



# Merchant Shipping Act 1979

## 1979 CHAPTER 39

**U.K.**

An Act to make amendments of the law relating to pilotage, carriage by sea, liability of shipowners and salvors and pollution from ships and other amendments of the law relating to shipping, pollution and seamen. [4th April 1979]

1–12 .....<sup>F1</sup> **U.K.**

### Textual Amendments

**F1** Ss. 1–13(3) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

13 **U.K.**

- (1) .....<sup>F2</sup>  
(4) .....<sup>F3</sup>  
(5) .....<sup>F4</sup>

### Textual Amendments

- F2** Ss. 1–13(3) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4  
**F3** S. 13(4) repealed (with saving) by Pilotage Act 1983 (c. 21, SIF 111), s. 69, Sch. 2 para. 4, Sch. 4  
**F4** S. 13(5) repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

### *Carriage of passengers and luggage by sea*

#### **14 Scheduled convention to have force of law. U.K.**

- (1) The provisions of the Convention relating to the Carriage of Passengers and their Luggage by Sea as set out in Part I of Schedule 3 to this Act (hereafter in this section and in Parts II and III of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention and the preceding subsection shall have effect subject to the provisions of that Part.
- (3) On and after the date when this subsection and Part III of Schedule 3 to this Act come into force Parts I and II of that Schedule shall have effect with the modifications specified in the said Part III.
- (4) If it appears to Her Majesty in Council that there is a conflict between the provisions of this section or of Part I or II of Schedule 3 to this Act and any provisions relating to the carriage of passengers or luggage for reward by land, sea or air—
  - (a) any convention which has been signed or ratified by or on behalf of the government of the United Kingdom before the passing of this Act (excluding the Convention); or
  - (b) any enactment of the Parliament of the United Kingdom giving effect to such a convention,

She may by Order in Council make such modifications of this section or that Schedule or any such enactment as She considers appropriate for resolving the conflict.
- (5) If it appears to Her Majesty in Council that the government of the United Kingdom has agreed to any revision of the Convention She may by Order in Council make such modifications of Parts I and II of Schedule 3 to this Act as She considers appropriate in consequence of the revision.
- (6) Nothing in subsection (1), (2) or (3) of this section or in any modification made by virtue of subsection (4) or (5) of this section shall affect any rights or liabilities arising out of an occurrence which took place before the day on which the said subsection (1), (2) or (3), or as the case may be the modification, comes into force.
- (7) This section shall bind the Crown, and any Order in Council made by virtue of this section may provide that the Order or specified provisions of it shall bind the Crown.

#### **15 Provisions supplementary to s. 14. U.K.**

- (1) Her Majesty may by Order in Council provide that the preceding section and Schedule 3 to this Act shall extend, with such modifications, if any, as are specified in the Order, to any of the following countries, namely—
  - (a) the Isle of Man;
  - (b) any of the Channel Islands;
  - (c) any colony;
  - (d) any country outside Her Majesty’s dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom.
- (2) A draft of an Order in Council proposed to be made by virtue of subsection (4) or (5) of the preceding section shall not be submitted to Her Majesty in Council unless

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the draft has been approved by a resolution of each House of Parliament; and any statutory instrument made by virtue of subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

- (3) An order made by virtue of section 52(2) of this Act which appoints a day for the coming into force of Part III of Schedule 3 to this Act may contain such transitional provisions as the Secretary of State considers appropriate in connection with the coming into force of that Part.

## **16 Application of Schedule 3 to international carriage before coming into force of s. 14(1) and (2) and to domestic carriage. U.K.**

- (1) Her Majesty may by Order in Council provide that, during any period before the coming into force of subsections (1) and (2) of section 14 of this Act, Part I of Schedule 3 to this Act—
- (a) shall have the force of law in the United Kingdom, with such modifications as are specified in the Order, in relation to, and to matters connected with, any contract of carriage for international carriage which is made in the United Kingdom and any contract of carriage for international carriage under which a place in the United Kingdom is the place of departure or destination; and
  - (b) shall, as modified in pursuance of the preceding paragraph, have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the Order.
- (2) Her Majesty may by Order in Council provide that Part I of Schedule 3 to this Act—
- (a) shall have the force of law in the United Kingdom, with such modifications as are specified in the Order, in relation to, and to matters connected with, a contract of carriage where the places of departure and destination under the contract are in the area consisting of the United Kingdom, the Channel Islands and the Isle of Man and under the contract there is no intermediate port of call outside that area; and
  - (b) shall, as modified in pursuance of the preceding paragraph, have effect in relation to, and to matters connected with, any such contract subject to the provisions of Part II of that Schedule or to those provisions with such modifications as are specified in the Order.
- (3) An Order in Council made by virtue of subsection (1) or (2) of this section may contain such provisions, including provisions modifying section 28 of the<sup>M1</sup>Unfair Contract Terms Act 1977 (which relates to certain contracts as respects which the Convention mentioned in section 14(1) of this Act does not have the force of law in the United Kingdom), as the Secretary of State considers appropriate for the purpose of dealing with matters arising in connection with any contract to which the said section 28 applies before the Order is made.
- (4) If an order appointing a day for the coming into force of subsections (1) and (2) of section 14 of this Act is made in pursuance of section 52(2) of this Act at a time when an Order in Council made by virtue of subsection (1) of this section is in force, the order appointing the day may contain such provisions as the Secretary of State considers appropriate (including provisions modifying provisions of Schedule 3 to this Act as they have effect by virtue of those subsections) for the purpose of dealing with matters arising, in connection with such a contract as is mentioned in subsection (1)

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of this section, in consequence of the coming into force of subsections (1) and (2) of the said section 14.

- (5) An Order in Council made by virtue of subsection (1) or (2) of this section may provide that the Order or specified provisions of it shall bind the Crown; but a draft of an Order in Council proposed to be made by virtue of either of those subsections shall not be submitted to Her Majesty in Council, and no order shall be made containing provisions authorised by the preceding subsection, unless the draft of the Order in Council or, as the case may be, a draft of the other order has been approved by a resolution of each House of Parliament.
- (6) In subsections (1) and (2) of this section expressions to which meanings are assigned by article 1 of the Convention set out as mentioned in section 14(1) of this Act have those meanings but any reference to a contract of carriage excludes such a contract which is not for reward.

#### Marginal Citations

M1 1977 c. 50.

### *Liability of shipowners and salvors*

#### 17 Limitation of liability. **U.K.**

- (1) The provisions of the Convention on Limitation of Liability for Maritime Claims 1976 as set out in Part I of Schedule 4 to this Act (hereafter in this section and in Part II of that Schedule referred to as “the Convention”) shall have the force of law in the United Kingdom.
- (2) The provisions of Part II of that Schedule shall have effect in connection with the Convention, and the preceding subsection shall have effect subject to the provisions of that Part.

#### Modifications etc. (not altering text)

C4 Ss. 17, 18 applied with modifications by S.I. 1986/1305, arts. 6, 8

#### 18 Exclusion of liability. **U.K.**

- (1) Subject to subsection (3) of this section, the owner of a British ship shall not be liable for any loss or damage in the following cases, namely—
- (a) where any property on board the ship is lost or damaged by reason of fire on board the ship; or
  - (b) where any gold, silver, watches, jewels or precious stones on board the ship are lost or damaged by reason of theft, robbery or other dishonest conduct and their nature and value were not at the time of shipment declared by their owner or shipper to the owner or master of the ship in the bill of lading or otherwise in writing.
- (2) Subject to subsection (3) of this section, where the loss or damage arises from anything done or omitted by any person in his capacity as master or member of the crew or

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(otherwise than in that capacity) in the course of his employment as a servant of the owner of the ship, the preceding subsection shall also exclude the liability of—

- (a) the master, member of the crew or servant; and
  - (b) in a case where the master or member of the crew is the servant of a person whose liability would not be excluded by that subsection apart from this paragraph, the person whose servant he is.
- (3) This section does not exclude the liability of any person for any loss or damage resulting from any such personal act or omission of his as is mentioned in article 4 of the Convention in Part I of Schedule 4 to this Act.
- (4) In this section “owner”, in relation to a ship, includes any part owner and any charterer, manager or operator of the ship.

**Modifications etc. (not altering text)**

**C5** Ss. 17, 18 applied with modifications by S.I. 1986/1305, arts. 6, 8

**C6** S. 18 restricted (I.5.1994) by 1993 c. 22, s. 8(3), Sch. 4 para.6(1)(b); S.I. 1993/3137, art. 3(2), Sch.2

**19 Provisions supplementary to ss. 17 and 18. U.K.**

- (1) The enactments mentioned in Schedule 5 to this Act shall have effect with the amendments there specified (which are consequential on sections 17 and 18 of this Act).
- (2) Her Majesty may by Order in Council provide that the said sections 17 and 18, the preceding subsection and Schedules 4 and 5 to this Act shall extend, with such modifications, if any, as are specified in the Order, to any of the following countries, namely—
  - (a) the Isle of Man;
  - (b) any of the Channel Islands;
  - (c) any colony;
  - (d) any country outside Her Majesty’s dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom.
- (3) Any statutory instrument made by virtue of the preceding subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Nothing in the said sections 17 and 18 or the said Schedule 4 shall apply in relation to any liability arising out of an occurrence which took place before the coming into force of those sections, and subsection (1) of this section and Schedule 5 to this Act shall not affect the operation of any enactment in relation to such an occurrence.

*Prevention of pollution from ships etc.*

**20 Prevention of pollution from ships etc. U.K.**

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of any of the following which have been ratified by the United Kingdom, namely—
  - (a) the International Convention for the Prevention of Pollution from Ships (including its protocols, annexes and appendices) which constitutes

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attachment 1 to the final act of the International Conference on Marine Pollution signed in London on 2nd November 1973;

- (b) the Protocol relating to Intervention on the High Seas in Cases of Marine Pollution by Substances other than Oil which constitutes attachment 2 to the final act aforesaid;
- (c) the Protocol relating to the said Convention which constitutes attachment 2 to the final act of the International Conference on Tanker Safety and Pollution Prevention signed in London on 17th February 1978;
- (d) any international agreement not mentioned in the preceding paragraphs which relates to the prevention, reduction or control of pollution of the sea or other waters by matter from ships;

and in paragraph (d) of this subsection the reference to an agreement includes an agreement which provides for the modification of another agreement, including the modification of an agreement mentioned in paragraphs (a) to (c) of this subsection.

- (2) The powers conferred by the preceding subsection to make provision for the purpose of giving effect to an agreement include power to provide for the provision to come into force although the agreement has not come into force.
- (3) Without prejudice to the generality of subsection (1) of this section, an Order under that subsection may in particular include provision—
  - (a) for applying for the purpose mentioned in that subsection any enactment or instrument relating to the pollution of the sea or other waters and any of the following enactments, namely—
    - sections 446 to 450 of the <sup>M2</sup>Merchant Shipping Act 1894 (which relate to dangerous goods),
    - sections [<sup>F5</sup>56] to 58 of the <sup>M3</sup>Merchant Shipping Act 1970 (which relate to investigations of shipping casualties),
    - sections 10 to 13 of and Schedules 2 and 3 to the <sup>M4</sup>Merchant Shipping Act 1974 (which relate to oil tankers);
  - (b) with respect to the carrying out of surveys and inspections for the purpose aforesaid, the issue, duration and recognition of certificates for that purpose and the payment in connection with such a survey, inspection or certificate of fees of amounts determined with the approval of the Treasury;
  - (c) for repealing the provisions of any enactment or instrument so far as it appears to Her Majesty that those provision are not required having regard to any provision made or proposed to be made by virtue of this section;
  - (d) with respect to the application of the Order to the Crown and the extra-territorial operation of any provision made by or under the Order;
  - (e) for the extension of any provisions of the Order, with or without modifications, to any of the Channel Islands, the Isle of Man, any colony and any country or place outside Her Majesty's dominions in which Her Majesty has jurisdiction in right of the government of the United Kingdom;
  - [<sup>F6</sup>(f) that a contravention of a provision made by or under the Order shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;
  - (fa) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the Order;]

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- (g) for detaining any ship in respect of which such a contravention is suspected to have occurred and, in relation to such a ship, for applying section 692 of the <sup>M5</sup>Merchant Shipping Act 1894 (which relates to the detention of a ship) with such modifications, if any, as are prescribed by the Order;

and nothing in any of the preceding provisions of this subsection shall be construed as prejudicing the generality of any other of those provisions and in particular [<sup>F7</sup>neither paragraph (f) nor paragraph (fa) shall] prejudice paragraph (a).

[<sup>F8</sup>(3A) Section 74 of the Criminal Justice Act 1982 (construction of references to “statutory maximum”) shall have effect for the purposes of paragraph (f) of the preceding subsection as if that paragraph were contained in that Act.]

- (4) An Order under subsection (1) of this section may—
  - (a) make different provision for different circumstances;
  - (b) provide for exemptions from any provisions of the Order;
  - (c) provide for the delegation of functions exercisable by virtue of the Order;
  - (d) include such incidental, supplemental and transitional provisions as appear to Her Majesty to be expedient for the purposes of the Order;
  - (e) authorise the making of regulations and other instruments for any of the purposes of this section (except the purposes of paragraphs (a) and (c) of the preceding subsection) and apply the <sup>M6</sup>Statutory Instruments Act 1946 to instruments made under the Order; and
  - (f) provide that any enactment or instrument applied by the Order shall have effect as so applied subject to such modifications as may be specified in the Order.
- (5) An Order in Council in pursuance of paragraph (b) or (d) of subsection (1) of this section may apply to areas of land or sea or other waters within the seaward limits of the territorial waters of the United Kingdom notwithstanding that the agreement in question does not relate to those areas.
- (6) A draft of an Order in Council proposed to be made by virtue of subsection (1) of this section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament or the Order is to contain a statement that it is made only for any of the following purposes, namely, the purpose of giving effect of an agreement mentioned in paragraphs (a) to (c) of that subsection, the purpose of providing as authorised by subsection (2) of this section in relation to such an agreement and the purposes of the preceding subsection, or the Order extends only to a territory mentioned in subsection (3)(e) of this section; and a statutory instrument containing an Order which contains such a statement shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(7) ..... <sup>F9</sup>

#### Textual Amendments

- F5** Figure substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 57\(4\), Sch. 6](#) (with s. 58(4), [Sch. 8 para. 1](#))
- F6** [S. 20\(3\) paras. \(f\)\(fa\)](#) substituted (*retrospectively*) for para. (f) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(2\)\(a\)\(4\)](#)
- F7** Words substituted (*retrospectively*) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(2\)\(b\)\(4\)](#)
- F8** [S. 20\(3A\)](#) inserted by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\), s. 49\(2\)\(c\)](#)

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**F9** S. 20(7)(8) added by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(2)(d) and repealed by S.I. 1984/703 (N.I. 3), Sch. 7

**Modifications etc. (not altering text)**

**C7** S. 20(1) extended by Environmental Protection Act 1990 (c. 43, SIF 46:4), s. 148(2)

**Marginal Citations**

**M2** 1894 c. 60.

**M3** 1970 c. 36.

**M4** 1974 c. 43.

**M5** 1894 c. 60.

**M6** 1946 c. 36.

VALID FROM 01/01/1995

[<sup>F10</sup>**20A Further provision for prevention of pollution from ships. U.K.**

- (1) Her Majesty may by Order in Council make such provision as She considers appropriate for the purpose of giving effect to any provision of the United Nations Convention on the Law of the Sea 1982 (Cmnd 8941) for the protection and preservation of the marine environment from pollution by matter from ships.
- (2) Without prejudice to the generality of subsection (1) of this section, an Order under that subsection may in particular include provision—
  - (a) corresponding to any provision that is authorised for the purposes of section 20 of this Act by subsections (3) and (4) of that section; and
  - (b) specifying areas of sea above any of the areas for the time being designated under section 1(7) of the Continental Shelf Act 1964 as waters within which the jurisdiction and rights of the United Kingdom are exercisable in accordance with Part XII of that Convention for the protection and preservation of the marine environment;
 and provision authorising the making of regulations authorises the amendment or revocation of regulations made by virtue of paragraph (e) of the said subsection (4).
- (3) A draft of an Order in Council proposed to be made by virtue of subsection (1) of this section shall not be submitted to Her Majesty in Council unless the draft has been approved by a resolution of each House of Parliament.]

**Textual Amendments**

**F10** S. 20A inserted (1.1.1995) by 1994 c. 28, s. 4; S.I. 1994/2971, art. 2, Sch. (which amending Act was repealed (1.1.1996) by 1995 c. 21, s. 314(1), Sch. 12)



### *Safety and health on ships*

## **21 Safety and health on ships. U.K.**

- (1) The Secretary of State may by regulations [<sup>F11</sup>hereafter in this section and in the following section referred to as “safety regulations”)] make such provision as he considers appropriate for all or any of the following purposes, namely—
- (a) for securing the safety of United Kingdom ships and persons on them and for protecting the health of persons on United Kingdom ships;
  - (b) for giving effect to any provisions of an international agreement ratified by the United Kingdom so far as the agreement relates to the safety of other ships or persons on them or to the protection of the health of persons on other ships.
  - [<sup>F12</sup>(c) for securing the safety of other ships and persons on them while they are within a port in the United Kingdom.]
- (2) In the preceding subsection “United Kingdom ship” means a ship which—
- (a) is registered in the United Kingdom; or
  - (b) is not registered under the law of any country but is wholly owned by persons each of whom is either a citizen of the United Kingdom and Colonies or a body corporate which is established under the law of a part of the United Kingdom and has its principal place of business in a part of the United Kingdom;
- and the power conferred by the preceding subsection to make provision for giving effect to an agreement includes power to provide for the provision to come into force although the agreement has not come into force.
- (3) [<sup>F13</sup>Regulations in pursuance of paragraph (a) or (b) of subsection (1) of this section may make provision with respect to any of the following matters, and regulations in pursuance of paragraph (c) of that subsection may make provision with respect to any of the following matters so far as relates to safety, namely—]
- (a) the design, construction, maintenance, repair, alteration, inspection, surveying and marking of ships and their machinery and equipment;
  - (b) the packaging, marking, loading, placing, moving, inspection, testing and measuring of cargo and anything on a ship which is not cargo, machinery or equipment;
  - (c) the carrying out of any operation involving a ship;
  - (d) the use of the machinery and equipment of a ship and of anything on a ship which is not cargo, machinery or equipment;
  - (e) the manning of ships, including the employment on ships of persons qualified to attend to the health and safety of persons on the ships;
  - (f) the arrangements for ensuring communication between persons in different parts of a ship and between persons in the ship and other persons;
  - (g) the access to, presence in and egress from a ship, and different parts of it, of persons of any description;
  - (h) the ventilation, temperature and lighting of different parts of a ship;
  - (i) the steps to be taken to prevent or control noise, vibration and radiation in and from a ship and the emission in or from a ship of smoke, gas and dust;
  - (j) the steps to be taken to prevent, detect and deal with outbreaks of fire on a ship;
  - (k) the steps to be taken to prevent any collision involving a ship and in consequence of any collision involving a ship;

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- (l) the steps to be taken, in a case where a ship is in distress or stranded or wrecked, for the purpose of saving the ship and its machinery, equipment and cargo and the lives of persons on or from the ship, including the steps to be taken by other persons for giving assistance in such a case;
- (m) the removal, by jettisoning or otherwise, of its equipment and of other things from a ship for the purpose of avoiding, removing or reducing danger to persons or property;
- (n) the steps to be taken, in a case where danger of any kind occurs or is suspected on a ship, for removing or reducing the danger and for warning persons who are not on the ship of the danger or suspected danger;
- (o) the making of records and the keeping of documents relating to ships and the keeping and use on a ship of information to facilitate the navigation of the ship;
- (p) the keeping of registers and the issue of certificates in cases for which registration or a certificate is required by virtue of the regulations;
- (q) the furnishing of information; and
- (r) the payment of fees of amounts determined with the approval of the Treasury [<sup>F14</sup>;

[<sup>F14</sup>but the mention of specific matters in this subsection shall not be construed as restricting the generality of the power conferred by paragraph (a), (b) or (c) of subsection (1) of this section.]

