



# Merchant Shipping Act 1974

## 1974 CHAPTER 43

### PART I

#### THE INTERNATIONAL OIL POLLUTION COMPENSATION FUND

##### *Indemnification of shipowners*

- 5 Indemnification where damage is caused by ship registered in Fund Convention country**
- (1) Where a liability is incurred under section 1 of the Act of 1971 in respect of a ship registered in a Fund Convention country the Fund shall indemnify the owner and his guarantor for that portion of the aggregate amount of the liability which—
    - (a) is in excess of an amount equivalent to 1500 francs for each ton of the ship's tonnage or of an amount of 125 million francs, whichever is the less, and
    - (b) is not in excess of an amount equivalent to 2000 francs for each ton of the said tonnage or an amount of 210 million francs, whichever is the less.
  - (2) Where proceedings under the Liability Convention for compensation for pollution damage have been brought in a country which is not a Fund Convention country (but is a country in respect of which the Liability Convention is in force), and either—
    - (a) the incident has caused pollution damage in the United Kingdom (as well as in that other country); or
    - (b) the headquarters of the Fund is for the time being in the United Kingdom,subsection (1) above shall apply with the omission of the words " under section 1 of the Act of 1971 ".
  - (3) The Fund shall not incur an obligation under this section where the pollution damage resulted from the wilful misconduct of the owner.
  - (4) In proceedings to enforce the Fund's obligation under this section the court may exonerate the Fund wholly or partly if it is proved that, as a result of the actual fault or privity of the owner—

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*Status: This is the original version (as it was originally enacted).*

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- (a) the ship did not comply with such requirements as the Secretary of State may by order prescribe for the purposes of this section, and
  - (b) the occurrence or damage was caused wholly or partly by that non-compliance.
- (5) The requirements referred to in subsection (4) above are such requirements as appear to the Secretary of State appropriate to implement the provisions of—
- (a) article 5(3) of the Fund Convention (marine safety conventions), and
  - (b) article 5(4) of the Fund Convention (which enables the Assembly of the Fund to substitute new conventions).
- (6) An order made under subsection (4) above—
- (a) may be varied or revoked by a subsequent order so made, or
  - (b) may contain such transitional or other supplemental provisions as appear to the Secretary of State to be expedient, and
  - (c) shall be contained in a statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (7) Expenses reasonably incurred, and sacrifices reasonably made, by the owner voluntarily to prevent or minimise the pollution damage shall be treated as included in the owner's liability for the purposes of this section.