Merchant Shipping (Oil Pollution) Act 1971

1971 CHAPTER 59

An Act to make provision with respect to civil liability for oil pollution by merchant ships; and for connected purposes. [27th July 1971]

Modifications etc. (not altering text)

C1 Act power to modify conferred (*prosp*) by 1994 c. 28, **ss. 5(3)(a)**, 10(4)

C2 Act modified by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 47(2)(b)**, (with s. 58(4), Sch. 8 para. 1) and by S.I. 1989/1991, **art. 10**

C3 Act excluded by S.I. 1989/1991, **arts 11–14**

Commencement Information

I1 Act not in force at Royal Assent see s. 21(3). Act wholly in force at 19.6.1975.

1 Liability for oil pollution.

(1) Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship (whether as part of the cargo or otherwise) is discharged or escapes from the ship, the owner of the ship shall be liable, except as otherwise provided by this Act,—

(a) for any damage caused in the area of the United Kingdom by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or reducing any such damage in the area of the United Kingdom; and

(c) for any damage caused in the area of the United Kingdom by any measures so taken.

(2) Where a person incurs a liability under subsection (1) of this section he shall also be liable for any damage or cost for which he would be liable under that subsection if the references therein to the area of the United Kingdom included the area of any other Convention country.

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping (Oil Pollution) Act 1971 (repealed 1.1.1996). (See end of Document for details)*

(3) Where persistent oil is discharged or escapes from two or more ships and—

(a) a liability is incurred under this section by the owner of each of them; but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable;

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(4) For the purposes of this Act, where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one; but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape.

(5) The [M1]Law Reform (Contributory Negligence) Act 1945 and, in Northern Ireland, the [M2]Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.

Marginal Citations

M1 1945 c. 28.

M2 1948 c. 23 (N.I.)

[[F1]1 Liability for oil pollution.

(1) Where, as a result of any occurrence, any oil is discharged or escapes from a ship to which this section applies, then (except as otherwise provided by this Act) the owner of the ship shall be liable–

(a) for any damage caused outside the ship in the area of the United Kingdom by contamination resulting from the discharge or escape; and

(b) for the cost of any measures reasonably taken after the discharge or escape for the purpose of preventing or minimising any damage so caused in the area of the United Kingdom by contamination resulting from the discharge or escape; and

(c) for any damage so caused in the area of the United Kingdom by any measures so taken.

(2) Where, as a result of any occurrence, there arises a grave and imminent threat of damage being caused outside a ship to which this section applies by contamination resulting from a discharge or escape of oil from the ship, then (except as otherwise provided by this Act) the owner of the ship shall be liable—

(a) for the cost of any measures reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom; and

(b) for any damage caused outside the ship in the area of the United Kingdom by any measures so taken;

and in this Act any such threat is referred to as a relevant threat of contamination.

(3) Subject to subsection (4) of this section, this section applies to any ship constructed or adapted for carrying oil in bulk as cargo.

(4) Where any ship so constructed or adapted is capable of carrying other cargoes besides oil, this section shall apply to any such ship—

(a) while it is carrying oil in bulk as cargo; and

(b) unless it is proved that no residues from the carriage of any such oil remain in the ship, while it is on any voyage following the carriage of any such oil,

but not otherwise.

(5) Where a person incurs a liability under subsection (1) or (2) of this section he shall also be liable for any damage or cost for which he would be liable under that subsection if the references in it to the area of the United Kingdom included the area of any other Convention country.

(6) Where—

(a) as a result of any occurrence, a liability is incurred under this section by the owner of each of two or more ships, but

(b) the damage or cost for which each of the owners would be liable cannot reasonably be separated from that for which the other or others would be liable,

each of the owners shall be liable, jointly with the other or others, for the whole of the damage or cost for which the owners together would be liable under this section.

(7) For the purposes of this Act—

(a) references to a discharge or escape of oil from a ship are references to such a discharge or escape wherever it may occur, and whether it is of oil carried in a cargo tank or of oil carried in a bunker fuel tank;

(b) where more than one discharge or escape results from the same occurrence or from a series of occurrences having the same origin, they shall be treated as one, but any measures taken after the first of them shall be deemed to have been taken after the discharge or escape; and

(c) where a relevant threat of contamination results from a series of occurrences having the same origin, they shall be treated as a single occurrence.

(8) The Law Reform (Contributory Negligence) Act [M3]1945 and, in Northern Ireland, the Law Reform (Miscellaneous Provisions) Act (Northern Ireland) [M4]1948 shall apply in relation to any damage or cost for which a person is liable under this section, but which is not due to his fault, as if it were due to his fault.**]**

Textual Amendments

F1 S. 1 commencing "Where, as a result of any occurrence, any oil" substituted (*prosp.*) for s. 1 commencing "Where, as a result of any occurrence taking place" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 1**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

Marginal Citations

M3 1945 c.28. (**122:3**).

M4 1948 c.23 (N.I.).

2 Exceptions from liability under s. 1.

The owner of a ship from which persistent oil has been discharged or has escaped shall not incur any liability under section 1 of this Act if he proves that the discharge or escape—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

(b) was due wholly to anything done or left undone by another person, not being a servant or agent of the owner, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.

[F2 2 Exceptions from liability under s. 1.