(4) Safety regulations—

- (a) may make provision in terms of approvals given by the Secretary of State or another person and in terms of any document which the Secretary of State or another person considers relevant from time to time;
- (b) may provide for the cancellation of an approval given in pursuance of the regulations and for the alteration of the terms of such an approval; and
- (c) must provide for any approval in pursuance of the regulations to be given in writing and to specify the date on which it takes effect and the conditions (if any) on which it is given.

(5) Without prejudice to subsection (1)(b) of the following section, safety regulations may provide—

- (a) for the granting by the Secretary of State or another person, on such terms (if any) as the Secretary of State or other person may specify, of exemptions from specified provisions of the regulations for classes of cases or individual cases; and
- (b) for the alteration or cancellation of exemptions granted in pursuance of the regulations.

(6) Safety regulations may provide—

- (a) that in such cases as are prescribed by the regulations a ship shall be liable to be detained and that section 692 of the <sup>M7</sup>Merchant Shipping Act 1894 (which relates to the detention of a ship) shall have effect, with such modifications (if any) as are prescribed by the regulations, in relation to the ship;
- [<sup>F15</sup>(b) that a contravention of the regulations shall be an offence punishable on summary conviction by a fine not exceeding the statutory maximum and on conviction on indictment by imprisonment for a term not exceeding two years and a fine;

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- (ba) that any such contravention shall be an offence punishable only on summary conviction by a maximum fine of an amount not exceeding level 5 on the standard scale, as defined in section 75 of the Criminal Justice Act 1982, or such less amount as is prescribed by the regulations;
- (bb) that, in such cases as are prescribed by the regulations, such persons as are so prescribed shall each be guilty of an offence created by virtue of paragraph (b) or (ba) of this subsection;]
- <sup>F16</sup>(c) that, notwithstanding anything in paragraph (b) or (ba) of this subsection, a person convicted summarily of an offence under the regulations of a kind which is stated by the regulations to correspond to an offence which is triable either summarily or on indictment under an enactment specified in the regulations which authorises or authorised a fine on summary conviction of a maximum amount exceeding the statutory maximum shall be liable to a fine not exceeding that maximum amount.]

(7) ..... F17

#### Textual Amendments

- F11 Words inserted by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), [s. 11\(4\)\(a\)](#)
- F12 [S. 21\(1\)\(c\)](#) added by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), [s. 11\(1\)](#)
- F13 Words substituted by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), [s. 11\(2\)](#)
- F14 Words added by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), [s. 11\(4\)\(b\)](#)
- F15 [S. 21\(6\)](#) paras. (b)(ba)(bb) substituted (*retrospectively*) for para. (b) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(3\)\(a\)\(i\)\(4\)](#)
- F16 [S. 21\(6\)\(c\)](#) substituted (*retrospectively*) by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(3\)\(a\)\(ii\)\(4\)](#)
- F17 [S. 21\(7\)\(8\)](#) added by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(3\)\(b\)](#) and repealed by [S.I. 1984/703](#), (N.I. 3), Sch. 7

#### Modifications etc. (not altering text)

- C8 [S. 21](#) extended with modifications by [S.I. 1989/1350](#), [art. 4](#)

#### Marginal Citations

- M7 [1894 c. 60](#)

## 22 Provisions supplementary to s. 21. **U.K.**

- (1) Safety regulations may—
  - (a) make different provisions for different circumstances and, in particular, make provision for an individual case;
  - (b) be made so as to apply only in such circumstances as are prescribed by the regulations;
  - (c) be made so as to extend outside the United Kingdom;
  - (d) contain such incidental, supplemental and transitional provisions as the Secretary of State considers appropriate.
- (2) Where the Secretary of State proposes to make safety regulations or he or another person proposes to give an approval in pursuance of safety regulations it shall be the duty of the Secretary of State or other person, before he gives effect to the proposal, to consult such persons in the United Kingdom (if any) as he considers will be affected by the proposal.

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

- (3) The Secretary of State may by regulations—
- (a) make such repeals or other modifications of provisions of the Merchant Shipping Acts, of any instruments made under those Acts and of the <sup>M8</sup>Anchors and Chain Cables Act 1967 as he considers appropriate in consequence or in anticipation of the making of safety regulations;
  - (b) make such repeals or other modifications of provisions [<sup>F18</sup>of the County Courts Act 1984 and] of any enactment passed and any instrument made before the passing of this Act as he considers appropriate in connection with any modification made or to be made in pursuance of the preceding paragraph;
  - (c) provide for anything done under a provision repealed or otherwise modified by virtue of either of the preceding paragraphs to have effect as if done under safety regulations and make such other transitional provision and such incidental and supplemental provision as he considers appropriate in connection with any modification made by virtue of either of those paragraphs.
- (4) Nothing in subsections (3) to (6) of the preceding section or subsection (1) of this section shall be construed as prejudicing the generality of subsection 1 of the preceding section.

#### Textual Amendments

**F18** Words inserted by [County Courts Act 1984 \(c. 28, SIF 34\)](#), s. 148(1), [Sch. 2 para. 69](#)

#### Modifications etc. (not altering text)

**C9** [S. 22](#) extended with modifications by [S.I. 1989/1350](#), [art. 4](#)

#### Marginal Citations

**M8** [1967 c. 64](#).

### *Discipline*

## **23 Breaches by seamen of codes of conduct and local industrial agreements. U.K.**

- (1) For the purpose of maintaining discipline on board ships registered in the United Kingdom the Secretary of State may by regulations make provision—
- (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a ship registered in the United Kingdom, other than a fishing vessel, alleging that during a period when a person (hereafter in this subsection referred to as “the seaman”) was employed on board the ship he contravened, either on or off the ship and in the United Kingdom or elsewhere, a provision of a code of conduct approved by the Secretary of State for the purposes of this section;
  - (b) for enabling the body to dismiss the complaint if it finds the allegation not proved and, if it finds the allegation proved, to warn or reprimand the seaman or to recommend to the Secretary of State that the seaman shall, either for a period specified in the recommendation or permanently, cease to be entitled to a discharge book in pursuance of section 71 of the <sup>M9</sup>Merchant Shipping

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Act 1970 and shall be required to surrender any such book which has been issued to him;

- (c) for enabling the seaman to appeal against such a recommendation to another body established or approved as aforesaid and for enabling the body to confirm or cancel the recommendation or, in the case of a recommendation that the seaman shall cease to be entitled to a discharge book permanently or for a particular period, to substitute for it a recommendation that he shall cease to be so entitled, instead of permanently, for a period specified in the substituted recommendation or, instead of for the particular period, for a shorter period so specified;
- (d) for securing that a recommendation in pursuance of regulations made by virtue of paragraph (b) above that the seaman shall permanently cease to be entitled to a discharge book is not submitted to the Secretary of State unless it has been confirmed, either on appeal or otherwise, by a body which is or was authorised by regulations made by virtue of the preceding paragraph to entertain an appeal against the recommendation;
- (e) for the establishment or approval for the purposes of this section of such number of bodies as the Secretary of State thinks fit and with respect to the composition, jurisdiction and procedure of any body established or approved for those purposes;
- (f) for the payment out of money provided by Parliament of such remuneration and allowances as the Secretary of State may with the consent of the Minister for the Civil Service determine to any member of a body established by the Secretary of State in pursuance of the regulations;

and regulations made by virtue of this subsection may make different provision for different circumstances and may contain such incidental and supplemental provisions as the Secretary of State considers appropriate.

- (2) In relation to fishing vessels registered in the United Kingdom the preceding subsection shall have effect with the substitution for paragraph (a) of the following paragraph—
  - (a) for the hearing on shore in the United Kingdom, by a body established or approved by the Secretary of State in pursuance of the regulations, of a complaint by the master or owner of a fishing vessel registered in the United Kingdom alleging that during a period when a person (hereafter in this subsection referred to as “the seaman”) was employed on board the vessel, he contravened, either on or off the vessel and in the United Kingdom or elsewhere, a local industrial agreement relating to his employment in the vessel and for requiring the body to have regard to the agreement in determining whether the allegation is proved;

and regulations made by virtue of the preceding subsection may include provision authorising persons to determine, for the purposes of that paragraph, what agreements are or were local industrial agreements and which local industrial agreement relates or related to a person’s employment in a particular vessel.

- (3) Without prejudice to the generality of subsection (1) of this section, regulations made by virtue of that subsection may include provision for any proceedings in pursuance of the regulations to take place notwithstanding the absence of the seaman to whom the proceedings relate; and nothing in regulations made by virtue of that subsection or done in pursuance of regulations so made shall be construed as affecting any power to institute, prosecute, entertain or determine proceedings (including criminal proceedings) under any other enactment or at common law.

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- (4) When the Secretary of State proposes to make any regulations in pursuance of subsection (1) of this section it shall be his duty, before he makes the regulations, to consult about the proposal such organisations in the United Kingdom as he considers are representative of persons likely to be affected by the regulations.
- (5) The power conferred by section 71 of the <sup>M10</sup>Merchant Shipping Act 1970 to make regulations relating to discharge books—
- (a) shall include power to provide for a person to cease to be entitled to a discharge book in consequence of a recommendation made by virtue of this section;
  - (b) includes power to provide for the re-issue of discharge books which have been surrendered in consequence of such a recommendation.
- (6) A person who, in the United Kingdom or elsewhere—
- (a) obtains employment as a seaman on board a ship registered in the United Kingdom and does so when he is disentitled to a discharge book by virtue of regulations made by virtue of paragraph (a) of the preceding subsection; or
  - (b) employs as such a seaman a person who he knows or has reason to suspect is disentitled as aforesaid,
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (7) Sections 34 to 38 of the <sup>M11</sup>Merchant Shipping Act 1970 and paragraph 2 of Schedule 2 to that Act (which relate to discipline on board ships registered in the United Kingdom) shall cease to have effect.

**Modifications etc. (not altering text)**

**C10** Ss. 23(6), 25(1) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 49(1)

**C11** The text of s. 23(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M9** 1970 c. 36.

**M10** 1970 c. 36.

**M11** 1970 c. 36.

**24 Determination of amount of deductions from seamen's wages. U.K.**

The power to make regulations conferred by section 9 of the <sup>M12</sup>Merchant Shipping Act 1970 (which among other things relates to deductions from the wages of a seaman) shall include power to provide that the amount of a deduction of a description specified in the regulations from wages in respect of employment in a fishing vessel is to be determined by a body established or approved by the Secretary of State in pursuance of regulations made by virtue of the preceding section.

**Marginal Citations**

**M12** 1970 c. 36.

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

## 25 **Unauthorised liquor on fishing vessels.** U.K.

- (1) A person who, in the United Kingdom or elsewhere—
- (a) takes any unauthorised liquor on board a fishing vessel registered in the United Kingdom; or
  - (b) has any unauthorised liquor in his possession on board such a vessel; or
  - (c) permits another person to take on board such a vessel, or to have in his possession on board such a vessel, any unauthorised liquor; or
  - (d) wilfully obstructs another person in the exercise of powers conferred on the other person by subsection (3) of this section,
- shall, subject to the following subsection, be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) It shall be a defence in proceedings for an offence under paragraph (a) or (b) of the preceding subsection to prove—
- (a) that the accused believed that the liquor in question was not unauthorised liquor in relation to the vessel in question and that he had reasonable grounds for the belief; or
  - (b) that the accused did not know that the liquor in question was in his possession;
- and it shall be a defence in proceedings for an offence under paragraph (c) of the preceding subsection to prove as mentioned in paragraph (a) of this subsection.
- (3) If an authorised person has reason to believe that an offence under paragraph (a) or (b) of subsection (1) of this section has been committed by another person in connection with a fishing vessel, the authorised person—
- (a) may go on board the vessel and search it and any property on it and may, if the other person is on board the vessel, search him there in an authorised manner; and
  - (b) may take possession of any liquor which he finds on the vessel and has reason to believe is unauthorised liquor and may detain the liquor for the period needed to ensure that the liquor is available as evidence in proceedings for the offence.
- (4) In this section—
- “an authorised manner” means a manner authorised by regulations made by the Secretary of State;
- “authorised person”, in relation to a vessel, means a mercantile marine superintendent, a proper officer as defined by section 97(1) of the<sup>M13</sup>Merchant Shipping Act 1970, a person appointed in pursuance of section 76(1)(c) of that Act (which relates to inspectors), the master of the vessel in question, the owner of the vessel and any person instructed by the said master or owner to prevent the commission of offences under subsection (1) of this section in relation to the vessel;
- “liquor” means spirits, wine, beer, cider, perry and any other fermented, distilled or spirituous liquor; and
- “unauthorised liquor” means, in relation to a vessel, liquor as to which permission to take it on board the vessel has been given neither by the master nor the owner of the vessel nor by a person authorised by the said owner to give such permission.
- (5) Any reference in the preceding subsection to the owner of a vessel shall be construed—

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- (a) as excluding any member of the crew of the vessel; and
- (b) subject to the preceding paragraph, as a reference to the person or all the persons who, in the certificate of registry of the vessel, is or are stated to be the registered owner or owners of the vessel.

**Modifications etc. (not altering text)**

**C12** Ss. 23(6), 25(1) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 49(1)

**Marginal Citations**

**M13** 1970 c. 36.

*Inspectors*

**26 Extension of power to appoint Department of Trade inspectors. U.K.**

In section 728 of the <sup>M14</sup>Merchant Shipping Act 1894 (under which the Secretary of State may appoint a person as an inspector to report to him whether, among other things, the provisions of regulations made by virtue of that Act have been complied with) after the words “by virtue of this Act” there shall be inserted the words “or the terms of any approval, licence, consent, direction or exemption given by virtue of such regulations”

**Modifications etc. (not altering text)**

**C13** The text of s. 26 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**C14** S. 26 excluded (1.5.1994) by [1993 c. 22, s. 8\(3\)](#), [Sch. 4 para. 56\(c\)](#); [S.I. 1993/3137, art. 3\(2\)](#), [Sch.2](#)

**Marginal Citations**

**M14** 1894 c. 60.

**27 Powers of Department of Trade inspectors. U.K.**

(1) An inspector appointed in pursuance of section 728 of the <sup>M15</sup>Merchant Shipping Act 1894—

- (a) may at any reasonable time (or, in a situation which in his opinion is or may be dangerous, at any time)—
  - (i) enter any premises in the United Kingdom, or
  - (ii) board any ship which is registered in the United Kingdom wherever it may be and any other ship which is present in the United Kingdom or the territorial waters of the United Kingdom,

if he has reason to believe that it is necessary for him to enter the premises or board the ship for the purpose of performing his functions as such an inspector;

- (b) may, on entering any premises by virtue of paragraph (a) above or on boarding a ship by virtue of that paragraph, take with him any other person authorised in that behalf by the Secretary of State and any equipment or materials required to assist him in performing the said functions;



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- (c) may make such examination and investigation as he considers necessary for the purpose of performing the said functions;
- (d) may, as regards any premises or ship which he has power to enter or board, give a direction requiring that the premises or ship or any part of the premises or ship or any thing in the premises or ship or such a part shall be left undisturbed (whether generally or in particular respects) for so long as is reasonably necessary for the purposes of any examination or investigation under paragraph (c) above;
- (e) may take such measurements and photographs and make such recordings as he considers necessary for the purpose of any examination or investigation under paragraph (c) above;
- (f) may take samples of any articles or substances found in any premises or ship which he has power to enter or board and of the atmosphere in or in the vicinity of any such premises or ship;
- (g) may, in the case of any article or substance which he finds in any such premises or ship and which appears to him to have caused or to be likely to cause danger to health or safety, cause it to be dismantled or subjected to any process or test (but not so as to damage or destroy it unless that is in the circumstances necessary for the purpose of performing the said functions);
- (h) may, in the case of any such article or substance as is mentioned in paragraph (g) above, take possession of it and detain it for so long as is necessary for all or any of the following purposes, namely—
  - (i) to examine it and do to it anything which he has power to do under that paragraph,
  - (ii) to ensure that it is not tampered with before his examination of it is completed,
  - (iii) to ensure that it is available for use as evidence in any proceedings for an offence under the Merchant Shipping Acts or under regulations made by virtue of any provision of those Acts;
- (i) may require any person who he has reasonable cause to believe is able to give any information relevant to any examination or investigation under paragraph (c) above—
  - (i) to attend at a place and time specified by the inspector, and
  - (ii) to answer (in the absence of persons other than any persons whom the inspector may allow to be present and a person nominated to be present by the person on whom the requirement is imposed) such questions as the inspector thinks fit to ask, and
  - (iii) to sign a declaration of the truth of his answers;
- (j) may require the production of, and inspect and take copies of or of any entry in,—
  - (i) any books or documents which by virtue of any provision of the Merchant Shipping Acts are required to be kept; and
  - (ii) any other books or documents which he considers it necessary for him to see for the purposes of any examination or investigation under paragraph (c) above;
- (k) may require any person to afford him such facilities and assistance with respect to any matters or things within that person's control, or in relation to which that person has responsibilities as the inspector considers are necessary to enable him to exercise any of the powers conferred on him by this subsection.

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- (2) It is hereby declared that nothing in the preceding provisions of this section authorises a person unnecessarily to prevent a ship from proceeding on a voyage.
- (3) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with the taking of samples under subsection (1)(f) above and subsection (6) below and provision as to the way in which samples that have been so taken are to be dealt with.
- (4) Where an inspector proposes to exercise the power conferred by subsection (1)(g) above in the case of an article or substance found in any premises or ship, he shall, if so requested by a person who at the time is present in and has responsibilities in relation to the premises or ship, cause anything which is to be done by virtue of that power to be done in the presence of that person unless the inspector considers that its being done in that person's presence would be prejudicial to the safety of that person.
- (5) Before exercising the power conferred by subsection (1)(g) above, an inspector shall consult such persons as appear to him appropriate for the purpose of ascertaining what dangers, if any, there may be in doing anything which he proposes to do under that power.
- (6) Where under the power conferred by subsection (1)(h) above an inspector takes possession of any article or substance found in any premises or ship, he shall leave there, either with a responsible person or, if that is impracticable, fixed in a conspicuous position, a notice giving particulars of that article or substance sufficient to identify it and stating that he has taken possession of it under that power; and before taking possession of any such substance under that power an inspector shall, if it is practicable for him to do so, take a sample of the substance and give to a responsible person at the premises or on board the ship a portion of the sample marked in a manner sufficient to identify it.
- (7) No answer given by a person in pursuance of a requirement imposed under subsection (1)(i) above shall be admissible in evidence against that person or the husband or wife of that person in any proceedings except proceedings in pursuance of subsection (1)(c) of the following section in respect of a statement in or a declaration relating to the answer; and a person nominated as mentioned in the said subsection (1)(i) shall be entitled, on the occasion on which the questions there mentioned are asked, to make representations to the inspector on behalf of the person who nominated him.

