issued by the Minister of Finance under *the Adoption of the Euro Law of 2007* (Law 33(I) of 2007, as amended).

⁴ Editorial Note: See footnote 3 above.

⁵ Editorial Note: By virtue of Order P.I. 263/2008 of the Minister (Official Gazette No. 4290, Supplement III(I) dated 11.7.2008) , the relevant fee with respect to Cyprus ships has been set at Euro 51,26. With respect to ships flying the flag of a non State party to the Convention, the fee has been set at Euro 150.

(b) of a ship of a non contracting State, unless she possesses insurance or other covering against bunker oil pollution damage;

shall be prohibited.

(2) Any Cyprus ship which, pursuant to the Convention, has a duty to be furnished with a certificate, shall be prohibited to perform on a voyage anywhere around the globe as long as it has not been issued or there is not in force in connection with the said ship such certificate.

Administrative fine.

8. — (1) Contravention of the provisions of the Convention, of this Law and of the Regulations made there under, shall be punishable, notwithstanding whether a case of criminal or disciplinary liability arises under this Law or any other law, with an administrative fine between one thousand seven hundred and eight euro ⁶(€1. 708) and eight thousand five hundred and forty three euro⁷ (€8. 543), depending on the seriousness of the contravention.

(2) The administrative fine is imposed on the shipowner by a reasoned decision of the Competent Authority confirming the contravention.

(3) The amount of the administrative fine imposed by virtue of subsection (2) shall be calculated in each case on the basis of indicative directions issued by the Minister, without thereby limiting, within the scope of the directions, the discretionary power of the Competent Authority, which confirms the particular contravention, to decide freely on the basis of the actual facts of each case.

(4) The Competent Authority shall notify the shipowner of its decision imposing the administrative fine and may not allow the lifting of a prohibition of arrival, sailing, or performance of a voyage order issued under section 7 until the administrative fine has been paid or a bank guarantee issued by a recognised bank of equivalent amount for the benefit of and with terms satisfying the Competent Authority has been deposited.

Hierarchical Recourse.

9. —(1) The shipowner may file a hierarchical recourse before the Minister, regarding a decision imposing a prohibition of arrival, sailing, or performance of a voyage within thirty days from the date of notification of the decision, in the case of a contravention confirmed in a port of the Republic or within sixty days, in the case of a contravention confirmed in a foreign port.

(2) The recourse, provided for in subsection (1) above, shall not suspend (stay) the execution of the decision.

(3) The Minister shall examine the recourse and shall, after having heard the interested parties or having given them the opportunity to express their views in writing, issue a decision on it, pursuant to subsection (4), not later than ten days.

⁶ Editorial Note: See footnote 3 above.

⁷ Editorial Note: See footnote 3 above.

(4) The Minister may decide—

- (a) To confirm the challenged decision; or
- (b) to declare the challenged decision null and void; or
- (c) to amend the challenged decision; or
- (d) to issue a new decision in substitution of the challenged decision.

(5) The surveyors of ships shall duly inform accordingly the master of the ship for the right to file a recourse under subsection (1).

(6) The amount of the administrative fine or the bank guarantee shall fall and rests definitely to the Republic, if no recourse to the Supreme Court is filed after the lapse of seventy-five days, either from the date of the notification of the decision imposing the administrative fine, or in case where a hierarchical recourse is filed with the Minister, from the date of the notification of the Minister's dismissing decision.

Court proceedings to collect administrative fine.

10. In case of failure to pay the administrative fine imposed under section 8, the Competent Authority shall institute court proceedings and collect the amount due as a civil debt owed to the Republic.

Administrative fine a charge on the ship.

11. Notwithstanding the provisions of any other law, the administrative fine imposed under section 8 constitutes a charge on the ship in connection with which the contravention was ascertained, which is satisfied in priority against any other creditors, subject to its ranking after the last mortgage.

Competent Court.

12. The competent court, in accordance with the provisions of Article 9 of the Convention, for hearing within the Republic actions against the shipowner, the insurer or any other person providing security for the civil liability of the shipowner, shall be the Supreme Court.

Judgments of foreign courts.

13. —(1) Judgments of foreign courts having jurisdiction under Article 9 of the Convention and adjudicating compensation for bunker oil pollution damage are recognised and declared enforceable in the Republic, unless:

- (a) The judgment was fraudulently obtained;
- (b) the defendant was not given reasonable notice and a fair opportunity to present his or her case.

(2) Judgments on matters covered by the Convention shall, when given by a court of a Member State to which Decision 2002/762/EC applies, other than a court of the Republic and Denmark, be recognised and enforced in the Republic according to the relevant internal Community Rules..

Regulations.

14. —(1) The Council of Ministers has power to make Regulations to be published in the Official Gazette of the Republic for the better implementation of the provisions of the Convention and this Law.

(2) In particular and without prejudice to the generality of subsection (1) the Regulations may provide for the following matters:

(a) For the procedure and the required documentation for the issuance of the certificate provided for in Article 7 of the Convention; and

(b) for the requirements for the arrival and departure of ships of non Contracting States, to/ from ports, installations or the territorial waters of the Republic.

Entry into force.

15. This Law shall enter into force by an order of the Council of Ministers published in the Official Gazette of the Republic⁸.

**DMS Version
July 2008**

⁸ Editorial Note: By virtue of the relevant Decision of the Council of Ministers P.I. 262/2008, (Official Gazette No. 4290, Supplement III(I) dated 11.7.2008) , this Law enters into force on **the 21st November 2008.**