No liability shall be incurred by the owner of a ship under section 1 of this Act by reason of any discharge or escape of oil from the ship, or by reason of any relevant threat of contamination, if he proves that the discharge or escape, or (as the case may be) the threat of contamination—

(a) resulted from an act of war, hostilities, civil war, insurrection or an exceptional, inevitable and irresistible natural phenomenon; or

(b) was due wholly to anything done or omitted to be done by another person, not being a servant or agent of the owner, with intent to do damage; or

(c) was due wholly to the negligence or wrongful act of a government or other authority in exercising its function of maintaining lights or other navigational aids for the maintenance of which it was responsible.**]**

Textual Amendments

F2 S. 2 commencing "No liability shall" substituted (*prosp.*) for s. 2 commencing "The owner of a ship" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 2**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

3 Restriction of liability for oil pollution.

Where, as a result of any occurrence taking place while a ship is carrying a cargo of persistent oil in bulk, any persistent oil carried by the ship is discharged or escapes then, whether or not the owner incurs a liability under section 1 of this Act,—

(a) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned therein; and

(b) no servant or agent of the owner nor any person performing salvage operations with the agreement of the owner shall be liable for any such damage or cost.

[F3 3 Restriction of liability for oil pollution.

(1) Where, as a result of any occurrence—

(a) any oil is discharged or escapes from a ship to which section 1 of this Act applies, or

(b) there arises a relevant threat of contamination,

then, whether or not the owner of the ship in question incurs a liability under section 1 of this Act—

(i) he shall not be liable otherwise than under that section for any such damage or cost as is mentioned in it, and

(ii) no person to whom this paragraph applies shall be liable for any such damage or cost unless it resulted from anything done or omitted to be done by him either with intent to cause any such damage or cost or recklessly and in the knowledge that any such damage or cost would probably result.

(2) Subsection (1)(ii) of this section applies to—

(a) any servant or agent of the owner of the ship;

(b) any person not falling within paragraph (a) above but employed or engaged in any capacity on board the ship or to perform any service for the ship;

(c) any charterer of the ship (however described and including a bareboat charterer), and any manager or operator of the ship;

(d) any person performing salvage operations with the consent of the owner of the ship or on the instructions of a competent public authority;

(e) any person taking any such measures as are mentioned in subsection (1)(b) or (2)(a) of section 1 of this Act;

(f) any servant or agent of a person falling within paragraph (c), (d) or (e) above.

(3) The liability of the owner of a ship under section 1 of this Act for any impairment of the environment shall be taken to be a liability only in respect of—

(a) any resulting loss of profits, and

(b) the cost of any reasonable measures of reinstatement actually taken or to be taken.**]**

Textual Amendments

F3 S. 3(1)–(3) substituted (*prosp.*) for s. 3 by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 3**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

4 Limitation of liability under s. 1.

(1) Where the owner of a ship incurs a liability under section 1 of this Act by reason of a discharge or escape which occurred without his actual fault or privity—

(a) **F4**

(b) he may limit that liability in accordance with the provisions of this Act, and if he does so his liability (that is to say, the aggregate of his liabilities under section 1 resulting from the discharge or escape) shall not exceed **[F5**133 special drawing rights**]** for each ton of the ship's tonnage nor (where that tonnage would result in a greater amount) **[F5**14 million special drawing rights**]**.

[F6(2) For the purposes of this section the tonnage of a ship shall be ascertained as follows:

(a) where the register tonnage of the ship has been or can be ascertained in accordance with regulations under section 1 of the **M5** Merchant Shipping Act 1965 (tonnage regulations), the ship's tonnage shall be the register tonnage of

the ship as so ascertained but without making any deduction required by those regulations of any tonnage allowance for propelling machinery space;

(b) where the ship is of a description with respect to which no provision is for the time being made by regulations under that section, the tonnage of the ship shall be taken to be 40 per cent. of the weight (expressed in tons of 2,240 lbs.) of oil which the ship is capable of carrying;

(c) where the tonnage of the ship cannot be ascertained in accordance with either paragraph (*a*) or paragraph (*b*) above, a surveyor of ships appointed for the purposes of the Merchant Shipping Act [M6]1894 shall, if so directed by the court, certify what, on the evidence specified in the direction, would in his opinion be the tonnage of the ship as ascertained in accordance with paragraph (*a*), or (as the case may be) paragraph (*b*), above if the ship could be duly measured for the purpose; and the tonnage stated in his certificate shall be taken to be the tonnage of the ship.**]**

(3) . . . . . [F7]

Textual Amendments

F4 S. 4(1)(a) repealed by Merchant Shipping Act 1979 (c. 39), ss. 50(4), 52(2), **Sch. 7 Pt. I**

F5 Words substituted by Merchant Shipping Act 1979 (c. 39), **ss. 38(1)(a)**, 52(2)

F6 S. 4(2) substituted by Merchant Shipping Act 1984 (c. 5, SIF 111), **s. 12(2)**

F7 S. 4(3)–(5) repealed by Merchant Shipping Act 1979 (c. 39), s. 52(2), **Sch. 7 Pt. II**

Modifications etc. (not altering text)

C4 S. 4 modified (the modification being in force so far as the said s. 9 relates to any ship registered under s. 5 of the 1983 Act: S.I. 1983/1435, **Sch.** but being otherwise*prosp.*) by Merchant Shipping Act 1983 (c. 13, SIF 111), **s. 9(2)(3)**

Marginal Citations

M5 1965 c. 47 (**111**.

M6 1894 c.60 (**111**).

[[F8]4 Limitation of liability under s. 1.