#### **Modifications etc. (not altering text)**

- C15** S. 27 extended by S.I. 1987/311, **reg. 16**
- C16** S. 27 applied by Merchant Shipping Act 1988 (c. 12, SIF 111), **ss. 14(6), 33(8)**, (with s. 58(4), Sch. 8 para. 1) and by S.I. 1989/1172, **reg. 6(2)**
- C17** S. 27 modified by Merchant Shipping Act 1988 (c. 12, SIF 111), **s. 39(6)**, (with s. 58(4), Sch. 8 para. 1)
- C18** S. 27 extended with modifications by S.I. 1989/1350, **art. 2, Sch. 1** (as substituted by S.I. 1990/2594, **art. 3**)
- C19** S. 27 amended (1.5.1994) by 1993 c. 22, s. 8(3), **Sch. 4, para.17(b)**; S.I. 1993/3137, **art. 3(2), Sch.2**

#### **Marginal Citations**

- M15** 1894 c. 60.

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

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## 28 Provisions supplementary to s. 27. **U.K.**

- (1) A person who—
- (a) wilfully obstructs a Department of Trade inspector in the exercise of any power conferred on him by the preceding section; or
  - (b) without reasonable excuse, does not comply with a requirement imposed in pursuance of the preceding section or prevents another person from complying with such a requirement; or
  - (c) without prejudice to the generality of the preceding paragraph, makes a statement or signs a declaration which he knows is false, or recklessly makes a statement or signs a declaration which is false, in purported compliance with a requirement made in pursuance of subsection (1)(i) of the preceding section.
- shall be guilty of an offence and liable on summary conviction to a fine not exceeding £1,000 or, on conviction on indictment, to imprisonment for a term not exceeding two years or a fine or both.
- (2) In relation to a person, other than a Department of Trade inspector, who has the powers conferred on such an inspector by the preceding section—
- (a) that section and the preceding subsection shall have effect as if for references to such an inspector there were substituted references to the person; and
  - (b) that section shall have effect as if for references to the functions of such an inspector there were substituted references to the functions in connection with which those powers are conferred on the person.
- (3) Nothing in the preceding section shall be taken to compel the production by any person of a document of which he would on grounds of legal professional privilege be entitled to withhold production on an order for discovery in an action in the High Court or, as the case may be, on an order for the production of documents in an action in the Court of Session.
- (4) A person who complies with a requirement imposed on him in pursuance of paragraph (i)(i) or (k) of subsection (1) of the preceding section shall be entitled to recover from the person who imposed the requirement such sums in respect of the expenses incurred in complying with the requirement as are prescribed by regulations made by the Secretary of State, and the regulations may make different provision for different circumstances; and any payments in pursuance of this subsection shall be made out of money provided by Parliament.
- (5) References in the Merchant Shipping Acts to a Department of Trade inspector are to an inspector appointed in pursuance of section 728 of the <sup>M16</sup>Merchant Shipping Act 1894.
- (6) Sections 729 and 730 of the Merchant Shipping Act 1894 (which relate to the powers and to obstruction of inspectors) shall cease to have effect and the following enactments (which provide for certain persons to have the powers of a Department of Trade inspector in connection with the functions there mentioned) shall cease to have effect, namely—
- section 420(3) of the <sup>M17</sup>Merchant Shipping Act 1894 and in sections 369(3) and 431(1) of that Act the words from “and” onwards;
- in section 7(2) of the <sup>M18</sup>Merchant Shipping Act 1964 the words from “and for that purpose” to “Acts” ;

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section 11(2) of the <sup>M19</sup>Merchant Shipping (Load Lines) Act 1967 and in sections 17(1) and 24(6) of that Act the words from “and” onwards ;

in section 1(3) of the <sup>M20</sup>Fishing Vessels (Safety Provisions) Act 1970 the words from “and” onwards;

and in section 14(3) of the <sup>M21</sup>Merchant Shipping (Safety Convention) Act 1949 (which also provides as aforesaid) for the words from “shall have all the powers” onwards there shall be substituted the words “may go on board the ship and inspect it and anything on it”.

(7) Without prejudice to the operation of section 17(2) of the <sup>M22</sup>Interpretation Act 1978 (which relates to the repeal and re-enactment of enactments)—

(a) in sections 386(2), 459(6), . . . <sup>F19</sup> 465(2), 471(3)(b), 488(2) and 517(3) of the Merchant Shipping Act 1894 (which refer to the powers of a Department of Trade inspector under that Act) for the words “under this Act” there shall be substituted the words “under section 27 of the Merchant Shipping Act 1979” ;

(b) in sections 55(2) and 61(2) of the <sup>M23</sup>Merchant Shipping Act 1970 and in paragraph 5(2) of Schedule 2 to, that Act (which refer to the powers conferred on an inspector by section 729 of the Merchant Shipping Act 1894) for the words “section 729 of the Merchant Shipping Act 1894” there shall be substituted the words “section 27 of the Merchant Shipping Act 1979” ; and

(c) in section 18 of the <sup>M24</sup>Prevention of Oil Pollution Act 1971 (which among other things applies the said section 729 to inspectors appointed under the said section 18)—

(i) in subsection (3) for the words “Section 729 of the Merchant Shipping Act 1894” there shall be substituted the words “Sections 27 and 28(1), (3) and (4) of the Merchant Shipping Act 1979” and for paragraph (a), there shall be substituted the following paragraph—

“(a) any reference to a ship included any vessel, any reference to the Merchant Shipping Acts (except the second reference in subparagraph (iii) of section 27(1)(h)) were a reference to this Act and the reference in that sub-paragraph to regulations were omitted ;”

(ii) in subsections (4) and (5) for the words “under section 729” there shall be substituted the words “under section 27” and in subsection (5) the words from “and in subsection (3)” onwards shall be omitted ;

(iii) in subsection (8) after the words “by virtue of this section” there shall be inserted the words “and the obstruction is not punishable by virtue of the said section 28(1)”.

#### Textual Amendments

**F19** Figures repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(5), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

#### Modifications etc. (not altering text)

**C20** [S. 28](#) applied with modifications by [S.I. 1989/2594](#), [art. 3](#)

**C21** [S. 28](#) extended with modifications by [S.I. 1989/1350](#), [art. 2](#), [Sch. 1](#) (as substituted by [S.I. 1990/2594](#), [art. 3](#))

**C22** [S. 28\(1\)](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), [s. 49\(1\)](#)

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

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- C23** The text of s. 28(6)(7) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C24** S. 28(7)(b) amended by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(4), **Sch. 6**, (with s. 58(4), Sch. 8 para. 1)

#### Marginal Citations

- M16** 1894 c. 60.  
**M17** 1894 c. 60.  
**M18** 1964 c. 47.  
**M19** 1967 c. 27.  
**M20** 1970 c. 27.  
**M21** 1949 c. 43.  
**M22** 1978 c. 30.  
**M23** 1970 c. 36.  
**M24** 1971 c. 60.

### *Deaths on ships*

## 29 **Inquiries as to whether person has died on United Kingdom ship etc.** **U.K.**

In section 61 of the <sup>M25</sup>Merchant Shipping Act 1970 (which among other things provides for an inquiry into the death of a person in a ship registered in the United Kingdom),—

- (a) at the end of subsection (1)(a) there shall be inserted the words “in a boat or life-raft from such a ship ; or” ; and
- (b) after subsection (1) there shall be inserted the following subsections—

“(1A) Subject to subsection (4) of this section, where it appears to the Secretary of State that—

- (a) in consequence of an injury sustained or a disease contracted by a person, when he was the master of or a seaman employed in a ship registered in the United Kingdom, he ceased to be employed in the ship and subsequently died ; and
- (b) the death occurred in a country outside the United Kingdom during the period of one year beginning with the day when he so ceased, the Secretary of State may arrange for an inquiry into the cause of the death to be held by a superintendent or proper officer.

(1B) Subject to subsection (4) of this section, where it appears to the Secretary of State that a person may—

- (a) have died in a ship registered in the United Kingdom or in a boat or life-raft from such a ship ; or
- (b) have been lost from such a ship, boat or liferaft and have died in consequence of having been so lost.

the Secretary of State may arrange for an inquiry to be held by a superintendent or proper officer into whether the person died as aforesaid and, if the superintendent or officer finds that he did, into the cause of the death.”

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- (2) In subsection (3)(a) of that section (which provides for a report of the findings of an inquiry under that section to be made available to the next of kin of the deceased if the deceased was employed in the ship) for the words “if the deceased person” there shall be substituted the words “if the person to whom the report relates” and for the words “deceased person’s name” there shall be substituted the words “name of the person to whom the report relates”.
- (3) In section 97(5) of the said Act of 1970 (which provides that references in that Act to dying in a ship include dying in a ship’s boat and being lost from a ship’s boat) after the word “Act” there shall be inserted the words “(except section 61)”.

**Modifications etc. (not altering text)**

**C25** The text of s. 29 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Marginal Citations**

**M25** 1970 c. 36.

**30 Record of certain deaths on ships etc. U.K.**

- (1) At the end of subsection (1) of section 72 of the <sup>M26</sup> Merchant Shipping Act 1970 (of which paragraph (a) enables regulations to be made requiring the master of a ship registered in the United Kingdom to make a return of any death occurring in the ship and of the death outside the United Kingdom of any person employed in the ship) there shall be inserted the words “; and
- (c) requiring the Registrar General of Shipping and Seamen to record such information as may be specified in the regulations about such a death as is mentioned in paragraph (a) above in a case where it appears to him that the master of the ship cannot perform the duty imposed on him by virtue of that paragraph in respect of the death because he has himself died or is incapacitated or missing and either—
- (i) the death in question has been the subject of an inquest held by the coroner or an inquiry held in pursuance of section 61 of this Act or in pursuance of the Fatal Accidents and Sudden Deaths Inquiry (Scotland) Act 1976 and the findings of the inquest or inquiry include a finding that the death occurred, or
- (ii) a post-mortem examination, or a preliminary investigation in Northern Ireland, has been made of the deceased’s body and in consequence the coroner is satisfied that an inquest is unnecessary, or
- (iii) in Scotland, it does not appear to the Lord Advocate, under section 1(1)(b) of the said Act of 1976, to be expedient in the public interest that an inquiry under that Act should be held.” ;and in subsection (2) of that section (which enables regulations to require a certified copy of a return under that section to be sent to the appropriate Registrar General concerned with the registration of deaths) after the word “return” there shall be inserted the words “or record”.
- (2) Where—

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- (a) an inquest is held [<sup>F20</sup>on a dead body or] touching a death or a post-mortem examination, or a preliminary investigation in Northern Ireland, is made of a dead body as a result of which the coroner is satisfied that an inquest is unnecessary; and
- (b) it appears to the coroner that the death in question is such as is mentioned in paragraph (a) of section 72(1) of the <sup>M27</sup>Merchant Shipping Act 1970 or in that paragraph as extended (with or without amendments) by virtue of section 92 of that Act,

it shall be the duty of the coroner to send to the Registrar General of Shipping and Seamen particulars in respect of the deceased of a kind prescribed by regulations made by the Secretary of State.

#### Textual Amendments

**F20** Words repealed (E.W.N.I.) by [Coroners Act 1980 \(c. 38, SIF 33\)](#), s. 1, [Sch. 2](#)

#### Modifications etc. (not altering text)

**C26** The text of s. 30(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M26** [1970 c. 36](#).

**M27** [1970 c. 36](#).

### Miscellaneous

**31** <sup>F21</sup> ..... **U.K.**

#### Textual Amendments

**F21** [Ss. 31, 32\(2\)\(3\), 37\(4\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(5), 58(2), [Sch.7](#), (with s. 58(4), [Sch.8](#) para. 1)

**32** **Shipping casualties.** **U.K.**

In section 464 of the <sup>M28</sup>Merchant Shipping Act 1894 (which specifies the shipping casualties which may be the subject of inquiries and investigations under Part VI of that Act)—

- (a) in paragraph (4) (which refers to loss of life by reason of a casualty happening to or on board a ship) after the word “life” there shall be inserted the words “or serious personal injury” and after the word “ship” there shall be inserted the words “,or any boat or life-raft from a ship,” ;
- (b) after that paragraph there shall be inserted the following paragraph—

“(4A) when any person is lost from a ship, or any boat or life-raft from a ship, on or near the coasts of the United Kingdom ;”
- (c) after paragraph (7) there shall be inserted the following paragraph—

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

“(8) when events occur which the Secretary of State determines are of a kind likely to cause events which, if they occurred, would constitute a shipping casualty by virtue of any of the preceding paragraphs.”

(2) ..... F22

#### Textual Amendments

**F22** Ss. 31, 32(2)(3), 37(4) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), 58(2), Sch.7, (with s. 58(4), Sch.8 para. 1)

#### Modifications etc. (not altering text)

**C27** The text of s. 32 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M28** 1894 c. 60.

### 33 Commissioners of Northern Lighthouses and Irish Lights. **U.K.**

- (1) Sections 640 and 641 of the <sup>M29</sup>Merchant Shipping Act 1894 (which provide for the control by the Trinity House of certain activities of the Commissioners of Northern Lighthouses and the Commissioners of Irish Lights) and section 637 of that Act (which authorises the Trinity House and their servants to enter lighthouses in a lighthouse area which are vested in the said Commissioners or the Trinity House) shall cease to have effect.
- (2) In section 668(4) of the Merchant Shipping Act 1894 (which authorises the Commissioners of Northern Lighthouses to elect not more than four other persons as members of their body) for the words “four other persons” there shall be substituted the words “five other persons ; but a person shall not be elected in pursuance of this subsection after section 33(2) of the Merchant Shipping Act 1979 comes into force unless either he appears to the Commissioners to have special knowledge and experience of nautical matters or three persons who so appear are members of the said body”.

#### Modifications etc. (not altering text)

**C28** The text of s. 33 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M29** 1894 c. 60.

### 34 Repeal of spent provisions, and amendment, of Part XI of Merchant Shipping Act 1894. **U.K.**

- (1) Sections 670 to 672 and 675 of the Merchant Shipping Act 1894 (which relate to colonial light dues and became spent after the abolition of the dues in 1960) shall to have effect.



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- (2) In section 677 of that Act, paragraph (m) (which provides for the payment out of money provided by Parliament of the cost of publishing information about foreign lighthouses, buoys and beacons) shall be omitted.
- (3) The Secretary of State may by order provide that references or a particular reference to a buoy or beacon in Part XI of that Act shall be construed as including, in such circumstances as are specified in the order, equipment of a kind so specified which is intended as an aid to the navigation of ships.

**Modifications etc. (not altering text)**

**C29** The text of s. 34(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**35 Amendment of s. 503 of Merchant Shipping Act 1894 etc. U.K.**

- (1) Nothing in section 503 of the <sup>M30</sup>Merchant Shipping Act 1894 (which relates to the limitation of liability in certain cases of loss of life, injury or damage) shall 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 on board or employed in connection with the ship in question if—
  - (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and
  - (b) the liability arises from an occurrence which took place after the coming into force of this subsection and before the coming into force of the following subsection;and in this subsection “ship” has the same meaning as in the said section 503.
- (2) The provisions having the force of law under section 17 of this Act shall 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 on board the ship in question or employed in connection with that ship or with the salvage operations in question if—
  - (a) he is so on board or employed under a contract of service governed by the law of any part of the United Kingdom; and
  - (b) the liability arises from an occurrence which took place after the coming into force of this subsection;and in this subsection “ship” and “salvage operations” have the same meaning as in those provisions.

**Marginal Citations**

**M30** 1894 c. 60.

**36 Amendments of Merchant Shipping (Mercantile Marine Fund) Act 1898. U.K.**

- (1) Section 2(1) and (2) of the <sup>M31</sup>Merchant Shipping (Mercantile Marine Fund) Act 1898 (which relate to colonial light dues and of which subsection (1) became spent after the abolition of the dues in 1960) shall cease to have effect ; and in section 2(3) of that Act (which among other things provides for the payment out of the General Lighthouse

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Fund of contributions in respect of the lighthouse on Cape Spartel, Morocco) for the words “lighthouse on Cape Spartel, Morocco”, there shall be substituted the words “lights on the islands of Abu Ail and Jabal at Tair in the Red Sea”.

- (2) For subsection (2) of section 5 of that Act (which enables the scales, rules and exemptions set out in Schedule 2 to that Act for the levying of light dues to be altered by Order in Council) there shall be substituted the following subsection—

“(2) The Secretary of State may by statutory instrument make regulations with respect to the amounts and the levying of such dues (including the cases in which the dues are not to be levied) and the regulations may make different provision for different circumstances; and any statutory instrument made by virtue of this subsection shall be subject to annulment in pursuance of a resolution of either House of Parliament.”

- (3) In Schedule 3 to the <sup>M32</sup>said Act of 1898, paragraph II (which relates to certain lighthouses off the coast of Sri Lanka as to which an arrangement was made on 27th February 1976 between the government of that country and the government of the United Kingdom providing for their transfer to the government of that country) shall be omitted; but any expenditure incurred by the government of the United Kingdom in pursuance of that arrangement either before or after the passing of this Act shall be defrayed out of the General Lighthouse Fund.

#### Modifications etc. (not altering text)

**C30** The text of s. 36(1)(2) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M31** 1898 c. 44.

**M32** 1898 c. 44.

### 37 Amendments of ss. 15, 43, 52, 54, 76(1), 92 and 101(4) of Merchant Shipping Act 1970 and s. 23 of the Prevention of Oil Pollution Act 1971. **U.K.**

- (1) Section 15 of the <sup>M33</sup>Merchant Shipping Act 1970 (which among other things provides that where a seaman’s employment in a ship ends because the ship is wrecked or lost or is sold abroad or ceases to be registered in the United Kingdom he shall in certain cases be entitled to wages for two months after the ending of the employment) shall apply to a master as it applies to a seaman; . . . <sup>F23</sup>.
- (2) The power to make regulations conferred by section 43 of the <sup>M34</sup>Merchant Shipping Act 1970 (which authorises the Secretary of State to make regulations requiring certain ships to carry the number specified in the regulations of officers and other seamen who are qualified in accordance with the regulations) shall include power to make regulations providing that existing certificates shall, except in such cases as are specified in the regulations, be deemed for the purposes of such of the provisions of that Act as are so specified to be issued in pursuance of that section and to confer on the persons to whom they were issued such qualifications for the purposes of that section as are so specified.

