

MONTSERRAT

STATUTORY RULES AND ORDERS

S.R.O. 43 OF 2026

**PROTECTION OF THE SEAS (LIMITATION OF LIABILITY
FOR MARITIME CLAIMS) REGULATIONS 2026**

ARRANGEMENT OF REGULATIONS

PART 1- PRELIMINARY	3
1. Citation.....	3
2. Commencement.....	3
3. Implementation of Limitation of Liability Convention.....	3
4. Interpretation: general	3
5. Interpretation, etc.: Limitation of Liability Convention	5
PART 2 - LIMITATION OF LIABILITY.....	5
<i>Application</i>	<i>5</i>
6. Application.....	5
<i>Limitation of liability.....</i>	<i>6</i>
7. Persons entitled to limit their liability	6
8. Claims subject to limitation.....	6
9. Claims excepted from limitation	7
10. Invoking limitation not an admission of liability	8
11. Conduct barring limitation	8
12. Counter claim	8
<i>Limits of liability</i>	<i>9</i>
13. Limitation calculation	9
14. Small ships	9
15. Passenger claims	9
<i>Limitation fund.....</i>	<i>9</i>
16. Requirement for limitation fund.....	9
17. Constitution of limitation fund	10
18. Distribution of limitation fund	10
19. Bar to other actions	10
20. Governing law.....	10
<i>Ancillary provision.....</i>	<i>10</i>

Montserrat

The Protection of the Seas (Limitation of Liability for Maritime
Claims) Regulations, 2026

S.R.O. 43 of 2026

21.	Unit of Account and conversion.....	10
22.	Interest.....	11
23.	Stay of proceedings	11
24.	Release of ships, &c.	11
25.	Savings	11
26.	Negative resolution	12

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

MONTSERRAT

STATUTORY RULES AND ORDERS

NO. 43 OF 2026

PROTECTION OF THE SEAS (LIMITATION OF LIABILITY FOR MARITIME CLAIMS) REGULATIONS 2026

THE PROTECTION OF THE SEAS (LIMITATION OF LIABILITY FOR MARITIME CLAIMS) REGULATIONS 2026 MADE BY THE GOVERNOR, ACTING ON THE ADVICE OF CABINET, UNDER SECTION 123 OF THE MERCHANT SHIPPING (REGISTRATION) ACT (CAP. 7.11)

PART 1- PRELIMINARY

1. Citation

These Regulations may be cited as the Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations 2026.

2. Commencement

- (1)** These Regulations come into force, in accordance with Article 17(3), on the first day of the month following the expiration of ninety days after the date when notice is given to the International Maritime Organization of the extension of the 1996 Protocol to the Limitation of Liability Convention to Montserrat.
- (2)** The Governor shall publish in the Gazette the date when these Regulations come into force in accordance with subregulation (1).

3. Implementation of Limitation of Liability Convention

These Regulations enable an owner of a ship and salvor to limit their liability in respect of maritime claims and give effect to, and make provision in connection with, the Limitation of Liability Convention, which has the force of law in Montserrat by virtue of section **122(1) and (2)(h)** of the Act.

4. Interpretation: general

- (1)** In these Regulations, except where the context otherwise requires—

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

“**the Act**” means the Merchant Shipping (Registration) Act 2013 (Cap 7.11);

“**Article**” has the meaning assigned to it in regulation 5(2);

“**company**” means a body incorporated under the law of Montserrat or of any other country;

“**the court**” means the High Court;

“**foreign ship**” has the meaning assigned to it in section 2(1) of the Act;

“**Limitation of Liability Convention**” means the Convention on Limitation of Liability for Maritime Claims 1976, as amended by the Protocol of 1996;

“**Maritime Administration**” means the Maritime Administration established under section 3A(2) of the Act;

“**Montserrat ship**” has the meaning given in section 2(1) of the Act;

“**owner**”, in relation to a ship, includes a registered owner, bareboat charterer, manager and operator of the ship;

“**person**” means any individual or partnership or any public or private body, whether corporate or not, including a State or any of its constituent subdivisions;

“**salvage services**” means services rendered in direct connection with salvage operations;

“**salvor**” means any person rendering salvage services in direct connection with salvage operations;

“**salvage operation**” includes operations in respect of—

- (a) the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;
- (b) the removal, destruction or the rendering harmless of the cargo of a ship;
- (c) measures taken in order to avert or minimise loss for which the person liable may limit liability in accordance with these Regulations, and further loss caused by such measures.