(1) Where, as a result of any occurrence, the owner of a ship incurs a liability under section 1 of this Act by reason of a discharge or escape or by reason of any relevant threat of contamination, then (subject to subsection (3) of this section)—

(a) he may limit that liability in accordance with the provisions of this Act, and

(b) if he does so, his liability (that is to say, the aggregate of his liabilities under section 1 resulting from the occurrence) shall not exceed the relevant amount.

(2) In subsection (1) of this section "the relevant amount" means—

(a) in relation to a ship not exceeding 5,000 tons, 3 million special drawing rights;

(b) in relation to a ship exceeding 5,000 tons, 3 million special drawing rights together with an additional 420 special drawing rights for each ton of its tonnage in excess of 5,000 tons up to a maximum amount of 59.7 million special drawing rights;

but the Secretary of State may by order made by statutory instrument make such amendments of paragraphs (a) and (b) above as appear to him to be appropriate for

the purpose of giving effect to the entry into force of any amendment of the limits of liability laid down in paragraph 1 of Article V of the Convention.

(3) Subsection (1) of this section shall not apply in a case where it is proved that the discharge or escape, or (as the case may be) the relevant threat of contamination, resulted from anything done or omitted to be done by the owner either with intent to cause any such damage or cost as is mentioned in section 1 of this Act or recklessly and in the knowledge that any such damage or cost would probably result.

(4) For the purposes of this section a ship's tonnage shall be its gross tonnage calculated in such manner as may be prescribed by an order made by the Secretary of State by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.

(5) Any such order shall, so far as it appears to the Secretary of State to be practicable, give effect to the regulations in Annex 1 of the International Convention on Tonnage Measurement of Ships 1969.**]**

Textual Amendments

F8 S. 4 commencing "Where, as a result" substituted (*prosp.*) for s. 4 commencinng "Where the owner" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 4**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

5 Limitation actions.

(1) Where the owner of a ship has or is alleged to have incurred a liability under section 1 of this Act he may apply to the court for the limitation of that liability to an amount determined in accordance with section 4 of this Act.

(2) If on such an application the court finds that the applicant has incurred such a liability and is entitled to limit it, the court shall, after determining the limit of the liability and directing payment into court of the amount of that limit,—

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

(b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

[[F9](2A) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and—

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

(i) the day on which the determination is made, or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Treasury stating—

(i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or

(ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Act;

(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.**]**

(3) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(4) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends,—

(a) by the owner or the person referred to in section 12 of this Act as "the insurer"; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 1 of this Act, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of **[**[F10]the [M7]Merchant Shipping Act 1979**]**;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(5) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(6) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the United Kingdom.

Textual Amendments

F9 S. 5(2A) inserted by Merchant Shipping Act 1979 (c. 39), **ss. 38(2)**, 52(2) and S.I. 1981/405, reg. 3, **Sch**

F10 Words substituted by Merchant Shipping Act 1979 (c. 39), ss. 19(4), 52(2), **Sch. 5 para. 6(1)**

Marginal Citations

M7 1979 c. 39.

5 Limitation actions. U.K.

(1) Where the owner of a ship has or is alleged to have incurred a liability under section 1 of this Act he may apply to the court for the limitation of that liability to an amount determined in accordance with section 4 of this Act.

(2) If on such an application the court finds that the applicant has incurred such a liability and is entitled to limit it, the court shall, after determining the limit of the liability and directing payment into court of the amount of that limit,—

(a) determine the amounts that would, apart from the limit, be due in respect of the liability to the several persons making claims in the proceedings; and

(b) direct the distribution of the amount paid into court (or, as the case may be, so much of it as does not exceed the liability) among those persons in proportion to their claims, subject to the following provisions of this section.

[[F24](2A) A payment into court of the amount of a limit determined in pursuance of this section shall be made in sterling; and—

(a) for the purpose of converting such an amount from special drawing rights into sterling one special drawing right shall be treated as equal to such a sum in sterling as the International Monetary Fund have fixed as being the equivalent of one special drawing right for—

(i) the day on which the determination is made, or

(ii) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed;

(b) a certificate given by or on behalf of the Treasury stating—

(i) that a particular sum in sterling has been so fixed for the day on which the determination was made, or

(ii) that no sum has been so fixed for that day and that a particular sum in sterling has been so fixed for a day which is the last day for which a sum has been so fixed before the day on which the determination was made,

shall be conclusive evidence of those matters for the purposes of this Act;

(c) a document purporting to be such a certificate shall, in any proceedings, be received in evidence and, unless the contrary is proved, be deemed to be such a certificate.**]**

(3) No claim shall be admitted in proceedings under this section unless it is made within such time as the court may direct or such further time as the court may allow.

(4) Where any sum has been paid in or towards satisfaction of any claim in respect of the damage or cost to which the liability extends,—

(a) by the owner or the person referred to in section 12 of this Act as "the insurer"; or

(b) by a person who has or is alleged to have incurred a liability, otherwise than under section 1 of this Act, for the damage or cost and who is entitled to limit his liability in connection with the ship by virtue of **[**[F25]the [M15]Merchant Shipping Act 1979**]**;

the person who paid the sum shall, to the extent of that sum, be in the same position with respect to any distribution made in proceedings under this section as the person to whom it was paid would have been.

(5) Where the person who incurred the liability has voluntarily made any reasonable sacrifice or taken any other reasonable measures to prevent or reduce damage to which the liability extends or might have extended he shall be in the same position with respect to any distribution made in proceedings under this section as if he had a claim in respect of the liability equal to the cost of the sacrifice or other measures.