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- (3) In the preceding subsection “existing certificate” means a certificate granted in pursuance of section 93, 99 or 414 of the <sup>M35</sup>Merchant Shipping Act 1894 (which relate to certificates of competency or service as masters, mates and engineers and as skippers and second hands of fishing boats), a certificate referred to in an Order in Council made by virtue of section 102 of that Act (which relates to Commonwealth certificates of competency), a certificate granted in pursuance of subsection (2) of section 27 of the <sup>M36</sup>Merchant Shipping Act 1906 or by an institution approved in pursuance of that subsection (which relates to cooks) and a certificate granted in pursuance of section 5 of the <sup>M37</sup>Merchant Shipping Act 1948 (which relates to seamen who may be rated as A.B.).
- (4) ..... <sup>F24</sup>
- (5) In section 76(1) of the <sup>M38</sup>Merchant Shipping Act 1970 (which enables inspections to be carried out for the purpose of seeing that the provisions of the Merchant Shipping Acts and regulations and rules made under those Acts are complied with)—
- (a) references to the Merchant Shipping Acts shall include references to this Act and,
- (b) ..... <sup>F25</sup>
- (6) Without prejudice to the operation of section 50(1) of this Act, in section 92 of the <sup>M39</sup>Merchant Shipping Act 1970 (which among other things enables provisions of that Act to be extended to unregistered . . . <sup>F26</sup> ships) the references to that Act shall be construed as including references to sections 23 and 25 of this Act.
- (7) At the end of section 101(4) of the Merchant Shipping Act 1970 (which authorises the appointment of different days for the coming into force of different provisions of that Act) there shall be inserted the words “or for different purposes of the same provision”.
- (8) In section 23 of the Prevention of Oil Pollution Act 1971 (which among other things authorises the Secretary of State to exempt from provisions of that Act certain discharges of crude oil produced as a result of operations for exploring the seabed or for exploiting its resources) for the words from “crude oil” onwards there shall be substituted the word “oil”.

#### Textual Amendments

**F23** Words amend [Merchant Shipping Act 1970 \(c. 36\), s. 15\(1\)](#)

**F24** [Ss. 31, 32\(2\)\(3\), 37\(4\)](#) repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 57\(5\), 58\(2\), Sch.7](#), (with s. 58(4), Sch.8 para. 1)

**F25** [S. 37\(5\)\(b\)](#) amends [Merchant Shipping Act 1970 \(c. 36\), s. 76\(1\)](#)

**F26** Word repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\), s. 57\(5\), Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

#### Modifications etc. (not altering text)

**C31** The text of s. 37(7)(8) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M33** [1970 c. 36.](#)

**M34** [1970 c. 36.](#)

**M35** [1894 c. 60.](#)

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**M36** 1906 c. 48.

**M37** 1948 c. 44.

**M38** 1970 c. 36.

**M39** 1970 c. 36.

VALID FROM 22/11/1994

**38 Replacement of gold francs by special drawing rights for certain purposes of Merchant Shipping (Oil Pollution) Act 1971 and Merchant Shipping Act 1974. U.K.**

[<sup>F27</sup>(1) In section 4 of the <sup>M40</sup>Merchant Shipping (Oil Pollution) Act 1971 (which among other things enables a ship's owner to limit in certain circumstances his liability under section 1 of that Act so that it does not exceed 2,000 gold francs for each ton of the ship's tonnage or 210 million gold francs, whichever is less)—

- (a) for the words "2,000 gold francs" and "210 million gold francs" in subsection (1)(b) there shall be substituted respectively the words "133 special drawing rights" and "14 million special drawing rights"; and
- (b) subsections (3) to (5) (which relate to the value of gold francs) shall cease to have effect.]

(2) In section 5 of that Act (which among other things relates to payment into court of the amount of a limit determined in pursuance of that section), after subsection (2) there shall be inserted the following subsection—

“(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.”

[<sup>F28</sup>(3) For the purposes of sections 10(2) and 11(1) of that Act (which refer to Article VII of the International Convention on Civil Liability for Oil Pollution Damage signed in Brussels in 1969) references in that Article to Article V of the Convention shall be

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construed as references to Article V as amended by Article II of the protocol dated 19th November 1976 to the Convention; . . . <sup>F29</sup>.]

(4) The <sup>M41</sup>Merchant Shipping Act 1974 shall have effect with the following amendments, namely—

<sup>F30</sup>(a) section 1(6) and (7) (which relate to the value of gold francs) shall cease to have effect ;

(b) in section 2(7)(a) (which provides for a person's contributions to the International Fund there mentioned to be of an amount determined under articles 11 and 12 of the convention which established the Fund) and in section 4(10) (which provides for the liability of the said Fund to be subject to the limits imposed by article 4 of the said convention) after the words "the Fund Convention" there shall be inserted the words "(as amended by Article III of the protocol dated 19th November 1976 to that Convention)" ;]

(c) at the end of section 4 (which relates to compensation from the said Fund for persons suffering pollution damage) there shall be inserted the following subsection—

“(13) Any steps taken to obtain payment of an amount or a reduced amount in pursuance of such a judgment as is mentioned in subsection (12) above shall be steps to obtain payment 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 judgment is given, 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 judgment was given, 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 judgment was given,

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.”;

<sup>F30</sup>(d) in section (5)(1)(a) and (b) (which specify the portion of the aggregate amount of a liability for which the said Fund is to give indemnity) for the words “1,500 francs” and “2,000 francs” there shall be substituted respectively the words “100 special drawing rights” and “133 special drawing rights” and for the words “125 million francs” and “210 million francs” there shall be substituted respectively the words “8,333,000 special drawing rights” and “14 million special drawing rights” ;

(e) at the end of section 5 there shall be inserted the following subsection—

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“(8) For the purpose of converting into sterling the amount in special drawing rights adjudged to be payable by the Fund by way of indemnity in such proceedings as are mentioned in subsection (4) of this section, paragraphs (a) to (c) of subsection (13) of section 4 of this Act shall have effect—

(a) if the liability in question has been limited in pursuance of section 5 of the Merchant Shipping (Oil Pollution) Act 1971, as if—

(i) for the reference in the said paragraph (a) to the amount there mentioned there were substituted a reference to the amount adjudged as aforesaid, and

(ii) for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the determination of the limit was made in pursuance of the said section 5 ; and

(b) if the liability in question has not been so limited, with the modification made by paragraph (a)(i) of this subsection and as if for any reference to the day on which the judgment is or was given there were substituted a reference to the day on which the said amount was so adjudged.”;

(f) in section 6(5)(a) (which refers to provisions of the said article 4 as set out in Schedule 1 to that Act) after the words “as set out” there shall be inserted the words “as amended” ;

(g) in Schedule 1 for the words “450 million francs” wherever they occur there shall be substituted the words “30 million special drawing rights” and for the words “900 million francs” there shall be substituted the words “60 million special drawing rights”.]

(5) It is hereby declared that the powers to make Orders in Council conferred by section 18 of the said Act of 1971 and section 20 of the said Act of 1974 (which provide for the extension of those Acts to any of the countries mentioned in those sections and for those Acts to have effect as if references in them to the United Kingdom included references to any of those countries) include power to make Orders in Council in respect of those Acts as amended by this section.

(6) An order made by virtue of section 52(2) of this Act which appoints a day for the coming into force of any of the preceding provisions of this section may contain such transitional provisions as the Secretary of State considers appropriate in connection with the coming into force of the provision in question.

### Textual Amendments

**F27** s. 38(1) 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)

**F28** S. 38(3) 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)

**F29** Words amend Merchant Shipping (Oil Pollution) Act 1971 (c. 59), **s. 14(2)**

**F30** S. 38(4)(a)(b), (d)–(g) 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)

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

#### Modifications etc. (not altering text)

- C32** The text of s. 38(1)(2)(4) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Commencement Information

- I2** S. 38 partly in force; s. 38 not in force at Royal Assent see s. 52(2); s. 38(4) in force at 22.11.1994 by S.I. 1994/2789, art. 2, Sch.

#### Marginal Citations

- M40** 1971 c. 59.  
**M41** 1974 c. 43.

### 39 Attachment of earnings. **U.K.**

(1) At the beginning of paragraph (e) of section 24(2) of the <sup>M42</sup>Attachment of Earnings Act 1971 (under which wages of a seaman are not to be treated as earnings for the purposes of that Act unless he is a seaman of a fishing boat) there shall be inserted the words “except in relation to a maintenance order”.

[<sup>F31</sup>(2) As respects Scotland, the wages of a seaman of a fishing boat shall cease to be exempt from arrestment and the wages of any other seaman shall cease to be exempt from arrestment under a maintenance order; and in this subsection “maintenance order” means an order of any court or authority enforceable in Scotland for the payment of any periodical or capital sum due or awarded in respect of a marriage or other family relationship.]

(3) Accordingly section 11(1)(a) of the <sup>M43</sup>Merchant Shipping Act 1970 (which provides that the wages of a seaman employed in a ship registered in the United Kingdom shall not be subject to attachment [<sup>F32</sup>or arrestment]) shall have effect, as respects England and Wales, subject to the said Act of 1971 as amended by subsection (1) of this section [<sup>F32</sup>and, as respects Scotland, subject to the preceding subsection.]

#### Textual Amendments

- F31** S. 39(2) repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), Sch 8, (with Sch. 7 para. 5)  
**F32** Words repealed (S.) by Debtors (Scotland) Act 1987 (c. 18, SIF 45:2), s. 108(3), Sch. 8, (with Sch. 7 para. 5)

#### Modifications etc. (not altering text)

- C33** The text of ss. 39(1), 40(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

- M42** 1971 c. 32.  
**M43** 1970 c. 36.

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

#### 40 Foreign action affecting shipping. **U.K.**

- (1) In section 14 of the Merchant Shipping Act 1974 (which relates to foreign action affecting shipping)—
- (a) .....<sup>F33</sup>
  - (b) in subsection (8) (which prohibits the disclosure of information otherwise than with the informant's consent or for the purposes of the section) after paragraph (c) there shall be inserted the words "or"
  - (d) "in pursuance of a Community obligation to a Community institution";
  - (c) .....<sup>F33</sup>
- (2) .....<sup>F33</sup>

##### Textual Amendments

**F33** Ss. 40(1)(a)(c)(d)(2), 45(1) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

##### Modifications etc. (not altering text)

**C34** The text of ss. 39(1), 40(1) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### 41 Application of Merchant Shipping Acts to certain structures etc. **U.K.**

- (1) The Secretary of State may by order provide that a thing designed or adapted for use at sea and described in the order is or is not to be treated as a ship for the purposes of any provision specified in the order of the Merchant Shipping Acts or the <sup>M44</sup>Prevention of Oil Pollution Act 1971 or an instrument made by virtue of any of those Acts; and such an order may—
- (a) make different provision in relation to different occasions;
  - (b) if it provides that a thing is to be treated as a ship for the purposes of a provision specified in the order, provide that the provision shall have effect in relation to the thing with such modifications as are so specified.
- (2) Where the Secretary of State proposes to make an order in pursuance of the preceding subsection it shall be his duty, before he makes the order, to consult such persons about the proposal as appear to him to represent the persons in the United Kingdom who he considers are likely to be affected by the order.

##### Marginal Citations

**M44** 1971 c. 60.

### Offences

#### 42 Alteration of time for certain summary prosecutions. **U.K.**

- (1) Subsection (1) of section 683 of the <sup>M45</sup>Merchant Shipping Act 1894 (which prevents convictions in summary proceedings in the United Kingdom for certain offences



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unless the proceedings are begun within the times limited by that subsection) shall not apply to summary proceedings for an indictable offence; . . . <sup>F34</sup>.

- (2) The said subsection (1) shall not prevent a conviction for an offence in summary proceedings begun before the expiration of three years beginning with the date on which the offence was committed and before—
  - (a) the expiration of the period of six months beginning with the day when evidence which the Secretary of State considers is sufficient to justify a prosecution for the offence came to his knowledge; or
  - (b) the expiration of two months beginning with the day when the accused was first present in the United Kingdom after the expiration of the period mentioned in the preceding paragraph if throughout that period the accused was absent from the United Kingdom.
- (3) For the purposes of the preceding subsection—
  - (a) a certificate of the Secretary of State stating that evidence came to his knowledge on a particular day shall be conclusive evidence of that fact; and
  - (b) a document purporting to be a certificate of the Secretary of State and to be signed on his behalf shall be presumed to be such a certificate unless the contrary is proved.
- (4) [<sup>F35</sup>Section 127(2)–(4) of the Magistrates’ Courts Act 1980] (which among other things contains a provision for England and Wales which corresponds to the first provision in subsection (1) of this section) shall not apply to an offence under the Merchant Shipping Acts; but nothing in the preceding provisions of this section, except subsection (1), applies to an offence committed before this section comes into force.
- (5) In the application of this section to Scotland—
  - (a) in subsection (2)(a) for the words from “Secretary” to “knowledge” there shall be substituted the words “Lord Advocate considers is sufficient to justify a prosecution for the offence came to his knowledge, or, where such evidence is reported to him by the Secretary of State, the expiration of the period of six months beginning with the day when it came to the knowledge of the Secretary of State”;
  - (b) in subsection (3)(a) and (b) for the words “Secretary of State” there shall be substituted the words “Lord Advocate or the Secretary of State, as the case may be,”.

#### Textual Amendments

**F34** Words amend [Merchant Shipping Act 1894 \(c. 60\), s. 683\(1\)](#)

**F35** Words substituted by [Magistrates' Courts Act 1980 \(c. 43, SIF 82\), s. 155\(7\), Sch. 7 para. 186](#)

#### Marginal Citations

**M45** [1894 c. 60.](#)

## 43 Alteration of penalties. **U.K.**

- (1) A person guilty of an offence under any of the enactments mentioned in the first column of Part I, II, III or IV of Schedule 6 to this Act (which among other things relate to the matters mentioned in the second column of those Parts and provide for maximum

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finer on summary conviction of from £2 to £50 in the case of enactments mentioned in Part I of that Schedule, from £5 to £100 in the case of enactments mentioned in Part II of that Schedule and from £5 to £400 in the case of enactments mentioned in Parts III and IV of that Schedule) shall be liable on summary conviction to a fine not exceeding—

- (a) [<sup>F36</sup>level 2 on the standard scale] if the enactment is mentioned in the said Part I;
- (b) [<sup>F36</sup>level 3 on the standard scale] if the enactment is mentioned in the said Part II;
- (c) [<sup>F36</sup>level 4 on the standard scale] if the enactment is mentioned in the said Part III; and
- (d) [<sup>F36</sup>level 5 on the standard scale] if the enactment is mentioned in the said Part IV,

instead of the fine to which he would be liable for the offence apart from this subsection.

- (2) A person guilty of an offence under any of the enactments mentioned in the first column of Part V of that Schedule (which among other things relate to the matters mentioned in the second column of that Part and provide for maximum fines of from £20 to £1,000 on summary conviction and in some cases for a fine on conviction on indictment) shall be liable—

- (a) on conviction on indictment to a fine; and
- (b) on summary conviction to a fine not exceeding £1,000,

instead of the fine to which he would be liable for the offence apart from this subsection.

- (3) The enactments mentioned in Parts VI and VII of that Schedule (which provide for various penalties for the offences under the Merchant Shipping Acts and the <sup>M46</sup>Prevention of Oil Pollution Act 1971 which are mentioned in those Parts) shall have effect with the amendments specified in those Parts.

- (4) . . . . . <sup>F37</sup>

- (6) Nothing in any of the preceding provisions of this section . . . <sup>F38</sup> applies to an offence committed before the provision or, as the case may be, the order comes into force.

#### Textual Amendments

**F36** 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

**F37** S. 43(4)(5) repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, Sch. 16

**F38** Words repealed by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 78, Sch. 16

#### Modifications etc. (not altering text)

**C35** S. 43(2)(b) amended by Criminal Justice Act 1982 (c. 48, SIF 39:1), s. 49(1)

**C36** The text of s. 43(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

#### Marginal Citations

**M46** 1971 c. 60.

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44 ..... <sup>F39</sup> **U.K.**

**Textual Amendments**

**F39** S. 44 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

45 **Amendment of certain offences provisions of Merchant Shipping Act 1970.** **U.K.**

- (1) ..... <sup>F40</sup>
- (2) In section 28 of that Act (under which a seaman employed in a ship commits an offence if while on duty he is under the influence of drink or a drug to such an extent that his capacity to carry out his duties is impaired) for the word “ship” there shall be substituted the words “fishing vessel”, for the words “on duty” there shall be substituted the words “on board the vessel” and for the words “his duties” there shall be substituted the words “the duties of his employment”.
- (3) In section 95(1)(a) of that Act, (which among other things provides that section 30 of that Act, of which paragraph (c)(iii) penalises combinations by seamen to impede the ship, does not apply to fishing vessels) for the words “30 and” there shall be substituted the words “and 30(a) and (b), sub-paragraphs (i) and (ii) of section 30(c) and sections”.

**Textual Amendments**

**F40** Ss. 40(1)(a)(c)(d)(2), 45(1) repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

**Modifications etc. (not altering text)**

**C37** The text of s. 45(2)(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

46 **Offences by officers of bodies corporate.** **U.K.**

- (1) Where [<sup>F41</sup>an offence under—
- (a) section 23(6) or 28(1) of this Act, or
  - (b) any Order in Council made by virtue of section 20(1) of this Act, or
  - (c) any regulations made by virtue of section 20(4) or 21(1) of this Act,]
- which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, a director, manager, secretary or other similar officer of the body corporate or any person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.
- (2) Where the affairs of a body corporate are managed by its members the preceding subsection shall apply in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the body corporate.

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#### Textual Amendments

- F41** Words and s. 46(1)(a)–(c) substituted for words by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 48, [Sch. 5](#), (with s. 58(4), Sch. 8 para. 1)

### Supplemental

#### 47 Power to extend Act to certain countries etc. **U.K.**

- (1) Her Majesty may by Order in Council provide that any provision of this Act which is mentioned in the following subsection and specified in the Order and any instrument so specified which is in force under that provision shall, with such modifications (if any) as are so specified—
- extend to a relevant country so specified as part of the law of the country; or
  - apply to ships registered in a relevant country so specified and to masters and seamen employed in the ships as they apply to ships registered in the United Kingdom and to masters and seamen employed in them; or
  - extend and apply as aforesaid.
- (2) The provisions of this Act referred to in the preceding subsection are sections 21 to 52 (except sections 33, 34, 36, 38, 42 [<sup>F42</sup>, 43] and this section) and Schedule 7 (except so far as it relates to the <sup>M47</sup>Pilotage Act 1913); and in that subsection “a relevant country” means a country mentioned in section 15(1) of this Act.
- (3) Any statutory instrument made by virtue of subsection (1) of this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F42** “, 43” substituted by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s.57(4), [Sch. 6](#), (with s. 58(4), Sch. 8 para. 1)

#### Modifications etc. (not altering text)

- C38** [S. 47](#) extended by Safety at [Sea Act 1986 \(c. 23, SIF 111\)](#), s. **14(3)**

#### Marginal Citations

- M47** 1913 c. 31.

#### 48 Application to hovercraft. **U.K.**

The enactments and instruments with respect to which provision may be made by Order in Council in pursuance of section 1(1)(h) of the <sup>M48</sup>Hovercraft Act 1968 shall include this Act and any instrument made under it.

#### Marginal Citations

- M48** 1968 c. 59.