“**ship**” has the meaning given in section 2(1) of the Act, and includes—

- (a) a ship in the process of construction from the time that it is capable of floating, and

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

(b) a ship that has been stranded, wrecked or sunk and any part of a ship that has broken up.

“**State**” includes a territory.

- (2) In these Regulations, “**tonnage**” in relation to a ship means its gross tonnage calculated in accordance with the International Convention on Tonnage Measurements of Ships 1969, as amended from time to time.

5. Interpretation, etc.: Limitation of Liability Convention

- (1) The provisions of these Regulations are to be construed in accordance with the Limitation of Liability Convention.
- (2) In these Regulations, a reference to a numbered (or lettered) Article is a reference to that numbered (or lettered) Article in the Limitation of Liability Convention (except where the context otherwise requires).
- (3) A reference to the Limitation of Liability Convention, or to a provision of or Annex to the Convention, is to be construed—
- (a) as a reference to the Convention, provision or Annex as modified from time to time, and
- (b) if the Convention, provision or Annex is replaced, as a reference to the replacement.
- (4) Except as otherwise required in accordance with the Convention, no modification or replacement affects a right or liability arising before the date on which the modification or replacement takes effect.
- (5) The Maritime Administration shall publish in such manner as it thinks fit—
- (a) the text of the Limitation of Liability Convention (as it has effect when these Regulations are made), and
- (b) a modification or replacement of the Convention (or any provision, including an Annex or other attachment).

PART 2 - LIMITATION OF LIABILITY

Application

6. Application

- (1) These Regulations apply whenever any person referred to in regulation 7 seeks to—
- (a) limit their liability before the court,
- (b) procure the release of a ship or other property, or
- (c) obtain the discharge of any security given within the jurisdiction of Montserrat.

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

- (2) These Regulations do not apply to—
- (a) air-cushion vehicles,
 - (b) floating platforms constructed for the purposes of exploring or exploiting the natural resources of the seabed or its subsoil, and
 - (c) warships or government non-commercial ships.
- (3) These Regulations do not apply to any liability in respect of loss of life or personal injury caused to, or loss of or damage to, any property of a person who is—
- (a) on board a ship, or
 - (b) employed in connection with that ship or with the salvage operations,
if that person is so on board by virtue of or employed under a contract of service governed by the law of Montserrat.
- (4) In this regulation—
- “**government non-commercial ship**” means a State-owned or State-operated ship used for a non-commercial public service;
- “**warship**” includes a naval auxiliary.

Limitation of liability

7. Persons entitled to limit their liability

- (1) Owners and salvors may limit their liability in accordance with the provisions of these Regulations in respect of the claims set out in regulation 8.
- (2) An insurer of liability for claims subject to limitation under these Regulations is entitled to the benefits of limitation to the same extent as the assured person.
- (3) Where a claim set out in regulation 8 is made against a person for whose act, neglect or default an owner or salvor is responsible, that person may limit their liability in the same manner as the owner or salvor under these Regulations.
- (4) For the purposes of subregulation (1), the liability of an owner includes liability in an action brought against the ship.

8. Claims subject to limitation

- (1) The following claims are, subject to regulations 9, 10 and 16, subject to limitation of liability regardless of the basis of liability—
 - (a) claims in respect of loss of life or personal injury or loss of or damage to property, including damage to harbour works, basins and waterways and aids to navigation,

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

occurring on board or in direct connection with the operation of the ship or with salvage operations, and consequential loss which results;

- (b) claims in respect of loss resulting from delay in the carriage by sea of cargo, passengers or their luggage;
 - (c) claims in respect of other loss resulting from infringement of rights other than contractual rights, occurring in direct connection with—
 - (i) the operation of the ship or,
 - (ii) salvage operations;
 - (d) claims of a person other than the person liable in respect of measures taken in order to avert or minimise loss for which the person liable may limit liability in accordance with these Regulations, and further loss caused by such measures.
- (2) The claims set out in subregulation (1) shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise, but the claims referred to in subregulation (1)(d) shall not be subject to limitation to the extent that they relate to remuneration under a contract with the person liable.