(6) The court may, if it thinks fit, postpone the distribution of such part of the amount to be distributed as it deems appropriate having regard to any claims that may later be established before a court of any country outside the United Kingdom.

[[F26](7) No lien or other right in respect of any ship or other property shall affect the proportions in which any amount is distributed in accordance with subsection (2)(b) of this section.**]**

Textual Amendments

F24 S. 5(2A) inserted by Merchant Shipping Act 1979 (c. 39), **ss. 38(2)**, 52(2) and S.I. 1981/405, reg. 3, **Sch**

F25 Words substituted by Merchant Shipping Act 1979 (c. 39), ss. 19(4), 52(2), **Sch. 5 para. 6(1)**

F26 S. 5(7) added (*prosp.*) by Merchant Shipping Act (c. 12, SIF 111), ss. 34, 58(2), Sch. 4 Pt. I para. 5 (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) addition fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

Marginal Citations

M15 1979 c. 39.

6 Restriction on enforcement of claims after establishment of limitation fund.

(1) Where the court has found that a person who has incurred a liability under section 1 of this Act is entitled to limit that liability to any amount and he has paid into court a sum not less than that amount—

(a) the court shall order the release of any ship or other property arrested in connection with a claim in respect of that liability or any security given to prevent or obtain release from such an arrest; and

(b) no judgment or decree for any such claim shall be enforced, except so far as it is for costs (or, in Scotland, expenses);

if the sum paid into court, or such part thereof as corresponds to the claim, will be actually available to the claimant or would have been available to him if the proper steps in the proceedings under section 5 of this Act had been taken.

(2) In the application of this section to Scotland, any reference (however expressed) to release from arrest shall be construed as a reference to the recall of an arrestment.

7 Concurrent liabilities of owners and others.

Where, as a result of any discharge or escape of persistent oil from a ship, the owner of the ship incurs a liability under section 1 of this Act and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) of that section, then, if—

(a) the owner has been found, in proceedings under section 5 of this Act, to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and

(b) the other person is entitled to limit his liability in connection with the ship by virtue of **[**[F11]the [M8]Merchant Shipping Act 1979**]**;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

Textual Amendments

F11 Words substituted by Merchant Shipping Act 1979 (c. 39), ss. 19(4), 52(2), **Sch. 5 para. 6(1)**

Marginal Citations

M8 1979 c. 39.

7 Concurrent liabilities of owners and others. U.K.

[[F27]Where, as a result of any discharge or escape of persistent oil from a ship, the owner of the ship incurs a liability under section 1 of this Act and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) of that section,**]**[F27]Where, as a result of any discharge or escape of oil from a ship or as a result of any relevant threat of contamination, the owner of a ship incurs a liability under section 1 of this Act and any other person incurs a liability, otherwise than under that section, for any such damage or cost as is mentioned in subsection (1) or (2) of that section,**]** then, if—

(a) the owner has been found, in proceedings under section 5 of this Act, to be entitled to limit his liability to any amount and has paid into court a sum not less than that amount; and

(b) the other person is entitled to limit his liability in connection with the ship by virtue of **[**[F28]the [M16]Merchant Shipping Act 1979**]**;

no proceedings shall be taken against the other person in respect of his liability, and if any such proceedings were commenced before the owner paid the sum into court, no further steps shall be taken in the proceedings except in relation to costs.

Textual Amendments

F27 Words commencing "Where, as a result of any discharge or escape of oil" substituted (*prosp.*) for words commencing "Where, as a result of any discharge or escape of any persistent oil" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 6**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F28 Words substituted by Merchant Shipping Act 1979 (c. 39), ss. 19(4), 52(2), **Sch. 5 para. 6(1)**

Marginal Citations

M16 1979 c. 39.

8 Establishment of limitation fund outside United Kingdom.

Where the events resulting in the liability of any person under section 1 of this Act also resulted in a corresponding liability under the law of another Convention country sections 6 and 7 of this Act shall apply as if the references to sections 1 and 5 of this Act included references to the corresponding provisions of that law and the references to sums paid into court included references to any sums secured under those provisions in respect of the liability.

8A [F12]. . . . . .

Textual Amendments

F12 S. 8A repealed by Merchant Shipping Act 1979 (c. 39), ss. 50(4), 52(2), **Sch. 7 Pt. I**

9 Extinguishment of claims.

No action to enforce a claim in respect of a liability incurred under section 1 of this Act shall be entertained by any court in the United Kingdom unless the action is commenced not later than three years after the claim arose nor later than six years after the occurrence or first of the occurrences resulting in the discharge or escape **[**[F13], or (as the case may be) in the relevant threat of contamination,**]** by reason of which the liability was incurred.

Textual Amendments

F13 Words inserted (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 7**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) insertion fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

10 Compulsory insurance against liability for pollution.

(1) Subject to the provisions of this Act relating to Government ships, subsection (2) of this section shall apply to any ship carrying in bulk a cargo of more than 2,000 tons ofpersistent oil of a description specified in regulations made by the Secretary of State.

(2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is registered in the United Kingdom, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) of this section and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Convention (cover for owner's liability).

(3) The certificate must be—

(a) if the ship is registered in the United Kingdom, a certificate issued by the Secretary of State;

(b) if the ship is registered in a Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Convention country; and

(c) if the ship is registered in a country which is not a Convention country, a certificate issued by the Secretary of State ora certificate recognised for the purposes of this paragraph by regulations made under this section.