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## 49 Orders and regulations. **U.K.**

- (1) Any power to make an order or regulations conferred on the Secretary of State by this Act shall be exercisable by statutory instrument.
  - (2) Section 738 of the <sup>M49</sup>Merchant Shipping Act 1894 (which among other things provides for the publication in the London Gazette, the laying before Parliament and the alteration and revocation of Orders in Council made under that Act or any Act amending that Act) shall not apply to an Order in Council made under this Act.
  - (3) No order shall be made in pursuance of section 3(1), 4(2), 8(5), 10(3) or 34(3) of this Act . . . <sup>F43</sup> unless a draft of the order . . . <sup>F43</sup> has been approved by resolution of each House of Parliament.
  - (4) Any statutory instrument containing an order made by virtue of section 2(3), 41(1) or 43(4) of this Act or paragraph 11 of Part II of Schedule 3 or paragraph 3 or 5 of Part II of Schedule 4 to this Act or containing regulations made by virtue of section 11(2) (a), . . . <sup>F44</sup>, 22(3), 23(1), 25(4) or 30(2) of this Act . . . <sup>F44</sup> shall be subject to annulment in pursuance of a resolution by either House of Parliament.
- <sup>F45</sup>(4A) [<sup>F46</sup>Except where subsection (4B) of this section applies,] Regulations of the following descriptions under section 21(1) of this Act shall be subject to annulment in pursuance of a resolution of either House of Parliament—
- (a) regulations under paragraph (a) of that subsection,
  - (b) regulations under paragraph (b) of that subsection which—
    - (i) relate to an international agreement laid before Parliament before 4th April 1979, or
    - (ii) relate to safety matters and give effect to amendments in force to an international agreement already implemented under that paragraph, and
  - (c) regulations under paragraph (c) of that subsection which contain a statement that they are made only for the purpose of applying to certain other ships the provisions of an international agreement implemented under paragraph (b) of that subsection;
- and regulations of any other description under section 21(1) of this Act shall not be made unless a draft of the regulations has been approved by resolution of each House of Parliament.]
- <sup>F47</sup>(4B) Regulations falling within paragraphs (a) to (c) of subsection (4A) of this section, if contained in the same instrument as any regulations requiring to be approved in draft by virtue of that subsection, shall also require to be so approved.]
- (5) Any statutory instrument containing an order made by virtue of paragraph 8(1) of Part II of Schedule 4 to this Act shall be laid before Parliament after being made.

### Textual Amendments

**F43** Words repealed by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(4)(c)

**F44** Words repealed by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(4)(d)

**F45** S. 49(4A) inserted by Safety at Sea Act 1986 (c. 23, SIF 111), s. 11(3)

**F46** Words inserted by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5, (with s. 58(4), Sch. 8 para. 1)

**F47** S. 49(4B) inserted Merchant Shipping Act 1988 (c. 12, SIF 111), s. 48, Sch. 5, (with s. 58(4), Sch. 8 para. 1)

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**Marginal Citations**

M49 1894 c. 60.

VALID FROM 22/11/1994

**50 Interpretation and repeals. U.K.**

- (1) This Act shall be construed as one with the Merchant Shipping Acts.
- (2) In this Act—
  - .....<sup>F48</sup>
  - “contravention” includes failure to comply;
  - “functions” includes powers and duties;
  - “the Merchant Shipping Acts” means the Merchant Shipping Acts 1894 to 1977 . . . .<sup>F49</sup> and, except in sections 22(3)(a) and 37(5) of this Act and the preceding subsection, this Act; and
  - “modifications” includes additions, omissions and alterations, and related expressions shall be construed accordingly.
- (3) Section 4 of the <sup>M50</sup>Aliens restriction (Amendment) Act 1919 (which prohibits an alien from holding a pilotage certificate for a pilotage district in the United Kingdom except in certain cases) shall cease to have effect.
- (4) The enactments mentioned in the first and second columns of Schedule 7 to this Act are hereby repealed to the extent specified in the third column of that Schedule. . . . .; but nothing in Part I of that Schedule shall affect the operation of any enactment in relation to such an occurrence as mentioned in section 19(4) of this Act.

**Textual Amendments**

- F48** Definition repealed by Pilotage Act 1987 (c. 21, SIF 111), s 32(5), **Sch. 3**
- F49** Words inserted by Pilotage Act 1983 (c. 21, SIF 111), s. 69(2), **Sch. 3 para. 7** and repealed by Pilotage Act 1987 (c. 21, SIF 111), s. 32(5), **Sch. 3**

**Modifications etc. (not altering text)**

- C39** The text of s. 50(3) is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.
- C40** The text of s. 50(4) is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Commencement Information**

- I3** S. 50 partly in force; s. 50 not in force at Royal Assent see s. 52(2); s. 50(4) in force for specified purposes at 22.11.1994 by S.I. 1994/2789, art. 2, **Sch.**

**Marginal Citations**

M50 1919 c. 92.

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## 51 Expenses etc. **U.K.**

- (1) There shall be paid out of money provided by Parliament—
  - (a) any administrative expenses incurred by a Minister of the Crown or a government department under this Act; and
  - (b) any increase attributable to this Act in the sums which, under any other Act, are payable out of money so provided.
- (2) The Treasury shall be entitled to charge a reasonable fee for any certificate given by or on behalf of the Treasury in pursuance of any provision contained in subsection (2) or (4)(c) of section 38 of this Act or paragraph 4 of Part III of Schedule 3 or paragraph 7 of Part II of Schedule 4 to this Act.
- (3) Any fees received by a Minister of the Crown by virtue of this Act shall be paid into the Consolidated Fund.

## 52 Citation and commencement. **U.K.**

- (1) This Act may be cited as the Merchant Shipping Act 1979 and this Act and the Merchant Shipping Acts 1894 to 1977 may be cited together as the Merchant Shipping Acts 1894 to 1979.
- (2) This Act shall come into force on such day as the Secretary of State may appoint by order, and different days may be appointed in pursuance of this subsection for different provisions of this Act or for different purposes of the same provision.

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### Modifications etc. (not altering text)

- C41** Power of appointment conferred by s. 52(2) partly exercised: [S.I. 1979/807](#), 1578, 1980/354, 923, 1981/405, 1982/1616, 1983/440, 1312, 1985/1827, 1986/1052, 1987/635, 719, 1989/1881  
[S. 52\(2\)](#) power partly exercised (2.11.1994): 22.11.1994 appointed for specified provisions by [S.I. 1994/2789](#), art. 2, [Sch.](#)

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## SCHEDULES

### SCHEDULE 1 **U.K.**

. . . **F50**

#### Textual Amendments

**F50** Sch. 1 repealed by Pilotage Act 1987 (c. 21, SIF 111), s. 32(5), **Sch. 3**

### SCHEDULE 2 **U.K.**

. . . **F51**

#### Textual Amendments

**F51** Sch. 2 repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), **Sch. 4**

### SCHEDULE 3 **U.K.**

Sections 14, 15, 16, 49(4), 51(2).

CONVENTION RELATING TO THE CARRIAGE OF PASSENGERS AND THEIR LUGGAGE BY SEA

### PART I **U.K.**

#### TEXT OF CONVENTION

#### Modifications etc. (not altering text)

**C42** Sch. 3 Pt. I (Arts. 1–21) modified by S.I. 1987/670, art. 3(1)

### ARTICLE 1 **U.K.**

#### *Definitions*

In this Convention the following expressions have the meaning hereby assigned to them:



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- 1 (a) “carrier” means a person by or on behalf of whom a contract of carriage has been concluded, whether the carriage is actually performed by him or by a performing carrier;
- (b) “performing carrier” means a person other than the carrier, being the owner, charterer or operator of a ship, who actually performs the whole or a part of the carriage;
- 2 “contract of carriage” means a contract made by or on behalf of a carrier for the carriage by sea of a passenger or of a passenger and his luggage, as the case may be;
- 3 “ship” means only a seagoing vessel, excluding an air-cushion vehicle;
- 4 “passenger” means any person carried in a ship,
- (a) under a contract of carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods not governed by this Convention;
- 5 “luggage” means any article or vehicle carried by the carrier under a contract of carriage, excluding:
- (a) articles and vehicles carried under a charter party, bill of lading or other contract primarily concerned with the carriage of goods, and
- (b) live animals;
- 6 “cabin luggage” means luggage which the passenger has in his cabin or is otherwise in his possession, custody or control. Except for the application of paragraph 8 of this Article and Article 8, cabin luggage includes luggage which the passenger has in or on his vehicle;
- 7 “loss of or damage to luggage” includes pecuniary loss resulting from the luggage not having been re-delivered to the passenger within a reasonable time after the arrival of the ship on which the luggage has been or should have been carried, but does not include delays resulting from labour disputes;
- 8 “carriage” covers the following periods:
- (a) with regard to the passenger and his cabin luggage, the period during which the passenger and/or his cabin luggage are on board the ship or in the course of embarkation or disembarkation, and the period during which the passenger and his cabin luggage are transported by water from land to the ship or vice-versa, if the cost of such transport is included in the fare or if the vessel used for the purpose of auxiliary transport has been put at the disposal of the passenger by the carrier. However, with regard to the passenger, carriage does not include the period during which he is

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in a marine terminal or station or on a quay or in or on any other port installation;

- (b) with regard to cabin luggage, also the period during which the passenger is in a marine terminal or station or on a quay or in or on any other port installation if that luggage has been taken over by the carrier or his servant or agent and has not been re-delivered to the passenger;
- (c) with regard to other luggage which is not cabin luggage, the period from the time of its taking over by the carrier or his servant or agent onshore or on board until the time of its re-delivery by the carrier or his servant or agent;

- 9 “international carriage” means any carriage in which, according to the contract of carriage, the place of departure and the place of destination are situated in two different States, or in a single State if, according to the contract of carriage or the scheduled itinerary, there is an intermediate port of call in another State;

## ARTICLE 2 U.K.

### *Application*

- 1 This Convention shall apply to any international carriage if:
- (a) the ship is flying the flag of or is registered in a State Party to this Convention, or
  - (b) the contract of carriage has been made in a State Party to this Convention, or
  - (c) the place of departure or destination, according to the contract of carriage, is in a State Party to this Convention.
- 2 Notwithstanding paragraph 1 of this Article, this Convention shall not apply when the carriage is subject, under any other international convention concerning the carriage of passengers or luggage by another mode of transport, to a civil liability regime under the provisions of such convention, in so far as those provisions have mandatory application to carriage by sea.

## ARTICLE 3 U.K.

### *Liability of the carrier*

- 1 The carrier shall be liable for the damage suffered as a result of the death of or personal injury to a passenger and the loss of or damage to luggage if the incident which caused the damage so suffered occurred in the course of the carriage and was due to the fault or neglect of the carrier or of his servants or agents acting within the scope of their employment.

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- 2 The burden of proving that the incident which caused the loss or damage occurred in the course of the carriage, and the extent of the loss or damage, shall lie with the claimant.
- 3 Fault or neglect of the carrier or of his servants or agents acting within the scope of their employment shall be presumed, unless the contrary is proved, if the death of or personal injury to the passenger or the loss of or damage to cabin luggage arose from or in connection with the shipwreck, collision, stranding, explosion or fire, or defect in the ship. In respect of loss of or damage to other luggage, such fault or neglect shall be presumed, unless the contrary is proved, irrespective of the nature of the incident which caused the loss or damage. In all other cases the burden of proving fault or neglect shall lie with the claimant.

#### ARTICLE 4 **U.K.**

##### *Performing carrier*

- 1 If the performance of the carriage or part thereof has been entrusted to a performing carrier, the carrier shall nevertheless remain liable for the entire carriage according to the provisions of this Convention. In addition, the performing carrier shall be subject and entitled to the provisions of this Convention for the part of the carriage performed by him.
- 2 The carrier shall, in relation to the carriage performed by the performing carrier, be liable for the acts and omissions of the performing carrier and of his servants and agents acting within the scope of their employment.
- 3 Any special agreement under which the carrier assumes obligations not imposed by this Convention or any waiver of rights conferred by this Convention shall affect the performing carrier only if agreed by him expressly and in writing.
- 4 Where and to the extent that both the carrier and the performing carrier are liable, their liability shall be joint and several.
- 5 Nothing in this Article shall prejudice any right of recourse as between the carrier and the performing carrier.

#### ARTICLE 5 **U.K.**

##### *Valuables*

The carrier shall not be liable for the loss of or damage to monies, negotiable securities, gold, silverware, jewellery, ornaments, works of art, or other valuables, except where such valuables have been deposited with the carrier for the agreed purpose of safe-keeping in which case the

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carrier shall be liable up to the limit provided for in paragraph 3 of Article 8 unless a higher limit is agreed upon in accordance with paragraph 1 of Article 10.

#### ARTICLE 6 U.K.

##### *Contributory fault*

If the carrier proves that the death of or personal injury to a passenger or the loss of or damage to his luggage was caused or contributed to by the fault or neglect of the passenger, the court seized of the case may exonerate the carrier wholly or partly from his liability in accordance with the provisions of the law of that court.

#### ARTICLE 7 U.K.

##### *Limit of liability for personal injury*

- 1 The liability of the carrier for the death of or personal injury to a passenger shall in no case exceed 700,000 francs per carriage. Where in accordance with the law of the court seized of the case damages are awarded in the form of periodical income payments, the equivalent capital value of those payments shall not exceed the said limit.
- 2 Notwithstanding paragraph 1 of this Article, the national law of any State Party to this Convention may fix, as far as carriers who are nationals of such State are concerned, a higher *per capita* limit of liability.

#### ARTICLE 8 U.K.

##### *Limit of liability for loss of or damage to luggage*

- 1 The liability of the carrier for the loss of or damage to cabin luggage shall in no case exceed 12,500 francs per passenger, per carriage.
- 2 The liability of the carrier for the loss of or damage to vehicles including all luggage carried in or on the vehicle shall in no case exceed 50,000 francs per vehicle, per carriage.
- 3 The liability of the carrier for the loss of or damage to luggage other than that mentioned in paragraphs 1 and 2 of this Article shall in no case exceed 18,000 francs per passenger, per carriage.
- 4 The carrier and the passenger may agree that the liability of the carrier shall be subject to a deductible not exceeding 1,750 francs in the case of damage to a vehicle

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and not exceeding 200 francs per passenger in the case of loss of or damage to other luggage, such sum to be deducted from the loss or damage.

## ARTICLE 9 U.K.

### *Monetary unit and conversion*

- 1 The franc mentioned in this Convention shall be deemed to refer to a unit consisting of 65.5 milligrams of gold of millesimal fineness 900.
- 2 The amounts referred to in Articles 7 and 8 shall be converted into the national currency of the State of the court seized of the case on the basis of the official value of that currency, by reference to the unit defined in paragraph 1 of this Article, on the date of the judgment or the date agreed upon by the parties.

## ARTICLE 10 U.K.

### *Supplementary provisions on limits of liability*

- 1 The carrier and the passenger may agree, expressly and in writing, to higher limits of liability than those prescribed in Articles 7 and 8.
- 2 Interest on damages and legal costs shall not be included in the limits of liability prescribed in Articles 7 and 8.

## ARTICLE 11 U.K.

### *Defences and limits for carriers' servants*

If an action is brought against a servant or agent of the carrier or of the performing carrier arising out of damage covered by this Convention, such servant or agent, if he proves that he acted within the scope of his employment, shall be entitled to avail himself of the defences and limits of liability which the carrier or the performing carrier is entitled to invoke under this Convention.

## ARTICLE 12 U.K.

### *Aggregation of claims*

- 1 Where the limits of liability prescribed in Articles 7 and 8 take effect, they shall apply to the aggregate of the amounts recoverable in all claims arising out of the death of or personal injury to any one passenger or the loss of or damage to his luggage.

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

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- 2 In relation to the carriage performed by a performing carrier, the aggregate of the amounts recoverable from the carrier and the performing carrier and from their servants and agents acting within the scope of their employment shall not exceed the highest amount which could be awarded against either the carrier or the performing carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to him.
- 3 In any case where a servant or agent of the carrier or of the performing carrier is entitled under Article 11 of this Convention to avail himself of the limits of liability prescribed in Articles 7 and 8, the aggregate of the amounts recoverable from the carrier, or the performing carrier as the case may be, and from that servant or agent, shall not exceed those limits.

### ARTICLE 13 U.K.

#### *Loss of right to limit liability*

- 1 The carrier shall not be entitled to the benefit of the limits of liability prescribed in Articles 7 and 8 and paragraph 1 of Article 10, if it is proved that the damage resulted from an act or omission of the carrier done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.
- 2 The servant or agent of the carrier or of the performing carrier shall not be entitled to the benefit of those limits if it is proved that the damage resulted from an act or omission of that servant or agent done with the intent to cause such damage, or recklessly and with knowledge that such damage would probably result.

### ARTICLE 14 U.K.

#### *Basis for claims*

No action for damages for the death of or personal injury to a passenger, or for the loss of or damage to luggage, shall be brought against a carrier or performing carrier otherwise than in accordance with this Convention.

### ARTICLE 15 U.K.

#### *Notice of loss or damage to luggage*

- 1 The passenger shall give written notice to the carrier or his agent:
- (a) in the case of apparent damage to luggage:
    - (i) for cabin luggage, before or at the time of disembarkation of the passenger;
    - (ii) for all other luggage, before or at the time of its re-delivery;

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- (b) in the case of damage to luggage which is not apparent, or loss of luggage, within fifteen days from the date of disembarkation or re-delivery or from the time when such re-delivery should have taken place.
- 2 If the passenger fails to comply with this Article, he shall be presumed, unless the contrary is proved, to have received the luggage undamaged.
- 3 The notice in writing need not be given if the condition of the luggage has at the time of its receipt been the subject of joint survey or inspection.

## ARTICLE 16 **U.K.**

### *Time-bar for actions*

- 1 Any action for damages arising out of the death of or personal injury to a passenger or for the loss of or damage to luggage shall be time-barred after a period of two years.
- 2 The limitation period shall be calculated as follows:
- (a) in the case of personal injury, from the date of disembarkation of the passenger;
  - (b) in the case of death occurring during carriage, from the date when the passenger should have disembarked, and in the case of personal injury occurring during carriage and resulting in the death of the passenger after disembarkation, from the date of death, provided that this period shall not exceed three years from the date of disembarkation;
  - (c) in the case of loss of or damage to luggage, from the date of disembarkation or from the date when disembarkation should have taken place, whichever is later.
- 3 The law of the court seized of the case shall govern the grounds of suspension and interruption of limitation periods, but in no case shall an action under this Convention be brought after the expiration of a period of three years from the date of disembarkation of the passenger or from the date when disembarkation should have taken place, whichever is later.
- 4 Notwithstanding paragraphs 1, 2 and 3 of this Article, the period of limitation may be extended by a declaration of the carrier or by agreement of the parties after the cause of action has arisen. The declaration or agreement shall be in writing.

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## ARTICLE 17 U.K.

### *Competent jurisdiction*

- 1 An action arising under this Convention shall, at the option of the claimant, be brought before one of the courts listed below, provided that the court is located in a State Party to this Convention:
  - (a) the court of the place of permanent residence or principal place of business of the defendant, or
  - (b) the court of the place of departure or that of the destination according to the contract of carriage, or
  - (c) a court of the State of the domicile or permanent residence of the claimant, if the defendant has a place of business and is subject to jurisdiction in that State, or
  - (d) a court of the State where the contract of carriage was made, if the defendant has a place of business and is subject to jurisdiction in that State.
  
- 2 After the occurrence of the incident which has caused the damage, the parties may agree that the claim for damages shall be submitted to any jurisdiction or to arbitration.

