

Status: Point in time view as at 01/05/1994.

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SCHEDULES

SCHEDULE 1

Sections 4(10) 6(5).

OVERALL LIMIT ON LIABILITY OF FUND

Article 4—paragraphs 4, 5 and 6

- 4
- (a) Except as otherwise provided in sub-paragraph (b) of this paragraph, the aggregate amount of compensation payable by the Fund under this Article shall in respect of any one incident be limited, so that the total sum of that amount and the amount of compensation actually paid under the Liability Convention for pollution damage caused in the territory of the Contracting States, including any sums in respect of which the Fund is under an obligation to indemnify the owner pursuant to Article 5, paragraph 1, of this Convention, shall not exceed [^{F1}30 million special drawing rights].
 - (b) The aggregate amount of compensation payable by the Fund under this Article for pollution damage resulting from a natural phenomenon of an exceptional, inevitable and irresistible character shall not exceed [^{F1}30 million special drawing rights].

Textual Amendments

F1 Words substituted (*prosp.*) by [Merchant Shipping Act 1979 \(c. 39\), ss. 38\(4\)\(g\), 52\(2\)](#)

- 5
- Where the amount of established claims against the Fund exceeds the aggregate amount of compensation payable under paragraph 4, the amount available shall be distributed in such a manner that the proportion between any established claim and the amount of compensation actually recovered by the claimant under the Liability Convention and this Convention shall be the same for all claimants.
- 6
- The Assembly of the Fund (hereinafter referred to as “the Assembly”) may, having regard to the experience of incidents which have occurred and in particular the amount of damage resulting therefrom and to changes in the monetary values, decide that the amount of [^{F2}30 million special drawing rights] referred to in paragraph 4, subparagraph (a) and (b), shall be changed; provided, however, that this amount shall in no case exceed [^{F2}60 million special drawing rights] or be lower than [^{F2}30 million special drawing rights]. The changed amount shall apply to incidents which occur after the date of the decision effecting the change.

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Textual Amendments

F2 Words substituted (*prosp.*) by Merchant Shipping Act 1979 (c. 39), **ss. 38(4)(g), 52(2)**

SCHEDULES 2, 3

. . . **F3**

Textual Amendments

F3 Schs. 2, 3 repealed by S.I. 1983/1106, art. 2, **Sch. 2**

SCHEDULE 4

Section 14(12).

PROTECTION OF SHIPPING AND TRADING INTERESTS

Customs powers

- 1 (1) An order made under the principal section with the consent of the Commissioners of Customs and Excise may provide for the enforcement and execution of any order or direction under the principal section by officers of customs and excise.
- (2) Officers of customs and excise acting under any provision made under subparagraph (1) above shall have power to enter any premises or vessel.
- (3) [^{F4}Section 65 of the ^{M1}Customs and Excise Management Act 1979] (power to refuse or cancel clearance of ship or aircraft) shall apply as if the principal section and this Schedule were contained in that Act.

Textual Amendments

F4 Words substituted by Customs and Excise Management Act 1979 (c. 2), **Sch. 4 para. 12** Table Pt. I

Marginal Citations

M1 1979 c. 2.

[^{F5} *Orders imposing charges, taxes or duties*]

Textual Amendments

F5 Sch. 4 para. 2 substituted by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 38(8)** (with s. 58(4), Sch. 8 para. 1)

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- 2 (1) An order under subsection (3)(d) or (e) of the principal section—
- (a) may apply to ships of any description specified in the order, and may apply in particular to ships registered in a specified country, or to ships carrying goods or cargoes of a specified description, or providing any other specified shipping services (within the meaning of the principal section), and
 - (b) may contain such provisions as appear to the Secretary of State expedient to enable the Commissioners of Customs and Excise to collect any charge, tax or duty imposed by the order, and
 - (c) may apply, subject to any modifications or exceptions specified in the order, any of the enactments for the time being in force relating to duties (whether of customs or excise) chargeable on goods imported into the United Kingdom.
- (2) Any charge, tax or duty so imposed may be a fixed amount, or an amount depending on the tonnage of the ship.
- (3) Any such charge, tax or duty shall be payable to the Secretary of State.
- (4) An order shall not be made by the Secretary of State under subsection (3)(d) or (e) of the principal section except with the consent of the Treasury.
- (5) Nothing in this paragraph prejudices subsection (6) of that section.

Criminal proceedings

- 3 A person shall not be guilty of an offence against any provision contained in or having effect under the principal section or this Schedule by reason only of something done by that person wholly outside the area of the United Kingdom unless that person is a British subject or a company incorporated under the law of any part of the United Kingdom.

Interpretation

- 4 In the principal section “port” includes an off-shore terminal, and references to entering or leaving a port shall include references to using or ceasing to use an off-shore terminal.

SCHEDULE 5

Section 17(3).