(4) The Secretary of State may by regulations provide that certificates in respect of ships registered in any, or any specified, country which is not a Convention country shall, in such circumstances as may be specified in the regulations, be recognised for the purposes of subsection (3)(c) of this section if issued by or under the authority of the government of the country designated in the regulations in that behalf; and the country that may be so designated may be either or both of the following, that is to say—

(a) the country in which the ship is registered; and

(b) any country specified in the regulations for the purposes of this paragraph.

(5) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of customs or of the **[**[F14]Department of the Secretary of State**]** and, if the ship is registered in the United Kingdom, to any proper officer within the meaning of section 97(1) of the [M9]Merchant Shipping Act 1970.

(6) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) of this section, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding **[**[F15]£50,000**]**.

(7) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (5) of this section the master shall be liable on summary conviction to a fine not exceeding **[**[F16]level 4 on the standard scale**]**.

(8) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

(9) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F14 Words substituted by virtue of S.I. 1974/692, **arts. 2**, 5(3)

F15 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

F16 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C5 S. 10(2) amended by Merchant Shipping Act 1979 (c. 39), **ss. 38(3)**, 52(2)

Marginal Citations

M9 1970 c. 36.

10 Compulsory insurance against liability for pollution. U.K.

(1) Subject to the provisions of this Act relating to Government ships, subsection (2) of this section shall apply to any ship carrying in bulk a cargo of more than 2,000 tons of **[**[F29]persistent**]** oil of a description specified in regulations made by the Secretary of State.

(2) The ship shall not enter or leave a port in the United Kingdom or arrive at or leave a terminal in the territorial sea of the United Kingdom nor, if the ship is registered in the United Kingdom, a port in any other country or a terminal in the territorial sea of any other country, unless there is in force a certificate complying with the provisions of subsection (3) of this section and showing that there is in force in respect of the ship a contract of insurance or other security satisfying the requirements of Article VII of the Convention (cover for owner's liability).

(3) The certificate must be—

(a) if the ship is registered in the United Kingdom, a certificate issued by the Secretary of State;

(b) if the ship is registered in a Convention country other than the United Kingdom, a certificate issued by or under the authority of the government of the other Convention country; and

(c) if the ship is registered in a country which is not a Convention country, a certificate issued by the Secretary of State or **[**[F30]a certificate recognised for the purposes of this paragraph by regulations made under this section**]**[[F30]by or under the authority of the government of any Convention country other than the United Kingdom**]**.

[[F31](4) The Secretary of State may by regulations provide that certificates in respect of ships registered in any, or any specified, country which is not a Convention country shall, in such circumstances as may be specified in the regulations, be recognised for the purposes of subsection (3)(c) of this section if issued by or under the authority of the government of the country designated in the regulations in that behalf; and the country that may be so designated may be either or both of the following, that is to say—

(a) the country in which the ship is registered; and

(b) any country specified in the regulations for the purposes of this paragraph.**]**

(5) Any certificate required by this section to be in force in respect of a ship shall be carried in the ship and shall, on demand, be produced by the master to any officer of customs or of the **[**[F32]Department of the Secretary of State**]** and, if the ship is registered in the United Kingdom, to any proper officer within the meaning of section 97(1) of the [M17]Merchant Shipping Act 1970.

(6) If a ship enters or leaves, or attempts to enter or leave, a port or arrives at or leaves, or attempts to arrive at or leave, a terminal in contravention of subsection (2) of this section, the master or owner shall be liable on conviction on indictment to a fine, or on summary conviction to a fine not exceeding **[**[F33]£50,000**]**.

(7) If a ship fails to carry, or the master of a ship fails to produce, a certificate as required by subsection (5) of this section the master shall be liable on summary conviction to a fine not exceeding **[**[F34]level 4 on the standard scale**]**.

(8) If a ship attempts to leave a port in the United Kingdom in contravention of this section the ship may be detained.

(9) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F29 Word repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 57(5), 58(2), Sch. 4 Pt. I para. 8(a), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)(which (*prosp.*) repeal fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F30 Words commencing "by or under" substituted (*prosp.*) for words commencing "a certificate recognised" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 8(b)**, (with s. 58(4), Sch. 8 para. 1)(which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F31 S. 10(4) repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 57(5), 58(2), Sch. 4 Pt. I para. 8(c), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)(which (*prosp.*) repeal fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F32 Words substituted by virtue of S.I. 1974/692, **arts. 2**, 5(3)

F33 Words substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, **Sch. 5**, (with s. 58(4), Sch. 8 para. 1)

F34 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **s. 46**; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **s. 289G** and (N.I.) S.I. 1984/703 (N.I. 3), **art. 5**

Modifications etc. (not altering text)

C9 S. 10(2) amended by Merchant Shipping Act 1979 (c. 39), **ss. 38(3)**, 52(2)

Marginal Citations

M17 1970 c. 36.

11 Issue of certificate by Secretary of State.

(1) Subject to subsection (2) of this section, if the Secretary of State is satisfied, on an application for such a certificate as is mentioned in section 10 of this Act in respect of a ship registered in the United Kingdom or any country which is not a Convention country, that there will be in force in respect of the ship, throughout the period for which the certificate is to be issued, a contract of insurance or other security satisfying the requirements of Article VII of the Convention, the Secretary of State shall issue such a certificate to the owner.