9. Claims excepted from limitation

- (1) The provisions relating to limitation of liability in these Regulations do not apply to the following claims
- (a) claims for salvage, including, if applicable, any claim for special compensation under the International Convention on Salvage 1969, as amended from time to time, or contribution in general average;
 - (b) claims under—
 - (i) the International Convention on Civil Liability for Oil Pollution Damage 1969 or any amendment or Protocol to the Convention which is in force; or
 - (ii) the Protection of the Seas (Civil Liability for Oil Pollution Damage) Regulations 2026;
 - (c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;
 - (d) claims against the owner of a nuclear ship for nuclear damage;
 - (e) claims relating to—
 - (i) the raising, removal, destruction or the rendering harmless of a ship which is sunk, wrecked, stranded or abandoned, including anything that is or has been on board such ship;

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

- (ii) the removal, destruction or the rendering harmless of the cargo of a ship.
- (f) claims under the Protection of the Seas (Athens Convention) Regulations 2026.
- (g) subject to subregulation (2), claims for damage within the meaning of the HNS Convention;
- (h) claims by servants of the owner or salvor whose duties are connected with the ship or the salvage operations, including claims of their heirs, dependants or other persons entitled to make such claims if, under the law governing the contract of service between the owner or salvor and such servants—
 - (i) the owner or salvor is not entitled to limit liability in respect of such claims, or
 - (ii) the owner or salvor is so permitted by such law, if the liability is limited to an amount greater than that provided for in regulation 13.
- (2) Subregulation (1)(g) only has effect if the HNS Convention is extended to Montserrat.
- (3) In this regulation, “**HNS Convention**” means the International Convention on Liability and Compensation for Damage in Connection with the Carriage of Hazardous and Noxious Substances by Sea 1996 or any amendment or Protocol to that Convention.

10. Invoking limitation not an admission of liability

For the purposes of these Regulations, the act of invoking limitation shall not constitute an admission of liability.

11. Conduct barring limitation

No person shall be entitled to limit liability under these Regulations if it is proved that the loss resulted from that person’s personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

12. Counter claim

Where a person entitled to limitation of liability under this Part has a claim against the claimant arising out of the same occurrence, the respective claims shall be set off against each other and the provisions of these Regulations shall only apply to the balance, if any.

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

Limits of liability

13. Limitation calculation

- (1) The limits of liability for claims other than those provided for in regulations 14 and 15, arising on any distinct occasion, shall be calculated in accordance with Articles 6 (general limits) and 9 (aggregation of claims).
- (2) Where Article 6(2) (insufficient funds to pay claims) applies, claims in respect of damage to harbour works, basins and waterways and aids to navigation shall take priority over all other claims under Article 6(1)(b) (claims other than those in respect of loss of life or personal injury).

14. Small ships

Article 6 (general limits) applies to a ship with a tonnage of less than 300 gross tons as if—

- (a) Article 6(1)(a)(i) referred to 1,000,000 Units of Account, and
- (b) Article 6(1)(b)(i) referred to 500,000 Units of Account.

15. Passenger claims

- (1) Article 7 (limit for passenger claims) does not apply in respect of seagoing ships.
- (2) Article 7 has effect in respect of a non-seagoing ship as if, in Article 7(1)—
 - (a) after “thereof” there were inserted “in respect of each passenger”, and
 - (b) the words from “multiplied” onwards were omitted.
- (3) In this regulation, “a **seagoing ship**” means a ship that goes beyond the baselines for measuring Montserrat’s territorial sea; and a “non-seagoing ship” means a ship which does not go beyond those baselines.