## ARTICLE 18 U.K.

### *Invalidity of contractual provisions*

Any contractual provision concluded before the occurrence of the incident which has caused the death of or personal injury to a passenger or the loss of or damage to his luggage, purporting to relieve the carrier of his liability towards the passenger or to prescribe a lower limit of liability than that fixed in this Convention except as provided in paragraph 4 of Article 8, and any such provision purporting to shift the burden of proof which rests on the carrier, or having the effect of restricting the option specified in paragraph 1 of Article 17, shall be null and void, but the nullity of that provision shall not render void the contract of carriage which shall remain subject to the provisions of this Convention.

## ARTICLE 19 U.K.

### *Other conventions on limitation of liability*

This Convention shall not modify the rights or duties of the carrier, the performing carrier, and their servants or agents provided for in international conventions relating to the limitation of liability of owners of seagoing ships.



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## ARTICLE 20 U.K.

### *Nuclear damage*

No liability shall arise under this Convention for damage caused by a nuclear incident:

(a) if the operator of a nuclear installation is liable for such damage under either the Paris Convention of 29 July 1960 on Third Party Liability in the Field of Nuclear Energy as amended by its Additional Protocol of 28 January 1964, or the Vienna Convention of 21 May 1963 on Civil Liability for Nuclear Damage, or

(b) if the operator of a nuclear installation is liable for such damage by virtue of a national law governing the liability for such damage, provided that such law is in all respects as favourable to persons who may suffer damage as either the Paris or the Vienna Conventions.

## ARTICLE 21 U.K.

### *Commercial carriage by public authorities*

This Convention shall apply to commercial carriage undertaken by States or Public Authorities under contracts of carriage within the meaning of Article 1.

## PART II U.K.

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

- 1 In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered and any expression to which a meaning is assigned by article 1 of the Convention has that meaning.

#### *Provisions adapting or supplementing specified articles of the Convention*

- 2 For the purposes of paragraph 2 of article 2, provisions of such an international convention as is mentioned in that paragraph which apart from this paragraph do not have mandatory application to carriage by sea shall be treated as having mandatory application to carriage by sea if it is stated in the contract of carriage for the carriage in question that those provisions are to apply in connection with the carriage.
- 3 The reference to the law of the court in article 6 shall be construed as a reference to the <sup>M51</sup>Law Reform (Contributory Negligence) Act 1945 except that in relation to Northern Ireland it shall be construed as a reference to section 2 of the <sup>M52</sup>Law Reform (Miscellaneous Provisions) Act (Northern Ireland) 1948.

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#### **Marginal Citations**

**M51** 1945 c. 28.

**M52** 1948 c. 23 (N.I.)

- 4 The Secretary of State may by order provide that, in relation to a carrier whose principal place of business is in the United Kingdom, paragraph 1 of article 7 shall have effect with the substitution for the limit for the time being specified in that paragraph of a different limit specified in the order (which shall not be lower than the limit specified in that paragraph at the passing of this Act or, if paragraph 1 of Part III of this Schedule has come into force, specified in paragraph 1 of article 7 as amended by paragraph 1 of that Part).
- 5 The values which in pursuance of article 9 shall be considered as the official values in the United Kingdom of the amounts in francs for the time being specified in articles 7 and 8 shall be such amounts in sterling as the Secretary of State may from time to time by order specify.
- 6 It is hereby declared that by virtue of article 12 the limitations on liability there mentioned in respect of a passenger or his luggage apply to the aggregate liabilities of the persons in question in all proceedings for enforcing the liabilities or any of them which may be brought whether in the United Kingdom or elsewhere.
- 7 Article 16 shall apply to an arbitration as it applies to an action; and section 27(3) and (4) of the<sup>M53</sup> Limitation Act 1939 and [<sup>F52</sup>Article 72(3) and (4) of the Limitation (Northern Ireland) Order 1989] (which determine when an arbitration is deemed to commence) shall apply for the purposes of article 16 as they apply for the purposes of those Acts.

#### **Textual Amendments**

**F52** Words substituted by S.I. 1989/1339 (N.I. 11), art. 76(1)(2), Sch. 2 paras. 1, 6, 7, **Sch. 3**

#### **Marginal Citations**

**M53** 1939 c. 21.

- 8 The court before which proceedings are brought in pursuance of article 17 to enforce a liability which is limited by virtue of article 12 may at any stage of the proceedings make such orders as appear to the court to be just and equitable in view of the provisions of article 12 and of any other proceedings which have been or are likely to be begun in the United Kingdom or elsewhere to enforce the liability in whole or in part; and without prejudice to the generality of the preceding provisions of this paragraph such a court shall, where the liability is or may be partly enforceable in other proceedings in the United Kingdom or elsewhere, have jurisdiction to award an amount less than the court would have awarded if the

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limitation applied solely to the proceedings before the court or to make any part of its award conditional on the results of any other proceedings.

*Other provisions adapting or supplementing the Convention*

- 9 Any reference in the Convention to a contract of carriage excludes a contract of carriage which is not for reward.
- 10 If Her Majesty by Order in Council declares that any State specified in the Order is a party to the Convention in respect of a particular country the Order shall, subject to the provisions of any subsequent Order made by virtue of this paragraph, be conclusive evidence that the State is a party to the Convention in respect of that country.
- 11 The Secretary of State may by order make provision—
- (a) for requiring a person who is the carrier in relation to a passenger to give to the passenger, in a manner specified in the order, notice of such of the provisions of Part I of this Schedule as are so specified;
  - (b) for a person who fails to comply with a requirement imposed on him by the order to be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding [<sup>F53</sup>level 4 on the standard scale].

**Textual Amendments**

**F53** 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](#)

*Application of ss. 502 and 503 of Merchant Shipping Act 1894 and section 17 and 18 of this Act*

- 12 Nothing in section 502 of the <sup>M54</sup>Merchant Shipping Act 1894 or section 18 of this Act (which among other things limit a shipowner's liability for the loss or damage of goods in certain cases) shall relieve a person of any liability imposed on him by the Convention.

**Marginal Citations**

**M54** 1894 c. 60.

- 13 It is hereby declared that nothing in the Convention affects the operation of section 503 of the <sup>M55</sup>Merchant Shipping Act 1894 or section 17 of this Act (which limit a shipowner's liability in certain cases of loss of life, injury or damage).

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**Marginal Citations**

**M55** 1894 c. 60.

**PART III U.K.**

MODIFICATIONS OF PARTS I AND II IN CONSEQUENCE  
OF PROTOCOL OF 19TH NOVEMBER 1976

- 1 In Part I of this Schedule, in article 7 of the Convention for the words “700,000 francs” or any other words which, by virtue of paragraph 4 of Part II of this Schedule, are specified in that article in the place of those words there shall be substituted the words “46,666 units of account”.
- 2 In the said Part I, in article 8 of the Convention, for the word “francs” wherever it occurs there shall be substituted the words “units of account” and for the figures “12,500”, “50,000”, “18,000”, “1,750” and “200” there shall be substituted respectively the figures “833”, “3,333”, “1,200”, “117” and “13”.
- 3 In the said Part I for article 9 there shall be substituted the following—

**ARTICLE 9 U.K.**

*Unit of account and conversion*

The Unit of Account mentioned in this Convention is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 7 and 8 shall be converted into the national currency of the State of the Court seized of the case on the basis of the value of that currency on the date of the judgment or the date agreed upon by the Parties.

- 4 In Part II of this Schedule for paragraph 5 there shall be substituted the following—
- 5 (1) For the purpose of converting from special drawing rights into sterling the amounts mentioned in articles 7 and 8 of the Convention in respect of which a judgment is given, 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—
  - (a) the day on which the judgment is given; or
  - (b) if no sum has been so fixed for that day, the last day before that day for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Treasury stating—
  - (a) that a particular sum in sterling has been fixed as mentioned in the preceding sub-paragraph for a particular day; or

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- (b) that no sum has been so fixed for that day and 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 particular day,

shall be conclusive evidence of those matters for the purposes of articles 7 to 9 of the Convention; and 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.

## SCHEDULE 4 **U.K.**

Sections 17, 18, 19, 49, 51(2).

### CONVENTION ON LIMITATION OF LIABILITY FOR MARITIME CLAIMS 1976

#### **Modifications etc. (not altering text)**

**C43** Sch. 4 applied with modifications by 1986/1305, arts. 6, 8

## **PART I **U.K.****

### TEXT OF CONVENTION

#### **CHAPTER I. THE RIGHT OF LIMITATION **U.K.****

##### Article 1

##### *Persons entitled to limit liability*

- 1 Shipowners and salvors, as hereinafter defined, may limit their liability in accordance with the rules of this Convention for claims set out in Article 2.
- 2 The term “shipowner” shall mean the owner, charterer, manager or operator of a seagoing ship.
- 3 Salvor shall mean any person rendering services in direct connexion with salvage operations. Salvage operations shall also include operations referred to in Article 2, paragraph 1(d), (e) and (f).
- 4 If any claims set out in Article 2 are made against any person for whose act, neglect or default the shipowner or salvor is responsible, such person shall be entitled to avail himself of the limitation of liability provided for in this Convention.
- 5 In this Convention the liability of a shipowner shall include liability in an action brought against the vessel herself.

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6 An insurer of liability for claims subject to limitation in accordance with the rules of this Convention shall be entitled to the benefits of this Convention to the same extent as the assured himself.

7 The act of invoking limitation of liability shall not constitute an admission of liability.

#### Article 2

#### *Claims subject to limitation*

1 Subject to Articles 3 and 4 the following claims, whatever the basis of liability may be, shall be subject to limitation 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), occurring on board or in direct connexion with the operation of the ship or with salvage operations, and consequential loss resulting therefrom;
- (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 connexion with the operation of the ship or salvage operations;
- (d) claims in respect of 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;
- (e) claims in respect of the removal, destruction or the rendering harmless of the cargo of the ship;
- (f) claims of a person other than the person liable in respect of measures taken in order to avert or minimize loss for which the person liable may limit his liability in accordance with this Convention, and further loss caused by such measures.

2 Claims set out in paragraph 1 shall be subject to limitation of liability even if brought by way of recourse or for indemnity under a contract or otherwise. However, claims set out under paragraph 1(d), (e) and (f) shall not be subject to limitation of liability to the extent that they relate to remuneration under a contract with the person liable.

#### Article 3

#### *Claims excepted from limitation*

The rules of this Convention shall not apply to:

- (a) claims for salvage or contribution in general average;

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(b) claims for oil pollution damage within the meaning of the International Convention on Civil Liability for Oil Pollution Damage dated 29th November 1969 or of any amendment or Protocol thereto which is in force;

(c) claims subject to any international convention or national legislation governing or prohibiting limitation of liability for nuclear damage;

(d) claims against the shipowner of a nuclear ship for nuclear damage;

(e) claims by servants of the shipowner 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 shipowner or salvor and such servants the shipowner or salvor is not entitled to limit his liability in respect of such claims, or if he is by such law only permitted to limit his liability to an amount greater than that provided for in Article 6.

#### Article 4

##### *Conduct barring limitation*

A person liable shall not be entitled to limit his liability if it is proved that the loss resulted from his personal act or omission, committed with the intent to cause such loss, or recklessly and with knowledge that such loss would probably result.

#### Article 5

##### *Counterclaims*

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

## CHAPTER II. LIMITS OF LIABILITY **U.K.**

#### Article 6

##### *The general limits*

1 The limits of liability for claims other than those mentioned in Article 7, arising on any distinct occasion, shall be calculated as follows:

- (a) in respect of claims for loss of life or personal injury,
  - (i) 333,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
  - (ii) for a ship with a tonnage in excess thereof, the following amount in addition to that mentioned in (i):
    - for each ton from 501 to 3,000 tons, 500 Units of Account;
    - for each ton from 3,001 to 30,000 tons, 333 Units of Account;
    - for each ton from 30,001 to 70,000 tons, 250 Units of Account, and
    - for each ton in excess of 70,000 tons, 167 Units of Account,

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- (b) in respect of any other claims,
  - (i) 167,000 Units of Account for a ship with a tonnage not exceeding 500 tons,
  - (ii) for a ship with a tonnage in excess thereof the following amount in addition to that mentioned in (i):
    - for each ton from 501 to 30,000 tons, 167 Units of Account;
    - for each ton from 30,001 to 70,000 tons, 125 Units of Account; and
    - for each ton in excess of 70,000 tons, 83 Units of Account.

2 Where the amount calculated in accordance with paragraph 1(a) is insufficient to pay the claims mentioned therein in full, the amount calculated in accordance with paragraph 1(b) shall be available for payment of the unpaid balance of claims under paragraph 1(a) and such unpaid balance shall rank rateably with claims mentioned under paragraph 1(b).

4 The limits of liability for any salvor not operating from any ship or for any salvor operating solely on the ship to, or in respect of which he is rendering salvage services, shall be calculated according to a tonnage of 1,500 tons.

#### Article 7

##### *The limit for passenger claims*

1 In respect of claims arising on any distinct occasion for loss of life or personal injury to passengers of a ship, the limit of liability of the shipowner thereof shall be an amount of 46,666 Units of Account multiplied by the number of passengers which the ship is authorised to carry according to the ship's certificate, but not exceeding 25 million Units of Account.

2 For the purpose of this Article "claims for loss of life or personal injury to passengers of a ship" shall mean any such claims brought by or on behalf of any person carried in that ship:

- (a) under a contract of passenger carriage, or
- (b) who, with the consent of the carrier, is accompanying a vehicle or live animals which are covered by a contract for the carriage of goods.

#### Article 8

##### *Unit of Account*

1 The Unit of Account referred to in Articles 6 and 7 is the Special Drawing Right as defined by the International Monetary Fund. The amounts mentioned in Articles 6 and 7 shall be converted into the national currency of the State in which limitation is sought, according to the value of that currency at the date the limitation fund shall



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have been constituted, payment is made, or security is given which under the law of that State is equivalent to such payment.

## Article 9

### *Aggregation of claims*

- 1 The limits of liability determined in accordance with Article 6 shall apply to the aggregate of all claims which arise on any distinct occasion:
  - (a) against the person or persons mentioned in paragraph 2 of Article 1 and any person for whose act, neglect or default he or they are responsible; or
  - (b) against the shipowner of a ship rendering salvage services from that ship and the salvor or salvors operating from such ship and any person for whose act, neglect or default he or they are responsible; or
  - (c) against the salvor or salvors who are not operating from a ship or who are operating solely on the ship to, or in respect of which, the salvage services are rendered and any person for whose act, neglect or default he or they are responsible.
- 2 The limits of liability determined in accordance with Article 7 shall apply to the aggregate of all claims subject thereto which may arise on any distinct occasion against the person or persons mentioned in paragraph 2 of Article 1 in respect of the ship referred to in Article 7 and any person for whose act, neglect or default he or they are responsible.

## Article 10

### *Limitation of liability without constitution of a limitation fund*

- 1 Limitation of liability may be invoked notwithstanding that a limitation fund as mentioned in Article 11 has not been constituted.
- 2 If limitation of liability is invoked without the constitution of a limitation fund, the provisions of Article 12 shall apply correspondingly.
- 3 Questions of procedure arising under the rules of this Article shall be decided in accordance with the national law of the State Party in which action is brought.

## CHAPTER III. THE LIMITATION FUND **U.K.**

### Article 11

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### *Constitution of the fund*

1 Any person alleged to be liable may constitute a fund with the Court or other competent authority in any State Party in which legal proceedings are instituted in respect of claims subject to limitation. The fund shall be constituted in the sum of such of the amounts set out in Articles 6 and 7 as are applicable to claims for which that person may be liable, together with interest thereon from the date of the occurrence giving rise to the liability until the date of the constitution of the fund. Any fund thus constituted shall be available only for the payment of claims in respect of which limitation of liability can be invoked.

2 A fund may be constituted, either by depositing the sum, or by producing a guarantee acceptable under the legislation of the State Party where the fund is constituted and considered to be adequate by the Court or other competent authority.

3 A fund constituted by one of the persons mentioned in paragraph 1(a), (b) or(c) or paragraph 2 of Article 9 or his insurer shall be deemed constituted by all persons mentioned in paragraph 1(a), (b) or (c) or paragraph 2, respectively.

#### Article 12

### *Distribution of the fund*

1 Subject to the provisions of paragraphs 1 and 2 of Article 6 and of Article 7, the fund shall be distributed among the claimants in proportion to their established claims against the fund.

2 If, before the fund is distributed, the person liable, or his insurer, has settled a claim against the fund such person shall, up to the amount he has paid, acquire by subrogation the rights which the person so compensated would have enjoyed under this Convention.

3 The right of subrogation provided for in paragraph 2 may also be exercised by persons other than those therein mentioned in respect of any amount of compensation which they may have paid, but only to the extent that such subrogation is permitted under the applicable national law.

4 Where the person liable or any other person establishes that he may be compelled to pay, at a later date, in whole or in part any such amount of compensation with regard to which such person would have enjoyed a right of subrogation pursuant to paragraphs 2 and 3 had the compensation been paid before the fund was distributed, the Court or other competent authority of the State where the fund has been constituted may order that a sufficient sum shall be provisionally set aside to enable such person at such later date to enforce his claim against the fund.

#### Article 13

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### *Bar to other actions*

- 1 Where a limitation fund has been constituted in accordance with Article 11, any person having made a claim against the fund shall be barred from exercising any right in respect of such a claim against any other assets of a person by or on behalf of whom the fund has been constituted.
- 2 After a limitation fund has been constituted in accordance with Article 11, any ship or other property, belonging to a person on behalf of whom the fund has been constituted, which has been arrested or attached within the jurisdiction of a State Party for a claim which may be raised against the fund, or any security given, may be released by order of the Court or other competent authority of such State. However, such release shall always be ordered if the limitation fund has been constituted:
  - (a) at the port where the occurrence took place, or, if it took place out of port, at the first port of call thereafter; or
  - (b) at the port of disembarkation in respect of claims for loss of life or personal injury; or
  - (c) at the port of discharge in respect of damage to cargo; or
  - (d) in the State where the arrest is made.
- 3 The rules of paragraphs 1 and 2 shall apply only if the claimant may bring a claim against the limitation fund before the Court administering that fund and the fund is actually available and freely transferable in respect of that claim.

#### Article 14

### *Governing law*

Subject to the provisions of this Chapter the rules relating to the constitution and distribution of a limitation fund, and all rules of procedure in connection therewith, shall be governed by the law of the State Party in which the fund is constituted.

## CHAPTER IV. SCOPE OF APPLICATION **U.K.**

#### Article 15

This Convention shall apply whenever any person referred to in Article 1 seeks to limit his liability before the Court of a State Party or seeks to procure the release of a ship or other property or the discharge of any security given within the jurisdiction of any such State.

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## PART II U.K.

### PROVISIONS HAVING EFFECT IN CONNECTION WITH CONVENTION

#### *Interpretation*

- 1 In this Part of this Schedule any reference to a numbered article is a reference to the article of the Convention which is so numbered.

#### *Right to limit liability*

- 2 The right to limit liability under the Convention shall apply in relation to any ship whether seagoing or not, and the definition of “shipowner” in paragraph 2 of article 1 shall be construed accordingly.