(2) If the Secretary of State is of opinion that there is a doubt whether the person providing the insurance or other security will be able to meet his obligations thereunder, or whether the insurance or other security will cover the owner's liability under section 1 of this Act in all circumstances, he may refuse the certificate.

(3) The Secretary of State may make regulations—

(a) prescribing the fee to be paid on an application for a certificate to be issued by him under this section; and

(b) providing for the cancellation and delivery up of such a certificate in such circumstances as may be prescribed by the regulations.

(4) If a person required by regulations under subsection (3)(b) of this section to deliver up a certificate fails to do so he shall be liable on summary conviction to a fine not exceeding **[**[F17]level 4 on the standard scale**]**.

(5) The Secretary of State shall send a copy of any certificate issued by him under this section in respect of a ship registered in the United Kingdom to the Registrar General of Shipping and Seamen, and the Registrar shall make the copy available for public inspection.

(6) Regulations under this section shall be made by statutory instrument, which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Textual Amendments

F17 Words substituted by virtue of (E.W.) Criminal Justice Act 1982 (c. 48, SIF 39:1), **ss. 38**, 46; (S.) Criminal Procedure (Scotland) Act 1975 (c. 21, SIF 39:1), **ss. 289F**, 289G and (N.I.) S.I. 1984/703 (N.I. 3), **arts. 5**, 6

Modifications etc. (not altering text)

C6 S. 11(1) amended by Merchant Shipping Act 1979 (c. 39), **ss. 38(3)**, 52(2)

12 Rights of third parties against insurers.

(1) Where it is alleged that the owner of a ship has incurred a liability under section 1 of this Act as a result of any discharge or escape of oil occurring while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 10 of this Act related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability) to prove that the discharge or escape was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escapeoccurred without the owner's actual fault or privity.

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(5) The [M10]Third Parties (Rights against Insurers) Act 1930 and the [M11]Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 10 of this Act relates.

Marginal Citations

M10 1930 c. 25.

M11 1930 c. 19 (N.I.)

12 Rights of third parties against insurers. U.K.

(1) Where it is alleged that the owner of a ship has incurred a liability under section 1 of this Act as a result of any discharge or escape of oil occurring **[**[F35], or as a result of any relevant threat of contamination arising,**]** while there was in force a contract of insurance or other security to which such a certificate as is mentioned in section 10 of this Act related, proceedings to enforce a claim in respect of the liability may be brought against the person who provided the insurance or other security (in the following provisions of this section referred to as "the insurer").

(2) In any proceedings brought against the insurer by virtue of this section it shall be a defence (in addition to any defence affecting the owner's liability) to prove that the discharge or escape **[**[F36], or (as the case may be) the threat of contamination,**]** was due to the wilful misconduct of the owner himself.

(3) The insurer may limit his liability in respect of claims made against him by virtue of this section in like manner and to the same extent as the owner may limit his liability but the insurer may do so whether or not the discharge or escape **[**[F37]occurred without the owner's actual fault or privity**][**[F37], or (as the case may be) the threat of contamination, resulted from anything done or omitted to be done by the owner as mentioned in section 4(3) of this Act**]**.

(4) Where the owner and the insurer each apply to the court for the limitation of his liability any sum paid into court in pursuance of either application shall be treated as paid also in pursuance of the other.

(5) The [M18]Third Parties (Rights against Insurers) Act 1930 and the [M19]Third Parties (Rights against Insurers) Act (Northern Ireland) 1930 shall not apply in relation to any contract of insurance to which such a certificate as is mentioned in section 10 of this Act relates.

Textual Amendments

F35 Words inserted (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 9(a)**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) insertion fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F36 Words inserted (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 9(b)**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*.) insertion fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F37 Words commencing “, or (as the case may be)” substituted (*prosp.*) for words commencing “occurred without” by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 9(c)**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

Marginal Citations

M18 1930 c. 25.

M19 1930 c. 19 (N.I.)

13 Jurisdiction of United Kingdom courts and registration of foreign judgments.

(1) **[**[F18]Paragraph 1(1)(*d*) of Schedule 1 to the Administration of Justice Act 1956**]** (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability incurred under this Act, and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.

(2) Where any persistent oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the area of the United Kingdom and no measures are reasonably taken to prevent or reduce such damage in that area, no court in the United Kingdom shall entertain an action (whether in rem or in personam) to enforce a claim arising from—

(a) any damage caused in the area of another Convention country by contamination resulting from the discharge or escape;

(b) any cost incurred in taking measures to prevent or reduce such damage in the area of another Convention country; or

(c) any damage caused by any measures so taken.

(3) Part I of the [M12]Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 1 of this Act; and in its application to such a judgment that Part shall have effect with the omission of subsections (2) and (3) of section 4 of that Act.

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping (Oil Pollution) Act 1971 (repealed 1.1.1996). (See end of Document for details)*

Textual Amendments

F18 Words substituted by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(1), **Sch. 5**

Marginal Citations

M12 1933 c. 13.

13 Jurisdiction of United Kingdom courts and registration of foreign judgments. U.K.

(1) **[**[F38]Paragraph 1(1)(*d*) of Schedule 1 to the Administration of Justice Act 1956**]** (Admiralty jurisdiction in claims for damage done by ships) shall be construed as extending to any claim in respect of a liability incurred under this Act, and the Admiralty jurisdiction of the Court of Session shall extend to any case arising out of any such claim.