Limitation fund

16. Requirement for limitation fund

- (1) This regulation applies where an action is brought in the court to enforce a claim which may be subject to limitation.
- (2) The right to limit liability may only be invoked if a limitation fund—
 - (a) has been constituted in accordance with the provisions of the Limitation of Liability Convention, or
 - (b) is constituted when the right to limit liability is invoked.

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

17. Constitution of limitation fund

A limitation fund shall be constituted and administered in accordance with—

- (a) the provisions of Article 11 (constitution of the fund), and
- (b) with the relevant rules of the court.

18. Distribution of limitation fund

- (1) A limitation fund shall be distributed in accordance with the provisions of Article 12 (distribution of the fund).
- (2) No lien or other right in respect of any ship or property shall affect the proportions in which the limitation fund is distributed under Article 12 among more than one claimant.

19. Bar to other actions

- (1) Where a limitation fund has been constituted in accordance with Article 11 (constitution of the fund), a person who has brought a claim against the fund shall not exercise any right in respect of that claim against any other assets of the person by or on whose behalf the fund has been constituted.
- (2) Subregulation (1) is subject to Article 13(3) (bar to other actions).

20. Governing law

Subject to the provisions of these Regulations and Articles 11 to 14, the constitution and distribution of a limitation fund shall be governed by Montserrat law.

Ancillary provision

21. Unit of Account and conversion

- (1) The amounts mentioned in Articles 6 and 7 are to be converted from special drawing rights into East Caribbean Dollars as at the relevant date under Article 8(1) (unit of account).
- (2) The conversion is to be made at the rate fixed by the International Monetary Fund.
- (3) Where the conversion is to be made as at a specified day and no sum is fixed for that day, the conversion is to be made as at the last day before that day for which a sum was fixed.
- (4) A certificate given by or on behalf of the Minister of Finance is conclusive evidence for the purposes of these Regulations if it states—
 - (a) that a specified rate for conversion into Eastern Caribbean Dollars was fixed for a specified day, or

The Protection of the Seas (Limitation of Liability for Maritime Claims) Regulations, 2026

S.R.O. 43 of 2026

(b) that no rate was fixed for a specified day and that a specified rate for conversion into Eastern Caribbean Dollars was the last rate fixed for a previous day.

(5) A document purporting to be a certificate mentioned in subregulation (4) is in any legal proceedings—

(a) to be received in evidence, and

(b) unless the contrary is proved, to be deemed to be such a certificate.

22. Interest

The rate of interest for the purposes of Article 11(1) (constitution of limitation fund) is one per cent more than the base rate quoted from time to time by the Eastern Caribbean Central Bank or the base rate quoted by any body which may succeed it and, where there is more than one such rate, the lowest of them.

23. Stay of proceedings

(1) This regulation applies where a fund is constituted with the court in accordance with Article 11 for the payment of claims arising out of any occurrence.

(2) The court may stay proceedings, relating to any claim arising out of that occurrence, which are pending against the person by whom the fund has been constituted.

24. Release of ships, &c.

(1) This regulation applies where the release of a ship is ordered under Article 13(2).

(2) The person on whose application the ship is ordered to be released is deemed to have submitted to the jurisdiction of the court to adjudicate on the claim for which the ship was arrested.

(3) This regulation applies to the attachment of property as to the release of ships.

25. Savings

Except as provided expressly, nothing in these Regulations affects the ability of any person to limit liability arising in respect of an event or incident occurring before these Regulations come into force in accordance with provisions of any enactment entitling that person to limit liability at the time of the event or incident.

Montserrat

The Protection of the Seas (Limitation of Liability for Maritime
Claims) Regulations, 2026

S.R.O. 43 of 2026

26. Negative resolution

These Regulations are subject to negative resolution.

Made by the Governor acting on the advice of Cabinet this 3rd day of
September, 2026.

(Sgd.) Alasdair Bain
Cabinet Secretary

Published by exhibition by the Cabinet Secretary at the Office of the
Legislature, Farara Plaza, Brades, Montserrat, MSR1110, this 26th day of
October, 2026.

(Sgd.) Alasdair Bain
Cabinet Secretary