#### *Claims subject to limitation*

- 3 (1) Paragraph 1(d) of article 2 shall not apply unless provision has been made by an order of the Secretary of State for the setting up and management of a fund to be used for the making to harbour or conservancy authorities of payments needed to compensate them for the reduction, in consequence of the said paragraph 1(d), of amounts recoverable by them in claims of the kind there mentioned, and to be maintained by contributions from such authorities raised and collected by them in respect of vessels in like manner as other sums so raised by them.
- (2) Any order under sub-paragraph (1) above may contain such incidental and supplemental provisions as appear to the Secretary of State to be necessary or expedient.
- (3) If immediately before the coming into force of section 17 of this Act an order is in force under section 2(6) of the <sup>M56</sup>Merchant Shipping (Liability of Shipowners and Others) Act 1958 (which contains provisions corresponding to those of this paragraph) that order shall have effect as if made under this paragraph.

#### **Marginal Citations**

**M56** 1958 c. 62.

#### *Claims excluded from limitation*

- 4 (1) The claims excluded from the Convention by paragraph (b) of article 3 are claims in respect of any liability incurred under section 1 of the <sup>M57</sup>Merchant Shipping (Oil Pollution) Act 1971.
- (2) The claims excluded from the Convention by paragraph (c) of article 3 are claims made by virtue of any of sections 7 to 11 of the <sup>M58</sup>Nuclear Installations Act 1965.

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

#### Marginal Citations

**M57** 1971 c. 59.

**M58** 1965 c. 57.

#### *The general limits*

- 5 (1) In the application of article 6 to a ship with a tonnage less than 300 tons that article shall have effect as if—
- (a) paragraph (a)(i) referred to 166,667 Units of Account; and
  - (b) paragraph (b)(i) referred to 83,333 Units of Account.
- (2) For the purposes of article 6 and this paragraph 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.
- (3) Any order under this paragraph shall, so far as appears to the Secretary of State to be practicable, give effect to the regulations in Annex I of the International Convention on Tonnage Measurement of Ships 1969.

#### *Limit for passenger claims*

- 6 (1) In the case of a passenger steamer within the meaning of Part III of the <sup>M59</sup>Merchant Shipping Act 1894 the ship's certificate mentioned in paragraph 1 of article 7 shall be the passenger steamer's certificate issued under section 274 of that Act.
- (2) In paragraph 2 of article 7 the reference to claims brought on behalf of a person includes a reference to any claim in respect of the death of a person under the <sup>M60</sup>Fatal Accidents Act 1976, the <sup>M61</sup>Fatal Accidents (Northern Ireland) Order 1977 or the <sup>M62</sup>Damages (Scotland) Act 1976.

#### Marginal Citations

**M59** 1894 c. 60.

**M60** 1976 c. 30.

**M61** S.I. 1977/1258 (N.I. 18).

**M62** 1976 c. 13.

#### *Units of Account*

- 7 (1) For the purpose of converting the amounts mentioned in articles 6 and 7 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—
- (a) the relevant date under paragraph 1 of article 8; or

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

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- (b) if no sum has been so fixed for that date, the last preceding date for which a sum has been so fixed.
- (2) A certificate given by or on behalf of the Treasury stating—
  - (a) that a particular sum in sterling has been fixed as mentioned in the preceding sub-paragraph for a particular date; or
  - (b) that no sum has been so fixed for that date and that a particular sum in sterling has been so fixed for a date which is the last preceding date for which a sum has been so fixed,

shall be conclusive evidence of those matters for the purposes of those articles; and 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.

#### *Constitution of fund*

- 8 (1) The Secretary of State may from time to time, with the concurrence of the Treasury, by order prescribe the rate of interest to be applied for the purposes of paragraph 1 of article 11.
- (2) Where a fund is constituted with the court in accordance with article 11 for the payment of claims arising out of any occurrence, the court may stay any proceedings relating to any claim arising out of that occurrence which are pending against the person by whom the fund has been constituted.

#### *Distribution of land*

- 9 No lien or other right in respect of any ship or property shall affect the proportions in which under article 12 the fund is distributed among several claimants.

#### *Bar to other actions*

- 10 Where the release of a ship or other property is ordered under paragraph 2 of article 13 the person on whose application it is ordered to be released shall be deemed to have submitted to (or, in Scotland, prorogated) the jurisdiction of the court to adjudicate on the claim for which the ship or property was arrested or attached.

#### *Meaning of “court”*

- 11 References in the Convention and the preceding provisions of this Part of this Schedule to the court are—
  - (a) in relation to England and Wales, references to the High Court;
  - (b) in relation to Scotland, references to the Court of Session;
  - (c) in relation to Northern Ireland, references to the High Court of Justice in Northern Ireland.

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

### Meaning of “ship”

- 12 References in the Convention and in the preceding provisions of this Part of this Schedule to a ship include references to any structure (whether completed or in course of completion) launched and intended for use in navigation as a ship or part of a ship.

### Meaning of “State Party”

- 13 An Order in Council made for the purposes of this paragraph and declaring that any State specified in the Order is a party to the Convention shall, subject to the provisions of any subsequent Order made for those purposes, be conclusive evidence that the State is a party to the Convention.

## SCHEDULE 5 U.K.

Section 19.

### LIABILITY OF SHIPOWNERS AND SALVORS: CONSEQUENTIAL AMENDMENTS

#### *The <sup>M63</sup>Merchant Shipping (Liability of Shipowners and Others) Act 1900*

#### Marginal Citations

**M63** 1900 c. 32.

- 1 (1) In section 2(1) of the Merchant Shipping (Liability of Shipowners and Others) Act 1900 for the reference to the actual fault or privity of the owners or authority there shall be substituted a reference to any such personal act or omission of the owners or authority as is mentioned in article 4 of the Convention in Part I of Schedule 4 to this Act.
- (2) The limit of liability under that section shall be ascertained by applying to the ship mentioned in subsection (1) the method of calculation specified in paragraph 1(b) of article 6 of the Convention read with paragraph 5(1) and (2) of Part II of that Schedule.
- (3) Articles 11 and 12 of the Convention in Part I of that Schedule and paragraphs 8 and 9 of Part II of that Schedule shall apply for the purposes of that section.

F54

2

#### Textual Amendments

**F54** Sch. 5 para. 2 repealed by Pilotage Act 1983 (c. 21, SIF 111), s. 69(3), Sch. 4

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

*The <sup>M64</sup>Crown Proceedings Act 1947*

**Marginal Citations**

**M64** 1947 c.44.

3 For section 5 of the Crown Proceedings Act 1947, including that Act as it applies in Northern Ireland, there shall be substituted—

(1) The provisions of sections 17 and 18 of the Merchant Shipping Act 1979 and of Schedule 4 to that Act (liability of shipowners and salvors) shall apply in relation to His Majesty’s ships as they apply in relation to other ships.

(2) In this section “ships” has the same meaning as in those provisions.”

**Modifications etc. (not altering text)**

**C44** The text of Sch. 5 paras. 3–6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The <sup>M65</sup>Hovercraft Act 1968*

**Marginal Citations**

**M65** 1968 c. 59.

4 In section 1(1)(i) of the Hovercraft Act 1968 for the words “Part VIII of the Merchant Shipping Act 1894”, “that part” and “the said Part VIII” there shall be substituted respectively the words “sections 17 and 18 of the Merchant Shipping Act 1979”, “those sections” and “the said sections of the Merchant Shipping Act 1979”.

**Modifications etc. (not altering text)**

**C45** The text of Sch. 5 paras. 3–6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The <sup>M66</sup>Carriage of Goods by Sea Act 1971*

**Marginal Citations**

**M66** 1971 c. 19.



**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

- 5 In section 6(4) of the Carriage of Goods By Sea Act 1971 for the words from “section 502” to “1958” there shall be substituted the words “section 18 of the Merchant Shipping Act 1979 (which”.

**Modifications etc. (not altering text)**

- C46** The text of Sch. 5 paras. 3–6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*The <sup>M67</sup>Merchant Shipping (Oil Pollution) Act 1971*

**Marginal Citations**

- M67** 1971 c. 59

- 6 (1) In sections 5(4)(b) and 7(b) of the Merchant Shipping (Oil Pollution) Act 1971 for the words “the Merchant Shipping (Liability of Shipowners and Others) Act 1958” there shall be substituted the words “the Merchant Shipping Act 1979”.

- (2) For section 15(2) of that Act there shall be substituted—

“(2) For the purposes of section 17 of the 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.”

**Modifications etc. (not altering text)**

- C47** The text of Sch. 5 paras. 3–6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Modifications etc. (not altering text)**

- C48** The text of Sch. 6 is in the form in which it was originally enacted: it was not wholly reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

## PART I U.K.

### MAXIMUM FINE OF £50 ON SUMMARY CONVICTION

Enactment	Subject matter
Merchant Shipping Act 1894 (c. 60)—	
Section 111(4)	Engaging of seamen by unauthorised person.
section 112(2)	Receiving remuneration from seamen for engagement.
section 280(2)	Surrender of passenger steamer's certificate.
section 281(2)	Display of passenger steamer's certificate.
section 287	Miscellaneous offences in connection with passenger steamers.
...	...
<sup>F55</sup>	<sup>F55</sup>
section 385(5)	Failure to record or report occurrences on fishing boats.
section 417(4)	Transfer of fish from fishing boats to collecting vessels.
section 543(2)	Failure by manufacturer to mark information on anchor.
section 722(2)	Use or supply of unauthorised forms.
Merchant Shipping (International Labour Conventions) Act 1925 (c. 42)—	
section 4	Employment in ships of persons under 18.
Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)—	
section 12(2)	Failure to return memorandum about lifesaving appliances.
section 31(2)	Failure to give notice of Atlantic routes used by passenger line.
Merchant Shipping Act 1970 (c. 36)—	
section 8(5), including section 8(5) as set out in Schedule 2	Delivery to seaman of account of wages.
section 78	Unauthorised persons on ship in port.
[ <sup>F56</sup> section 89(4)]	[ <sup>F56</sup> Impeding arrest of deserter from foreign ship.]

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

### Textual Amendments

- F55** Entry repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)
- F56** Entry 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)

## PART II U.K.

### MAXIMUM FINE OF £200 ON SUMMARY CONVICTION

Enactment	Subject matter
Merchant Shipping Act 1894 (c. 60)—	
section 7(5)	Marking of ships.
section 15(2)	Delivery up of ship's certificate of registry for purpose of navigation.
section 18(3)	Delivery up of ship's provisional certificate of registry to registrar.
section 20(4)	Delivery up of certificate on change of ownership of ship.
section 21(3)	Notice and delivery up of certificate on loss of ship or transfer to person not qualified to own British ship.
...	...
<b>F57</b>	<b>F57</b>
section 47(8)	Breach of rules as to name of ship.
section 59(3)	Registration of particulars of ship's managing owner or manager.
section 74(2)	Failure to hoist national colours.
section 536(1)	Unauthorised boarding of vessel which is wrecked or in distress.
section 726(3)	Failure to give information and assistance to surveyor of ship.
Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)-	
section 27	Going to sea without approved signalling lamp.
section 29(2)	Form of steering orders.
Merchant Shipping Act 1970 (c. 36)—	
section 22(4) excluding paragraphs (a) and (b)	Master's failure to arrange for seamen to complain to proper officer about food.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

...	...
F57	F57
section 47	Production of certificates of qualification.
section 51(4)	Employment in ships of persons under 18.
section 59	Failure to deliver certificate as required by section 52, 53, 54 or 56.
section 74	Handing over of documents on change of master.
paragraph 3 of Part I of Schedule 2 Prevention of Oil Pollution Act 1971 (c. 60)-	Production of certificates of qualification.
section 10(5)	Restrictions on transfer of oil at night.
section 18(8) except so far as it relates to obstruction	Failure to comply with requirement to produce book or records or to certify true copy.

#### Textual Amendments

**F57** Entry repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(5), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

### PART III U.K.

#### MAXIMUM FINE OF £500 ON SUMMARY CONVICTION

Enactment	Subject matter
Merchant Shipping Act 1894 (c. 60)— section 10(3)	False statement in certificate given by builder of ship.
section 518	Failure to deliver wreck or particulars of wreck to receiver.
section 519(2)	Retaining cargo washed up from wreck.
section 536(2)	Impeding assistance for a ship in distress or removing its cargo.
section 666(2)	Injuring lighthouses, lightships and similar equipment.
Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)— section 24(3)	Failure to report danger to navigation.
Merchant Shipping Act 1970 (c. 36)— section 1(8)	Breach of provisions about crew agreements.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

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section 21(4)	Breach of regulations about food.
section 22(4)(a) and (b)	Retention or use of food which is unfit or of wrong quality.
section 24(2)	Inadequate medical stores.
section 68(6)	Destruction and mutilation of official log book.
section 70(4)	False statement to obtain British seaman's card.
section 86(2)	Going to sea without appropriate charts etc.
paragraph 4(2) of Part I of Schedule 2	Maximum period of duty for seamen employed in fishing vessels.
Merchant Shipping (Oil Pollution) Act 1971 (c. 59)—	
section 10(7)	Carrying and production of certificate in respect of insurance cover for oil pollution damage.
Prevention of Oil Pollution Act 1971 (c. 60) —	
section 18(8) so far as it relates to obstruction	Failure to comply with requirements to produce book or records or to certify true copy.

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#### PART IV **U.K.**

##### MAXIMUM FINE OF £1,000 ON SUMMARY CONVICTION

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<b>Enactment</b>	<b>Subject matter</b>
Merchant Shipping Act 1894 (c. 60)—	
section 436(4)	Recording of ship's draught.
section 488(4)	Obstruction of survey of ship.
section 689(4)	Conveyance from abroad of offenders and witnesses.
Merchant Shipping (Load Lines) Act 1967 (c. 27)—	
section 5	Observance of marking requirements of ship.
Merchant Shipping Act 1970 (c. 36)	
section 20(6)	Contravention of crew accommodation regulations.
section 43(5)	False statement to obtain certificate of competence.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

section 48(2)	Going to sea with inadequate arrangements for translating orders to foreign crew.
section 50(2)	False statement to obtain special certificate of competence.
... F58	... F58
section 76(4) Prevention of Oil Pollution Act 1971 (c. 60) —	Obstruction of inspections and surveys.
section 11(3)  Merchant Shipping Act 1974 (c. 43)—	Failure to report discharge of oil into waters of harbour.
section 3(5)	Unauthorised disclosure of information.
section 14(8)	Unauthorised disclosure of information.
paragraph 4(3) of Schedule 2	Obstruction of inspection or survey of foreign oil tanker.

#### Textual Amendments

**F58** Entry repealed by [Merchant Shipping Act 1988 \(c. 12, SIF 111\)](#), s. 57(5), [Sch. 7](#), (with s. 58(4), Sch. 8 para. 1)

## PART V **U.K.**

### FINE ON CONVICTION ON INDICTMENT AND MAXIMUM FINE OF £1,000 ON SUMMARY CONVICTION

#### Modifications etc. (not altering text)

**C49** [Sch. 6 Pt. V](#) amended by [Criminal Justice Act 1982 \(c. 48, SIF 39:1\)](#), s. 49(1)

<i>Enactment</i>	<i>Subject matter</i>
Merchant Shipping Act 1894 (c. 60)—	
section 285(5)	Safety equipment for passenger steamers.
section 286	Unauthorised weight on safety valve of passenger steamer.
section 413(2)	Fishing boat sailing without certificated skipper and second hand.
section 413(3)	Service or employment of uncertificated person as skipper or second hand of fishing boat.

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**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

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section 430(1)	Provision of life-saving appliances for ships.
section 432(2)	Adjustment of compasses and provision of hose in ship.
section 433	Unauthorised weight on safety valve of steamship.
The Merchant Shipping Act 1906 (c. 48)—	
section 16(2)	Passengers not to be carried on more than one deck below water line.
Merchant Shipping (Safety and Load Line Conventions) Act 1932 (c. 9)—	
section 30(2)	Avoidance of danger from ice.
Merchant Shipping (Safety Convention) Act 1949 (c. 43)—	
section 5(5)	Breach of rules for direction-finders.
section 6(3)	Breach of rules about radio navigational aids.
section 6(4)	Using unauthorised apparatus for signals to or from radio navigational aids.
section 12(3)(b)	Steamer other than passenger steamer going to sea without certificates.
section 12(6)	Compliance with conditions of exemption certificate.
section 19(2)	Compliance with rules about closing of openings in ship's hull.
section 21(3)	Misuse of distress signals.
section 23(3)	Breach of rules about carriage of dangerous goods.
section 24(1)	Failure to take precautions in loading grain to prevent it from shifting.
section 24(2)	Entering port with grain which was loaded without precautions to prevent it from shifting.
Merchant Shipping Act 1964 (c. 47)—	
section 5(2)	Going to sea without safety construction certificate.
section 7(1)	Breach of cargo ship construction and survey rules.
Merchant Shipping (Load Lines) Act 1967 (c. 27)—	
section 3(2)	Breach of load line rules in respect of British ship.
section 4(4)	Taking or sending ship to sea with load line submerged.
section 9(3)	Going to sea without load line certificate.

*Status:* Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

*Changes to legislation:* There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

section 13(3)	Breach of load line rules in respect of foreign ship.
section 24(4)	Breach of deck cargo regulations.
Fishing Vessels (Safety Provisions) Act 1970 (c. 27)—	
section 1(4)	Contravention of construction rules.
section 4(2)	Going to sea without certificates of compliance with construction and other rules.
Merchant Shipping Act 1970 (c. 36)—	
section 45	Going to sea undermanned.
section 46(1)	Unqualified person going to sea as qualified.

## PART VI U.K.

### MISCELLANEOUS PENALTIES ON SUMMARY CONVICTION

#### *Maximum fines of £50*

F59 .....

1

#### Textual Amendments

**F59** Sch. 6 Pt. VI para. 1 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), Sch. 7, (with s. 58(4), Sch. 8 para. 1)

2

In subsection (2) of section 77 of the <sup>M68</sup>Merchant Shipping Act 1906 (which provides that the master of a ship carrying cattlemen to the United Kingdom who fails to make a return of particulars of the cattlemen as required by that section shall be liable on summary conviction to a fine not exceeding £100 and that a cattleman who refuses to give information required for the purposes of a return under that section shall be liable on summary conviction to imprisonment for up to 3 months) for the words “one hundred pounds” there shall be substituted the words “fifty pounds” and for the words from “imprisonment” onwards there shall be substituted the words “such a fine”.

#### Marginal Citations

**M68** 1906 c. 48.

3

In subsection (4) of section 6 of the <sup>M69</sup>Merchant Shipping Act 1970 (which provides that a person shall be liable to a fine of up to £50 if he acts in contravention of subsection (1) of that section and £20 if he acts in contravention of subsection (2)



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of that section) after the words “subsection (1)” there shall be inserted the words “or subsection (2)” and the words from “and if” onwards shall be omitted.

**Marginal Citations**

**M69** 1970 36.

- 4 In sections 68(5), 69(5), 70(2), 71(2) and 72(4) of the Merchant Shipping Act 1970 (which relate respectively to official log books, lists of crews, British seamen’s cards, discharge books and returns of births and deaths on ships and authorise regulations under the section in question to provide for maximum fines of £10 in the case of sections 70(2) and 71(2) and £20 in the case of sections 68(5), 69(5) and 72(4) for contraventions of the regulations) for the word “£10” or, as the case may be, “£20” there shall be substituted the word “50”.

*Maximum fines of £200 and £20 a day*

- 5 In subsection (2) of section 48 of the <sup>M70</sup>Merchant Shipping Act 1894 (which among other things provides that if default is made in registering an alteration of a ship or in registering a ship anew as required by that section the owner shall be liable to a fine of up to £100 and a further fine of up to £5 for each day during which the offence continues after conviction) for the words “one hundred pounds” there shall be substituted the words “two hundred pounds” and for the words “five pounds” there shall be substituted the words “twenty pounds”.