[[F39](2) Where any persistent oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the area of the United Kingdom and no measures are reasonably taken to prevent or reduce such damage in that area, no court in the United Kingdom shall entertain an action (whether in rem or in personam) to enforce a claim arising from—

(a) any damage caused in the area of another Convention country by contamination resulting from the discharge or escape;

(b) any cost incurred in taking measures to prevent or reduce such damage in the area of another Convention country; or

(c) any damage caused by any measures so taken.**]**

[[F39](2) Where—

(a) any oil is discharged or escapes from a ship but does not result in any damage caused by contamination in the area of the United Kingdom and no measures are reasonably taken to prevent or minimise such damage in that area, or

(b) any relevant threat of contamination arises but no measures are reasonably taken to prevent or minimise damage caused by contamination in the area of the United Kingdom resulting from a discharge or escape of oil from the ship,

no court in the United Kingdom shall entertain any action (whether in rem or in personam) to enforce a claim arising from any relevant damage or cost—

(i) against the owner of the ship, or

(ii) against any person to whom section 3(1)(ii) of this Act applies, unless any such damage or cost resulted from anything done or omitted to be done as mentioned in that provision.

(2A) In subsection (2) of this section "relevant damage or cost" means—

(a) in relation to any such discharge or escape as is mentioned in paragraph (a) of that subsection, any damage caused in the area of another Convention country by contamination resulting from the discharge or escape, or any cost incurred in taking measures to prevent or minimise such damage in the area of another Convention country;

(b) in relation to any such threat of contamination as is mentioned in paragraph (b) of that subsection, any cost incurred in taking measures to prevent or minimise damage caused by contamination in the area of another Convention country resulting from a discharge or escape of oil from the ship; or

(c) any damage caused by any measures taken as mentioned in paragraph (a) or (b) above;

and section 3(2)(e) of this Act shall have effect for the purposes of subsection (2)(ii) of this section as if it referred to any person taking any such measures as are mentioned in paragraph (a) or (b) above.**]**

(3) Part I of the [M20]Foreign Judgments (Reciprocal Enforcement) Act 1933 shall apply, whether or not it would so apply apart from this section, to any judgment given by a court in a Convention country to enforce a claim in respect of a liability incurred under any provision corresponding to section 1 of this Act; and in its application to such a judgment that Part shall have effect with the omission of subsections (2) and (3) of section 4 of that Act.

Textual Amendments

F38 Words substituted by Supreme Court Act 1981 (c. 54, SIF 37), s. 152(1), **Sch. 5**

F39 S. 13(2)(2A) substituted (*prosp.*) for s. 13(2) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 10**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

Marginal Citations

M20 1933 c. 13.

14 Government ships.

(1) Nothing in the preceding provisions of this Act applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with subsection (2) of section 10 of this Act if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Convention will be met up to the limit prescribed by **[**[F19]Article V of the Convention as amended by Article II of the protocol dated 19th November 1976 to the Convention**]**.

(3) Every Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 1 of this Act, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any State.

Textual Amendments

F19 Words substituted by Merchant Shipping Act 1979 (c. 39), **ss. 38(3)**, 52(2)

Status: *Point in time view as at 01/02/1991.*
Changes to legislation: *There are currently no known outstanding effects for the Merchant Shipping (Oil Pollution) Act 1971 (repealed 1.1.1996). (See end of Document for details)*

14 Government ships. U.K.

(1) Nothing in the preceding provisions of this Act applies in relation to any warship or any ship for the time being used by the government of any State for other than commercial purposes.

(2) In relation to a ship owned by a State and for the time being used for commercial purposes it shall be a sufficient compliance with subsection (2) of section 10 of this Act if there is in force a certificate issued by the government of that State and showing that the ship is owned by that State and that any liability for pollution damage as defined in Article I of the Convention will be met up to the limit prescribed by **[**[F40]**[**[F41]Article V of the Convention as amended by Article II of the protocol dated 19th November 1976 to the Convention**]]**[[F40]Article V of the Convention**]**.

(3) Every Convention State shall, for the purposes of any proceedings brought in a court in the United Kingdom to enforce a claim in respect of a liability incurred under section 1 of this Act, be deemed to have submitted to the jurisdiction of that court, and accordingly rules of court may provide for the manner in which such proceedings are to be commenced and carried on; but nothing in this subsection shall authorise the issue of execution, or in Scotland the execution of diligence, against the property of any State.

Textual Amendments

F40 Words "Article V of the Convention" substituted (*prosp.*) for words commencing "Article V of the Convention as amended" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 11**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1988 c. 12, s. 34, **Sch. 4** by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F41 Words substituted by Merchant Shipping Act 1979 (c. 39), **ss. 38(3)**, 52(2)

15 Liability for cost of preventive measures where s. 1 does not apply.

(1) Where,—

[[F20](a) after an escape or discharge of . . . [F21]oil from a ship, measures are reasonably taken for the purpose of preventing or reducing damage in the area of the United Kingdom which may be caused by contamination resulting from the discharge or escape; and**]**

[[F20](a) after a discharge or escape of oil from a ship, measures are reasonably taken for the purpose of preventing or minimising damage in the area of the United Kingdom which may be caused outside the ship by contamination resulting from the discharge or escape; and**]**

(b) any person incurs, or might but for the measures have incurred, a liability, otherwise than under section 1 of this Act, for any such damage;

then, notwithstanding that subsection (1)(b) of that section does not apply, he shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

[[F22](1A) Where—

(a) after there has arisen a grave and imminent threat of damage being caused outside a ship by contamination resulting from a discharge or escape of oil from the ship, measures are reasonably taken for the purpose of preventing or minimising any such damage in the area of the United Kingdom, but

(b) section 1(2) of this Act does not apply,

the owner of the ship shall be liable for the cost of the measures, whether or not the person taking them does so for the protection of his interests or in the performance of a duty.

