



Regulations Respecting Compulsory Insurance for Ships Carrying Passengers

CMLA Seminar – From the Recreational Lakes to the Commercial Seas

June 7, 2013





OVERVIEW

- ❖ Background on the *Marine Liability Act*
- ❖ Proposal
 - Background
 - Application
 - Description
 - Enforcement
- ❖ Preliminary discussions with stakeholders
- ❖ Release of a Discussion Paper on the Draft Proposed Regulations
- ❖ Summary of stakeholders comments
- ❖ Next Steps



BACKGROUND ON THE *MARINE LIABILITY ACT*

- ❖ The *Marine Liability Act* came into force in 2001, and was amended in 2009.
- ❖ The *Marine Liability Act* is a comprehensive Act dealing with the liability of marine operators in relation to passengers, cargo, pollution and property damage.
- ❖ Passenger liability provisions are based on the 1974 Athens Convention and its 1990 Protocol.
- ❖ Operator's limit of liability under the MLA is 175,000 Special Drawing Right (SDR) per passenger.



BACKGROUND

- ❖ “True North II” incident in Georgian Bay (June 2000) resulted in the drowning of two children. The operator had no insurance.
- ❖ Ministerial commitment was made to introduce compulsory insurance regulations.
- ❖ Initial consultations were held across Canada in 2002/03 (Mariport Group).
- ❖ Following consultations, the *Marine Liability Act* was amended in June 2009 to:
 - exclude adventure tourism operations;
 - introduce enforcement provisions.



APPLICATION

❖ Proposed regulations would apply to:

- all commercial and public purpose ships that engage in the domestic carriage of passengers.

❖ Proposed regulations would NOT apply to:

- adventure tourism activities (37.1(1) of the MLA);
- passenger ships used solely in international carriage;
- Coast Guard Auxiliary Vessels, but only when engaged in Search and Rescue Operations;
- Government owned ships operated by the Government of Canada or a provincial/territorial Government, including federal, provincial or territorial Crown Corporation that are entitled to indemnification by such a Government for liability under Part 4.



DESCRIPTION

- ❖ Ships engaged in the domestic carriage of passengers would be required to carry liability insurance for death or personal injury in the amount of not less than:
 - \$250,000 X the passenger capacity of the ship
- ❖ Proof of Insurance:
 - Shipowners would be required to show proof of insurance on demand and have it onboard the ship.



ENFORCEMENT

- ❖ Section 126 of the Act gives the power to designate enforcement officers.
- ❖ Failure to produce, on demand, the proper insurance coverage could result in:
 - Vessel detention;
 - On summary conviction, to a fine not exceeding \$100,000.



PRELIMINARY DISCUSSIONS WITH STAKEHOLDERS

- ❖ Transport Canada held preliminary discussions with marine operators and insurers across Canada in fall 2010 and winter 2011.
- ❖ Stakeholders' input was essential and very helpful in the development of the Discussion Paper on the Draft Proposed Regulations Respecting Compulsory Insurance For Ships Carrying Passengers.



DISCUSSION PAPER ON THE PROPOSED REGULATIONS

- ❖ Transport Canada released the discussion paper on March 1, 2012 to consult marine operators and insurers on the proposed draft regulation.
- ❖ Stakeholders had until May 31, 2012 to comment on the proposed regulations but Transport Canada extended the consultation period until fall 2012.



SUMMARY OF STAKEHOLDERS COMMENTS

Transport Canada received extensive feedback on the draft regulation that was released in the Discussion Paper in March 2012 regarding the:

- Scope of Application - Commercial & Public Purpose Ships;
- Passenger capacity;
- Costs & availability of insurance;
- Dedicated amount;
- Certificate of Insurance & Fleet Policy;
- Enforcement;
- Consultation; and
- Communication.

NEXT STEPS

Review stakeholders comments and complete the Regulatory Impact Analysis Statement	Summer 2013
Pre-publication in the Canada Gazette, Part I	Fall 2013
Publication in the Canada Gazette, Part II	Winter 2014



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