**Marginal Citations**

**M70** 1894 60.

- 6 In subsections (2)(d) and (6A) of section 1 of the <sup>M71</sup>Merchant Shipping Act 1965 (which authorise tonnage regulations to provide for fines not exceeding £100 for the contraventions and failures there mentioned) for the words “one hundred pounds” in subsection (2)(d) and the word “£100” in subsection (6A) there shall be substituted the word “£200”.

**Marginal Citations**

**M71** 1965 c. 47.

- 7 In Schedule 1 to the <sup>M72</sup>Merchant Shipping (Load Lines) Act 1967 (which among other things provides for a fine of up to £50 on summary conviction of an offence under section 281(3) of the Merchant Shipping Act 1894 of not posting up a passenger steamer’s certificate) in column 3 of the entry relating to the said section 281(3) for the word “£50” there shall be substituted the word “£200”.

**Status:** Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.

**Changes to legislation:** There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)

#### Marginal Citations

M72 1967 c. 27.

- 8 In sections 2(2), 3(4), 62(6) and 65(3) of the <sup>M72</sup>Merchant Shipping Act 1970 (which relate respectively to crew agreements, the discharge of seamen, the return of seamen left overseas and the property of deceased seamen and authorise regulations under the section in question to provide for maximum fines of £50 in the case of section 2(2) and £100 in other cases for contraventions of the regulations) for the word “£50” or, as the case may be, “£100” there shall be substituted the word “£200”.

#### Modifications etc. (not altering text)

C50 Sch. 6 Pt. VI para. 8 amended by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(4), Sch. 6

#### Marginal Citations

M73 1970 c. 36.

- 9 In section 77(1) of the Merchant Shipping Act 1970 (under which the punishment for stowing away is a fine not exceeding £100 or imprisonment not exceeding three months) for the words from “£100” onwards there shall be substituted the word “£200”.

#### Miscellaneous

- 10 In section 667(3) of the Merchant Shipping Act 1894 (under which a person who fails to comply with a notice to extinguish or screen a light which may be mistaken for a lighthouse is guilty of a common nuisance and is also liable to a fine not exceeding £100) for the words from “a common nuisance” onwards there shall be substituted the words “an offence and liable to a fine not exceeding one thousand pounds”.
- 11 In subsection (2) of section 723 of the Merchant Shipping Act 1894 (which provides that a person who fails to produce a log book or document which he is required to produce under that section or who refuses to allow the same to be inspected or copied or commits any other offence mentioned in that subsection shall be liable to a fine not exceeding £50 in some cases and £20 in others)—
- (a) for the words “or refuses to allow the same” there shall be substituted the words “that person shall be liable to a fine not exceeding two hundred pounds and if any person on being so required refuses to allow such a book or document” ; and
  - (b) for the words from “for each offence” onwards there shall be substituted the words “be liable to a fine not exceeding one thousand pounds”.

*Status: Point in time view as at 01/02/1991. This version of this Act contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

- 12 Subsection (4) of section 724 of the <sup>M74</sup>Merchant Shipping Act 1894 (which provides that a surveyor of ships who receives unauthorised remuneration in respect of the duties he performs under that Act shall be liable to a fine not exceeding £50) shall be omitted.

**Marginal Citations**

**M74** 1894 c. 60.

- 13 In section 76(3) of the <sup>M75</sup>Merchant Shipping Act 1906 (under which the master of a ship carrying passengers who fails to make a return of particulars of the passengers as required by that section or makes a false return and a passenger who refuses to give information required for such a return or gives false information is liable on summary conviction to a fine not exceeding £50 in some cases and £20 in others) for the words from “not exceeding” onwards there shall be substituted the words “not exceeding fifty pounds in the case of a failure or refusal and two hundred pounds in the case of a false return or false information”.

**Marginal Citations**

**M75** 1906 c. 48.

- 14 In subsection (5) of section 24 of the <sup>M76</sup>Merchant Shipping (Safety Convention) Act 1949 (under which a master of a ship carrying grain who fails to deliver to customs the notice required by that section or delivers such a notice which is false in a material particular is liable to a fine not exceeding £100) for the words “one hundred pounds” there shall be substituted the words “two hundred pounds in the case of a failure and five hundred pounds in the case of a false statement”.

**Marginal Citations**

**M76** 1949 c. 43.

- 15 In Schedule I to the <sup>M77</sup>Merchant Shipping (Load Lines) Act 1967 (under which any of the following offences, namely, an offence under section 283 of the Merchant Shipping Act 1894 of carrying passengers in excess, an offence under section 21 of the Merchant Shipping Act 1906 of not complying with provisions requiring a passenger steamer to be surveyed and to have a passenger steamer’s certificate and an offence under section 12(3)(a) of the Merchant Shipping (Safety Convention) Act 1949 of going to sea without appropriate certificates, is punishable on summary conviction with a fine of up to £1,000 in some cases and £400 in others)—
- (a) in column 3 of the entry relating to the said section 283, for the word “£400” there shall be substituted the word “£50,000” ; and
  - (b) in column 3 of the entries relating to the said sections 21 and 12(3)(a), for the word “£400” there shall be substituted the word “£1,000”.

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*Changes to legislation: There are currently no known outstanding effects for the Merchant Shipping Act 1979. (See end of Document for details)*

**Marginal Citations**

M77 1967 c. 27.

- 16 In subsection (8) of section 9 of the <sup>M78</sup>Prevention of Oil Pollution Act 1971 (under which a harbour authority is liable to a fine not exceeding £10 for each day on which it fails to comply with a direction to provide oil reception facilities) for the word “£10” there shall be substituted the words “£500 and to a further fine not exceeding £50”.

**Marginal Citations**

M78 1971 c. 60.

- 17 In section 17(5) of the said Act of 1971 (which among other things provides for a fine of up to £500 on summary conviction of an offence of making a false entry in a record relating to oil) for the word “£500” in the third place where it occurs there shall be substituted the word “£1,000”.

- 18 In subsection (6) of section 3 of the <sup>M79</sup>Merchant Shipping Act 1974 (under paragraph (a) of which a person who fails to provide information as required by that section is liable on summary conviction to a fine not exceeding £1,000 in some cases and £400 in others and under paragraph (b) of which a person who provides false information is so liable) for paragraph (i) there shall be substituted the words  
“(i) on summary conviction to a fine not exceeding £500 in the case of an offence under paragraph (a) of this subsection and not exceeding £1,000 in the case of an offence under paragraph (b) of this subsection, and”.

**Marginal Citations**

M79 1974 c. 43.

- 19 In subsection (9) of section 14 of the Merchant Shipping Act 1974 (under paragraph (a) of which a person who fails to provide information as required by that section is liable on summary conviction to a fine not exceeding £400 and under paragraph (b) of which a person who provides false information is so liable), for the word “£400” there shall be substituted the words “£500 in the case of an offence under paragraph (a) of this subsection and not exceeding £1,000 in the case of an offence under paragraph (b) of this subsection”.

- 20 In paragraph 3(2) of Schedule 5 to the Merchant Shipping Act 1974 (under which a person who commits an offence created by regulations relating to submersible or supporting apparatus is liable on summary conviction to a fine not exceeding

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£1,000 in some cases and £400 in others unless the regulations prescribe a lower limit) for paragraph (a) there shall be substituted the words

“(a) on summary conviction a fine not exceeding £1,000”.

## PART VII U.K.

### OTHER PENALTIES

#### *The<sup>M80</sup>Merchant Shipping Act 1894*

#### Marginal Citations

**M80** 1894 c. 60.

- 1 At the end of section 66 of the Merchant Shipping Act 1894 as it has effect in Scotland (which among other things provides that a person who forges a document mentioned in that section shall be guilty of felony) there shall be inserted the words “and liable on conviction on indictment to imprisonment for not more than seven years”.
- 2 In section 73 of the Merchant Shipping Act 1894 (which among other things provides that if unauthorised colours are hoisted on board a vessel belonging to a British subject the master or owner of the vessel and the person who hoists the colours shall be guilty of an offence for which he is liable on conviction on indictment to a fine in some cases and to a fine of up to £500 in others or on summary conviction to a fine of up to £1,000 in some cases and £100 in others)—
  - (a) in subsection (2) for the words from “incur a fine” onwards there shall be substituted the words “be liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds” ; and
  - (b) subsections (4) and (5) shall be omitted.
- 3 In section 271 of the Merchant Shipping Act 1894 (which among other things provides that, except in certain cases, no ship shall proceed to sea or on any voyage or excursion with more than twelve passengers on board unless a certificate as to survey under Part III of that Act is in force in respect of the ship) after subsection (2) there shall be inserted the following subsection—

“(3) If a ship proceeds to sea or on any voyage or excursion when it is prohibited from doing so by subsection (1) of this section, the owner and the master of the ship shall each be guilty of an offence and liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds.”
- 4 Subsection (3) of section 360 of the Merchant Shipping Act 1894 (which provides that a person employed under Part III of that Act who demands or takes

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unauthorised remuneration for performing his duty under that Part shall for each offence be liable to a fine not exceeding £50) shall be omitted.

- 5 In section 419(2) of the Merchant Shipping Act 1894 (which provides that if an infringement of the collision regulations is caused by the wilful default of the master or owner of a ship he shall be guilty of a misdemeanour) for the words “guilty of a misdemeanour” there shall be substituted the words “liable, on conviction on indictment, to a fine and imprisonment for a term not exceeding two years or, on summary conviction,—
- (a) to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months in the case of an infringement of Rule 1O(b)(i) of the regulations set out in Schedule 1 to the <sup>M81</sup> Collision Regulations and Distress Signals Order 1977 ; and
  - (b) to a fine not exceeding £1,000 in any other case”.

#### Marginal Citations

M81 [S.I. 1977/982](#).

- 6 In subsection (3) of section 422 of the Merchant Shipping Act 1894 (which among other things provides that if a person in charge of a vessel involved in a collision with another vessel fails without reasonable cause to render assistance to the other vessel or persons on her as required by subsection (1)(a) of that section or to give the name of his vessel and certain other information to the person in charge of the other vessel as required by subsection (1)(b) of that section he shall be guilty of a misdemeanour) for the words “a misdemeanour, and” there shall be substituted the words “an offence and—
- (a) in the case of a failure to comply with subsection (1)(a) of this section, liable on conviction on indictment to a fine and imprisonment for a term not exceeding two years and on summary conviction to a fine not exceeding fifty thousand pounds and imprisonment for a term not exceeding six months ; and
  - (b) in the case of a failure to comply with subsection (1)(b) of this section, liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding one thousand pounds,
- and in either case ”.
- 7 In subsection (2) of section 446 of the Merchant Shipping Act 1894 (which among other things provides that a person who sends dangerous goods by ship without marking the goods and giving notice about them as required by that section shall be liable to a fine not exceeding £100 or, if he shows that he was merely an agent in the shipment and was not aware that the goods were dangerous, then to a smaller fine)—
- (a) for the words from “liable” to “shows that he” there shall be substituted the words “liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds ; but it shall be a defence to show that the accused” ; and

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(b) the words from “then” onwards shall be omitted.

- 8 In section 447 of the Merchant Shipping Act 1894 (under which, among other things, a person who sends dangerous goods by ship under a false description or with a false description of the sender is liable on conviction on indictment to a fine in some cases and to a fine of up to £500 in others) for the words from “liable” onwards there shall be substituted the words “liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds”.
- 9 In paragraph (a) of subsection (1) of section 680 of the Merchant Shipping Act 1894 (under which, except in certain cases, an offence under that Act, which is declared to be a misdemeanour is punishable on conviction on indictment by a fine or by imprisonment not exceeding two years or on summary conviction with imprisonment for a term not exceeding six months or with a fine not exceeding £1,000 in some cases and £100 in others)—
- (a) for the words “or by imprisonment” there shall be substituted the words “and by imprisonment” ;
  - (b) for the words from “or with a fine” onwards there shall be substituted the words “and with a fine not exceeding one thousand pounds” ;
- and in paragraph (b) of that subsection (under which an offence under that Act which is punishable by a fine not exceeding £100 can only be prosecuted summarily except in certain cases) for the words “one hundred pounds” there shall be substituted the words “one thousand pounds”.
- 10 In section 692(1) of the Merchant Shipping Act 1894 (which among other things provides that if a ship) which is detained in pursuance of that section proceeds to sea before it is released the master and the owner of the ship and any other person who sends it to sea shall be liable to a fine not exceeding £200) for the words from “liable” onwards there shall be substituted the words “liable on conviction on indictment to a fine and on summary conviction to a fine not exceeding fifty thousand pounds.”.
- 11 In section 692(2) of the Merchant Shipping Act 1894 (which among other things provides that the master and the owner of a ship which takes to sea an officer authorised to detain the ship or certain other officials shall be liable to a fine of which the maximum amount varies with the circumstances) for the words from “to a fine” onwards there shall be substituted the words “on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds”.
- 12 In section 696(2) of the Merchant Shipping Act 1894 (under which, among other things, a person who obstructs the service on the master of a ship of any document under that Act about the detention of ships as unseaworthy is liable to a fine not exceeding £25 in some cases and £10 in others) for the words from “to a fine” to “and” there shall be substituted the words “on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds, and”.

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- 13 In section 702 of the Merchant Shipping Act 1894 (which provides for prosecution on indictment in Scotland)—
- (a) after the words “High Court of Justiciary”, there shall be inserted the words “or the sheriff court” ; and
  - (b) after the word “punishable” there shall be inserted the words “, subject to any maximum penalty prescribed in respect of any particular offence in this Act,”.

- 14 For section 703 of the Merchant Shipping Act 1894 (which provides for summary proceedings in Scotland) there shall be substituted the following section—

In Scotland—

- (a) any offence under this Act may be tried in a summary manner before the sheriff court and if so tried shall, subject to any other penalty prescribed in respect of any particular offence in this Act, on summary conviction be punishable with imprisonment for a term not exceeding six months and with a fine not exceeding one thousand pounds ;
- (b) all prosecutions in respect of offences under this Act in respect of which the maximum penalty which may be imposed does not exceed imprisonment for a period of three months or a fine of two hundred pounds or both may be tried in a summary manner before the district court.”

*The <sup>M82</sup>Merchant Shipping Act 1921 1921 c. 28.*

**Marginal Citations**

**M82** 1921 c. 28.

- 15 In section 2(1) of the Merchant Shipping Act 1921 (under which a person who, among other things, uses in navigation a lighter or similar vessel which is so unsafe as to endanger human life is liable on summary conviction to a fine of up to —100 or to imprisonment for up to 6 months) for the words from “liable” onwards there shall be substituted the words “liable on conviction on indictment to a fine or on summary conviction to a fine not exceeding one thousand pounds”.

*The <sup>M83</sup>Merchant Shipping (Safety Convention) Act 1949*

**Marginal Citations**

**M83** 1949 c. 43.

- 16 In subsection (5) of section 3 of the Merchant Shipping (Safety Convention) Act 1949 (under which a radio officer who contravenes certain radio rules is liable to



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a fine not exceeding £10 and, if other radio rules are contravened in relation to a ship, the owner or master is liable on conviction on indictment to a fine in some cases and a fine not exceeding £500 in others or on summary conviction to a fine not exceeding £1,000 in some cases and £100 in others)—

- (a) for the word “£10” there shall be substituted the word “£500” ; and
- (b) for the words from “on indictment” onwards there shall be substituted the words “on indictment to a fine or on summary conviction to a fine not exceeding £1,000”.

*The <sup>M84</sup>Merchant Shipping (Load Lines) Act 1967*

**Marginal Citations**

**M84** 1967 c. 27.

17 In section 4 of the Merchant Shipping (Load Lines) Act 1967 (of which subsection (2) provides that if any ship is loaded in contravention of subsection (1) of that section the owner or master shall be liable on summary conviction to a fine not exceeding £400 and to an additional fine not exceeding an amount calculated in accordance with subsection (3) of that section in terms of £400 for each inch or part of an inch by which the load line is or would have been submerged)—

- (a) in subsection (2) for the words “on summary conviction— (a) to a fine not exceeding £400, and” there shall be substituted the words “—
  - (a) on conviction on indictment to a fine” and at the beginning of paragraph (b) there shall be inserted the words “on summary conviction to a fine not exceeding £1,000 and” ; and
- (b) in subsection (3) for the words from “£400” to “complete inches” there shall be substituted the words “£1,000 for each complete centimetre” and the words following paragraph (b) shall be omitted.

*The <sup>M85</sup>Merchant Shipping Act 1970*

**Marginal Citations**

**M85** 1970 c. 36.

18 In section 19(5) of the Merchant Shipping Act 1970 (which authorises safety regulations to make a contravention of the regulations punishable on summary conviction with a fine not exceeding £200 if the offence is committed by the master or owner of the ship and £20 if it is committed by another person) for the words from “summary conviction” onwards there shall be substituted the words “conviction on indictment with a fine and on summary conviction with a fine not exceeding £1,000”.

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F60 .....

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#### Textual Amendments

**F60** Sch. 6 Pt. VII para. 19 repealed by Merchant Shipping Act 1988 (c. 12, SIF 111), s. 57(5), **Sch. 7**, (with s. 58(4), Sch. 8 para. 1)

20 In section 28 of the Merchant Shipping Act 1970 (which provides that a seaman who is under the influence of drink or drugs while on duty to such an extent that his capacity to carry out his duties is impaired shall be liable on summary conviction to a fine not exceeding £50) for the words from “summary conviction” onwards there shall be substituted the words “conviction on indictment to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine not exceeding £1,000”.

21 In section 30 of the Merchant Shipping Act 1970 (which provides among other things that a seaman employed in a ship registered in the United Kingdom who persistently neglects his duty or disobeys orders or combines with other seamen to do so or to impede the ship’s progress shall be liable on summary conviction to a fine not exceeding £100) for the words from “summary conviction” to “£100” there shall be substituted the words “conviction on indictment, to imprisonment for a term not exceeding two years and a fine and, on summary conviction, to a fine, not exceeding £1,000”.

#### *The <sup>M86</sup>Merchant Shipping Act 1974*

#### Marginal Citations

**M86** 1974 c. 43.

22 In paragraph 5 of Schedule 2 to the Merchant Shipping Act 1974 (which among other things authorises oil tanker construction rules to provide for a person who breaks the rules to be liable on summary conviction to a fine of up to £100) for the word “£100” there shall be substituted the word “£1,000” and at the end of subparagraph (1) there shall be substituted the words “and on conviction on indictment to a fine”.

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VALID FROM 22/11/1994

SCHEDULE 7 **U.K.**

Sections 47(2), 50(4).

ENACTMENTS REPEALED

**Modifications etc. (not altering text)**

- C51** The text of Sch. 7 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and, except as specified, does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

**Commencement Information**

- I4** [Sch. 7](#) partly in force; [Sch. 7](#) not in force at Royal Assent see [s. 52\(2\)](#); [Sch 7 Pt. II](#) repeal of [s. 1\(6\) \(7\) of 1974 c. 39](#), in force at 22.11.1994 by [S.I. 1994/2789](#), [art. 2](#), [Sch.](#)

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**Changes to legislation:**

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