(1B) Where a person is, by virtue of subsection (1) or (1A) of this section, liable for the cost of any measures, he shall also be liable for any damage caused in the area of the United Kingdom by those measures.**]**

[[F23](2) For the purposes of section 17 of the [M13]Merchant Shipping Act 1979 (limitation of liability) any liability incurred under this section shall be deemed to be a liability in respect of such damage to property as is mentioned in paragraph 1(a) of article 2 of the Convention in Part I of Schedule 4 to that Act.**]**

Textual Amendments

F20 S. 15(1)(a) commencing "after a discharge" substituted (*prosp.*) for s. 15(1)(a) commencing "after an escape" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 12(a)**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1998 c. 12 s. 34, Sch. 4 by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F21 Word repealed (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 57(5), 58(2), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) repeal fell (1.5.1994) by the repeal of 1998 c. 12 s. 34, Sch. 4 by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

F22 s. 15(1A)(1B) inserted (*prosp.*) by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 12(b)**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) insertion fell (1.5.1994) by the repeal of 1998 c. 12 s. 34, Sch. 4 by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch. 2**)

F23 S. 15(2) substituted by Merchant Shipping Act 1979 (c. 39), ss. 19(4), 52(2), **Sch. 5 para. 6(2)**

Marginal Citations

M13 1979 c. 39.

16 Saving for recourse actions.

Nothing in this Act shall prejudice any claim, or the enforcement of any claim, a person incurring any liability under this Act may have against another person in respect of that liability.

17 Application to hovercraft.

The enactments and instruments with respect to which provision may be made by an Order in Council under section 1(1)(h) of the [M14]Hovercraft Act 1968 shall include this Act and any instrument made under it.

Marginal Citations

M14 1968 c. 59.

18 Extension to British possessions, etc.

(1) Her Majesty may by Order in Council direct that this Act shall extend, subject to such exemptions, modifications or adaptations as may be specified in the Order, to any of the following countries, that is to say—

(a) the Isle of Man;

(b) any of the Channel Islands;

(c) any colony other than one for whose external relations a country other than the United Kingdom is responsible;

(d) any country outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of Her Majesty's Government of the United Kingdom.

(2) Her Majesty may by Order in Council provide that this Act shall have effect as if any reference therein to the United Kingdom included a reference to any of the countries mentioned in the preceding subsection.

(3) Any statutory instrument made by virtue of subsection (2) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Modifications etc. (not altering text)

C7 S. 18 explained by Merchant Shipping Act 1979 (c. 39), **s. 38(5)**

19 Meaning of "the Convention," "Convention country" and "Convention State."

(1) In this Act—

"the Convention" means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969;

"Convention country" means a country in respect of which the Convention is in force; and

"Convention State" means a State which is a party to the Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of any country so specified the Order shall, while in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

19 Meaning of "the Convention," "Convention country" and "Convention State." U.K.

(1) In this Act—

[F42"the Convention" means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969;]

[F42"the Convention"means the International Convention on Civil Liability for Oil Pollution Damage 1984;]

"Convention country" means a country in respect of which the Convention is in force; and

"Convention State" means a State which is a party to the Convention.

(2) If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of any country so specified the Order shall, while

in force, be conclusive evidence that that State is a party to the Convention in respect of that country.

Textual Amendments

F42 Definition " "the Convention" means the International Convention on Civil Liability for Oil Pollution Damage 1984" substituted (*prosp.*) for definition " "the Convention"means the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969" by Merchant Shipping Act 1988 (c. 12, SIF 111), ss. 34, 58(2), **Sch. 4 Pt. I para. 13**, (with s. 58(4), Sch. 8 para. 1) (which (*prosp.*) substitution fell (1.5.1994) by the repeal of 1998 c. 12 s. 34, Sch. 4 by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**)

20 Interpretation of other expressions.

(1) In this Act—

"damage" includes loss;

"owner", in relation to a registered ship, means the person registered as its owner, except that in relation to a ship owned by a State which is operated by a person registered as the ship's operator, it means the person registered as its operator;

"the court" means the High Court in England and Wales, the Court of Session or the High Court in Northern Ireland or a judge thereof.

(2) In relation to any damage or cost resulting from the discharge or escape of any oil carried in a ship references in this Act to the owner of the ship are references to the owner at the time of the occurrence or first of the occurrences resulting in the discharge or escape.

(3) References in this Act to the area of any country include the territorial sea of that country.

21 Citation, construction, commencement and extent.

(1) This Act may be cited as the Merchant Shipping (Oil Pollution) Act 1971, and this Act and the Merchant Shipping Acts 1894 to 1970 may be cited together as the Merchant Shipping Acts 1894 to 1971.

(2) This Act shall be construed as one with the Merchant Shipping Acts 1894 to 1970.

(3) This Act shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be so appointed for different provisions of this Act.

(4) This Act extends to Northern Ireland.

Modifications etc. (not altering text)

C8 Power of appointment conferred by s. 21(3) fully exercised: S.I. 1971/1423, 1975/867

Status:
Point in time view as at 01/02/1991.

Changes to legislation:
There are currently no known outstanding effects for the Merchant Shipping (Oil Pollution) Act 1971 (repealed 1.1.1996).