REGULATIONS RELATING TO SUBMERSIBLE AND SUPPORTING APPARATUS

Subordinate Legislation Made

P1 [Sch. 5: s. 17 \(with Sch. 5\) power exercised by S.I.1991/784.](#)

P2 [Sch. 5: for previous exercises of this power see Index to Government Orders.](#)

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- 1 (1) In this Schedule “regulations” means regulations made under section 17 of this Act, and “prescribed” means prescribed by regulations.
- (2) Nothing in this Schedule shall be taken to prejudice the generality of section 17 of this Act.

Registration of submersible apparatus

- 2 Regulations made by virtue of section 17(1)(e) of this Act may make provision—
- (a) for all matters relevant to the maintenance of a register of submersible apparatus,
 - (b) without prejudice to sub-paragraph (a) above, for the period for which any registration or exemption is to remain effective without renewal, the alteration or cancellation in any prescribed circumstances of registration or exemption or of any conditions attached thereto, the person by whom and manner in which applications in connection with any registration or exemption are to be made, and information and evidence to be furnished in connection with any such application,
 - (c) for the marking or other means of identification of any submersible apparatus,
 - (d) for the issue of certificates of registration or exemption, and the custody, surrender, production or display of the certificates or copies of them,
 - (e) for matters arising out of the termination of any registration or exemption, or any conditions attached thereto.

Offences

- 3 (1) Subject to sub-paragraph (2) below, regulations—
- (a) may provide for the creation of offences and for their punishment on summary conviction or on conviction on indictment, and
 - (b) may afford, in respect of any description of offence created by the regulations, such defence (if any) as may be prescribed.
- (2) The punishment for an offence created by regulations shall be—
- (a) [^{F6}on summary conviction a fine not exceeding £1,000],
 - (b) on conviction on indictment imprisonment for a term not exceeding 2 years, or a fine, or both,
- but without prejudice to any further restriction contained in the regulations on the punishments which can be awarded and without prejudice to the exclusion by the regulations of proceedings on indictment.

Textual Amendments

F6 Words substituted by [Merchant Shipping Act 1979 \(c. 39\), Sch. 6 Pt. VI para. 20](#)

Modifications etc. (not altering text)

C1 [Sch. 5 para. 3](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(1\)](#)

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Exemptions from regulations

- 4 (1) The operation of any regulations may be excluded in whole or in part in relation to any class or description of submersible or supporting apparatus by regulations, or in relation to any particular apparatus by the direction of the Secretary of State given in such manner as he thinks appropriate.
- (2) Any exemption or exclusion by regulations or by directions of the Secretary of State under this paragraph may be made subject to the imposition of conditions specified by the regulations or directions.
- (3) Where, in pursuance of this paragraph, a person is exempted or excluded from the requirements of the provisions of regulations but, subject to a condition, and the condition is not observed, the exemption or exclusion shall not have effect, and accordingly proceedings may be brought in respect of any offence created by the regulations.

General

- 5 Regulations—
- (a) may provide for their operation anywhere outside the United Kingdom and for their application to persons, whether or not British subjects, and to companies, whether or not incorporated under the law of any part of the United Kingdom,
 - (b) may provide that in any proceedings for an offence under the regulations [F7(other than proceedings to which paragraph (bb) below applies)]an averment in any process of the fact that anything was done or situated within waters to which this Act applies shall, until the contrary is proved, be sufficient evidence of that fact as stated in the averment,
 - [F8(bb) may provide that in any proceedings in Scotland for an offence under the regulations a statement in any complaint or indictment of any such fact as is mentioned in sub-paragraph (b) above shall, until the contrary is proved, be sufficient evidence of the fact as so stated,]
 - (c) may provide that proceedings for any offence under the regulations may be taken, and the offence be treated for all incidental purposes as having been committed, in any place in the United Kingdom,
 - (d) may provide for any provisions of the Merchant Shipping Acts 1894 to 1970 relating to inquiries and investigations into shipping casualties to apply (with such modifications as may be specified) in relation to casualties involving any submersible apparatus which is not a ship as they apply to ships,
 - (e) may provide that specified provisions of any enactment (other than this Act) shall, in such circumstances as may be prescribed, not have effect in relation to such class or description of, or to such particular, submersible or supporting apparatus as may be prescribed;
 - (f) may make different provision for different classes or descriptions of submersible or supporting apparatus and for different circumstances,
 - (g) may contain such supplemental, and incidental provisions as appear to the Secretary of State to be expedient, ^{F9}. . .

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Textual Amendments

- F7** Words in Sch. 5 para. 5(b) inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 77(a)**; S.I. 1993/3137, art. 3(2), **Sch.2**
- F8** Sch. 5 para. 5(bb) inserted (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4 para. 77(b)**; S.I. 1993/3137, art. 3(2), **Sch.2**
- F9** Words in Sch. 5 para. 5(g) repealed (1.5.1994) by 1993 c. 22, s. 8(4), **Sch. 5 Pt.II**; S.I. 1993/3137, art. 3(2), **Sch.2**

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